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Decision 03-07-034 July 10, 2003

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Examine the Commission's Future Energy Efficiency Policies, Administration and Programs.	Rulemaking 01-08-028 (Filed August 23, 2001)

INTERIM OPINION IMPLEMENTING PROVISIONS OF ASSEMBLY BILL 117 RELATING TO ENERGY EFFICIENCY PROGRAM FUND DISBURSEMENTS

This order adopts certain procedures that would implement portions of Assembly Bill (AB) 117 affecting the allocation of energy efficiency program funds. AB 117 (Chapter 838, Chaptered September 24, 2002) authorizes any city, county, or combination of cities and counties to aggregate the electrical loads of local customers. It designates such entities as "Community Choice Aggregators" (CCA). It also adds Public Utilities Code Sections 331.1, 366.1, 366.2 and 381.1 directing the Commission to establish policies and procedures by which any party, including a CCA, may apply to administer cost-effective energy efficiency and conservation programs.

I. Summary of AB 117

In response to the state's energy crisis, the Legislature passed AB 117, permitting cities and counties to become CCAs and thereby purchase energy supplies on behalf of utility customers in their respective jurisdictions. The bill also permits CCAs to apply to the Commission for energy efficiency program funding so that they may implement energy efficiency programs in their areas.

Specifically, AB 117 enacted new Section 381.1, which outlines how the Commission will determine funding for certain energy efficiency programs and directs the Commission to establish certain related policies and procedures:

> No later than July 15, 2003, the commission shall establish policies and procedures by which any party, including, but not limited to, a local entity that establishes a community choice aggregation program, may apply to become administrators for cost-effective energy efficiency and conservation programs established pursuant to Section 381. In determining whether to approve an application to become administrators, the commission shall consider the value of program continuity and planning certainty and the value of allowing competitive opportunities for potentially new administrators. The commission shall weigh the benefits of the party's proposed program to ensure that the program meets the following objectives:
>
> (1) Is consistent with the goals of the existing programs established pursuant to Section 381.
>
> (2) Advances the public interest in maximizing cost-effective electricity savings and related benefits.
>
> (3) Accommodates the need for broader statewide or regional programs.

Section 381.1 also provides that in cases where a CCA does not administer energy efficiency programs in its territory, the administrator must direct a "proportional share" of its energy efficiency program activities to the CCA's territory unless the Commission adjusts the share of energy efficiency program activities directed to a CCA's territory to promote equity and cost-effectiveness. Section 381.1 directs the Commission to maintain energy efficiency programs targeted to specific locations where needed to avoid or defer transmission or distribution system upgrades irrespective of whether the loads in that location

are served by the CCA or an electrical corporation. The Commission may require program administrators to share information on program impacts with the CCA and to accommodate any unique community program needs by shifting emphasis of approved programs, provided that the shift in emphasis does not reduce the effectiveness of overall statewide or regional programs. AB 117 is appended as "Attachment A."

II. Procedural Background.

To implement AB 117's energy efficiency program funding requirements, the Commission solicited comments from utilities and interested parties by way of an ALJ ruling dated April 28, 2003. The ruling proposed changes to the energy efficiency Policy Manual to recognize AB 117. By implication, it interpreted some of AB 117's provisions.

Subsequently, the Commission held a workshop on June 2 to address related issues. Parties filed supplemental comments on June 9. Active parties to this segment of this proceeding include Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E) and Southern California Gas Company (collectively, Sempra), Southern California Edison Company (SCE), the City and County of San Francisco on behalf of the Association of Bay Area Governments (CCSF), the City of San Jose and the City of Berkeley, Sustainable Novato, South Bay Cities Council of Government, the City of Santa Monica (Santa Monica), the Local Government Commission (LGC), the Office of Ratepayer Advocates (ORA), Proctor Engineering, Local Power, Women's Energy Matters (WEM), The Utility Reform Network (TURN) and the Natural Resources Defense Council (NRDC).

The scope of the April 28 ruling, the June 2 workshop and this order is limited to issues regarding energy efficiency program funding. AB 117 requires

the Commission to conduct a broader inquiry in order to develop rules by which cities and counties may aggregate local load and purchase power as CCAs. The initiation of that broader inquiry is imminent. Today's order addressing energy efficiency program funding precedes our order adopting broader rules for cities and counties to become CCAs because the statute requires our attention to this narrower issue no later than July 15, 2003. In the meantime, we interpret the statute narrowly and adopt rules here that do not presume any particular outcome in the broader inquiry. We do so recognizing that the skeletal rules adopted here today may require modifications to make them consistent with the policy direction and rules the Commission ultimately adopts on the broader issues.

III. AB 117 Issues

The issues the Commission must resolve to implement energy efficiency provisions of AB 117 are as follows:

- What is a "Community Choice Aggregator"?
- What does the Commission need to do to create a process for parties to apply to become administrators for cost-effective energy efficiency programs, as AB 117 requires?
- What criteria and process should the Commission use to determine whether to fund CCA energy efficiency program proposals?
- What is the "proportional share" and what is its significance for purposes of implementing AB 117?
- How should the utilities calculate the "proportional share" for counties and cities?

- What kinds of information should the utilities provide parties interested in applying for energy efficiency program funds? When and in what format?

- What implementation costs must the utilities be able to recover and from whom?

Some parties who submitted comments in this proceeding proposed resolution of broader issues that we do not address here. For example, ORA, Sempra, TURN and PG&E proposed the Commission address energy efficiency program administration. This and other broader policy issues that were not subjects of the April 28, 2003 ALJ ruling are appropriately addressed in other forums or at a later date.

A. What is a "Community Choice Aggregator?

AB 117 defines a CCA as follows:

> Sec. 331.1. For purposes of this chapter, "community choice aggregator" means any of the following entities, if that entity is not within the jurisdiction of a local publicly owned electric utility that provided electrical service as of January 1, 2003:
>
> (a) Any city, county, or city and county whose governing board elects to combine the loads of its residents, businesses, and municipal facilities in a communitywide electricity buyers' program.
>
> (b) Any group of cities, counties, or cities and counties those governing boards have elected to combine the loads of their programs, through the formation of a joint powers agency established under Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

In general, AB 117 provides that cities and counties and their governing bodies establish CCAs. No Commission action is required to affect that status although AB 117 requires several preconditions before a CCA may aggregate load, including the adoption of rules (Section 366.2(i)(3)), the submittal of a Commission report to the state legislature (Section 366.2(i)(2)) and the Commission's adoption of a cost recovery plan that would assure CCA customers assume a fair share of certain utility liabilities (Section 366.2(i)(1)). Sempra suggests that these preconditions for aggregation apply equally to CCA applications for energy efficiency program funding.

AB 117 does not prescribe any preconditions before a CCA may apply for energy efficiency program funding or implementing energy efficiency programs. Further evidence that the Legislature intended the energy efficiency program move forward expeditiously is the legislative deadline of July 15, 2003 for the Commission to develop procedures under which CCAs may apply for energy efficiency program funding. For purposes of AB 117, CCAs may apply for energy efficiency program funding beginning with the first solicitation for proposals following issuance of this order.[1]

[1] Section 381.1 provides that CCAs may apply for funds subject to Section 381, which are collected from electric customers. We limit the scope of this inquiry to those funds collected pursuant to Section 381 and do not address energy efficiency programs funded by revenues collected from jurisdictional gas utilities.

B. What Does the Commission Need to Do to Establish a Process for Parties to Apply to Become Administrators for Cost-Effective Energy Efficiency Programs, as AB 117 requires?

AB 117 requires the Commission to implement certain of its provisions by July 15, 2003. Those provisions concern the ability of CCAs and other parties to be able to apply to be administrators of energy efficiency programs:[2]

> Sec. 381.1. (a) No later than July 15, 2003, the commission shall establish policies and procedures by which any party, including, but not limited to, a local entity that establishes a community choice aggregation program, may apply to become administrators for cost-effective energy efficiency and conservation programs established pursuant to Section 381. In determining whether to approve an application to become administrators, the commission shall consider the value of program continuity and planning certainty and the value of allowing competitive opportunities for potentially new administrators. The commission shall weigh the benefits of the party's proposed program to ensure that the program meets the following objectives:
>
> (1) Is consistent with the goals of the existing programs established pursuant to Section 381.
>
> (2) Advances the public interest in maximizing cost-effective electricity savings and related benefits.

[2] We interpret "administrator" in this context to mean any entity implementing an energy efficiency program which is the subject of Section 381, which authorizes the expenditure of certain funds on energy efficiency programs. This contrasts with the Commission's energy efficiency policy manual, which distinguishes "administrators" from "implementers."

(3) Accommodates the need for broader statewide or regional programs.

In some respects, the Commission already conducts its energy efficiency program solicitations in ways that are consistent with AB 117. Specifically, it solicits proposals and allocates program funds to any party, including cities and counties, that presents a proposal that is compelling and complements other programs. It selects programs to recognize local system needs, equity and cost-effectiveness, among other things.

Section 381.1(a) also requires the Commission's process for allocating funding to various energy efficiency programs to consider certain criteria and outcomes. The Commission's existing rules explicitly or implicitly consider "program continuity" and "planning certainty" when the Commission considers the length of program funding, the types of programs to fund and the appropriate administrators. It has recognized the "value of competitive opportunities for potentially new administers" by allocating some funds to third parties. It has emphasized the need for cost-effective programs and creating a portfolio of statewide and local programs that are complementary. The Commission will continue to consider these program objectives and those set forth in Section 381, consistent with AB 117. This is also consistent with Section 381.1((c)) which provides that CCAs proposing energy efficiency programs shall do so "under established Commission policies and procedures."

Significantly, by directing the Commission to establish procedures for non-utilities to apply for energy efficiency program funding, AB 117 encodes the Commission's current policy to permit third parties to apply for energy efficiency program funding rather than allocating all energy efficiency program funding and responsibilities to the Commission's jurisdictional utilities.

In summary, the Commission is already implementing that portion of AB 117 that requires a process for parties to apply for energy efficiency program funding authorized in Section 381. It selects programs using criteria that are consistent with AB 117 and expressed in Section 381.1(a). To the extent the Commission changes its energy efficiency programs and policies, it will consider the requirements of AB 117.

C. What Criteria and Process Should the Commission Use to Determine Whether to Fund CCA Energy Efficiency Program Proposals?

AB 117 does not specify the process the Commission should use to consider CCA applications for energy efficiency program funding. It broadly establishes criteria for that review but does not require that the Commission treat CCAs or their proposals differently from other parties.

CCSF, Santa Monica, and WEM propose the Commission articulate a preference to CCAs for energy efficiency program funding. CCSF goes so far as to suggest CCAs should have a right of first refusal for local program funding and should not have to compete with third parties. TURN makes a similar proposal, arguing that utilities have a conflict of interest in administering energy efficiency programs while they are able to profit from energy sales and associated capital investments.

The utilities, ORA and NRDC propose that the process and review criteria applied to CCAs should be the same as those applied to other parties, including requirements for evaluation, measurement and verification (EM&V), as defined in the Commission's energy efficiency policy manual. SCE argues that AB 117 does not permit the Commission to apply different procedures or criteria for CCAs.

AB 117 generally preserves the Commission's discretion to determine the procedures and criteria under which it will consider applications for energy efficiency program funding. While the statute requires the Commission to develop procedures for all interested parties, it does not distinguish types of parties or state that the Commission must treat all types of parties the same (Section 381.1(a)). Nevertheless, we are not prepared to treat CCAs any differently from other parties at this time. While we may ultimately find that CCAs are appropriately independent agencies that should have considerable deference to use Section 381 funds, we leave the issue of CCA's role and discretion to our broader rulemaking. To treat them differently at this time would presume a policy direction that we are not prepared to address in the narrow context of this inquiry. We may reconsider the process and criteria for reviewing CCA applications for energy efficiency program funding. Until and unless we do, we will apply the same procedures and criteria for review that we apply now to all Third Party applicants for energy efficiency program funding, including EM&V requirements. CCAs shall refer to Commission orders and its energy efficiency policy manual in making requests for Section 381 funding.

D. What is the "Proportional Share" and What is its Significance for Purposes of Implementing AB 117?

AB 117 requires the Commission to allocate a "proportional share" of energy efficiency program activities to a CCA's territory under certain conditions:

> Sec. 381.1 (c) If a community choice aggregator is not the administrator of energy efficiency and conservation programs for which its customers are eligible, the commission shall require the administrator of cost-effective energy efficiency and conservation programs to direct a

> proportional share of its approved energy efficiency program activities for which the community choice aggregator's customers are eligible, to the community choice aggregator's territory without regard to customer class. To the extent that energy efficiency and conservation programs are targeted to specific locations to avoid or defer transmission or distribution system upgrades, the targeted expenditures shall continue irrespective of whether the loads in those locations are served by an aggregator or by an electrical corporation. The commission shall also direct the administrator to work with the community choice aggregator … to accommodate any unique community program needs by placing more, or less, emphasis on particular approved programs to the extent that these special shifts in emphasis in no way diminish the effectiveness of broader statewide or regional programs. The commission may order an adjustment to the share of energy efficiency program activities directed to a community aggregator's territory if necessary to ensure an equitable and cost-effective allocation of energy efficiency program activities.

The parties provide a variety of comments about the proportional share, mostly relating to the availability of related information, which we address below. Some parties, including PG&E, appear to assume the Commission will automatically allocate a proportional share of activities (or funding) to all local territories. The City of Santa Monica goes so far as to ask that the Commission guarantee the availability of certain funding levels so that cities may plan their energy strategies over a multi-year period.

The statute does not require a proportional share of energy efficiency program funding to CCAs or the jurisdictions of cities and counties. It does require that the Commission direct a proportional share to the CCA's territory, which presumes that a CCA has been created in an identified territory. The

statute does not require an allocation of the proportional share where no CCA is established.

While we might agree that an automatic allocation to CCAs is reasonable in some cases to promote equity or other values, the Commission retains its discretion to direct energy efficiency funds to locations where the need is greatest and benefits are greatest, discretion that is explicitly recognized in Section 381.1(c), which permits the Commission to adjust the proportional share to assure equitable and cost-effective programs statewide and to continue programs designed to defer system upgrades.

Moreover, the statute does not require the Commission to allocate a proportional share to local jurisdictions, even where CCAs exist, except when the CCA is not the administrator of energy efficiency programs. The statute only requires such an allocation where a party other than the CCA administers programs.

We understand the cities' need for some certainty so they may plan staffing and resource requirements over several years. Other parties, including the utilities, have made similar comments in this docket in the context of funding periods for energy efficiency programs.

At this point, however, we are not willing to allocate the proportional share to cities and counties or CCAs, except to the extent the statute requires. We are poised to review the funding periods for all energy efficiency programs in this docket and may consider the needs of CCAs in that context. In the meantime, the Commission will comply with AB 117 by allocating a proportional share of energy efficiency program activities to a CCA's territory where a CCA has been formed but is not the administrator of energy efficiency programs in its territory. In allocating a proportional share of energy efficiency program

activities to a CCA's territory, the Commission will consider the impacts on programs designed to defer system upgrades, and the equitable and cost-effective allocation of programs and funding levels in other parts of the state, as AB 117 requires.

Although we here interpret the statute literally and retain our discretion to allocate funds to the most responsible administrators and the programs that best meet our stated criteria, we nevertheless believe the intent of AB 117 is to promote the use of Section 381 funds by cities, counties, and CCAs in ways that are responsive to local needs, cost-effective and fair. For that reason, we encourage those entities to apply for funding and state a commitment to granting them funding where they demonstrate that their programs meet with statewide objectives and will be well-managed.

E. What is the Appropriate Way to Calculate the "Proportional Share of Approved Energy Efficiency Program Activities"?

AB 117 requires the Commission to allocate a "proportional share of approved energy efficiency program activities" in a CCA's territory where the CCA does not administer energy efficiency programs funded by Section 381. The bill, however, does not define "proportional share" of "activities."

The parties to the proceeding had several suggestions, many of which appear to assume that the Commission will automatically allocate the proportional share to local communities. Several parties suggested the proportional share be calculated according to the Section 381 funds collected from customers in the CCA's territory or some variation of that amount. The utilities raise concerns that the proportional share net out customers who are not served by the CCA and spending on statewide programs, to avoid double incurrence of costs.

Because the statute does not require such an allocation except in certain narrow circumstances, we adopt a calculation of the proportional share that is simple and consistent with the statute.

The statute uses the term "proportional share of activities." In considering whether to apply the term "activities" literally, we find that the exercise would be impractical at best. Using a simple example, if the utility sponsored a program statewide that provided air conditioner rebates to one of every 300 customers, the proportional share of activities in the CCA's territory would require air conditioner rebates to one in 300 customers in the CCA's territory. Requiring this type of allocation of activities is troubling in cases where the CCA's air conditioning rebate market may be saturated, where one in 300 customers may not use qualifying air conditioners (if the CCA territory is mostly industrial customers, for example) or where rebates in the CCA's territory would be much less cost-effective than in other areas of the state (if the CCA territory is cool relative to other areas of the state). In some cases, such an allocation would be nonsensical, for example, where the energy efficiency "activity" was the provision of agricultural equipment and no CCA customers was designated agricultural.

The Legislature could not have intended by its use of the term "activities" to limit our discretion to implement programs that are designed according to local needs, cost-effectiveness and equity. Indeed, the language of AB 117 suggests exactly the opposite. The practical problems associated with literally applying the term "activities" motivates us to use funding levels as a proxy for "activities."

The simplest way to define "activities" in this case would be to calculate per capita spending in the CCAs territory and raise or lower the

amount to make it comparable to average per capita spending statewide. In some cases, this monetary proxy for "activities" would not necessarily portray the level of activity accurately. For example, defining "proportional share" according to funding levels may overstate activities in areas where customers are hard to reach. Conversely, using funding as a proxy may understate activities where implementation is simple and low cost. We can overcome these types of problems by considering cost-effectiveness, equity and local conditions, as the statute suggests.

We therefore define the CCA's "proportional share" as an average of statewide per capita activities from the previous year applied to the CCA's territory according to the number of customers. To calculate the "proportional share," the annual Public Goods Charge (PGC) budget is divided by the population of the state to determine per capita PGC funding. The result is multiplied by the population of the CCA's territory to determine that CCA's proportional share. We believe this calculation is also consistent with the statute's admonition that we develop the proportional share "without regard to customer class."

Using the "proportional share" as we do obviates the need to net out statewide program expenses or "opt out" customers because the "proportional share" is only used to estimate non-CCA expenditures in the CCA's area. It does not necessarily represent an amount of funds that are available for energy efficiency programs in the CCA's territory, some of which may duplicate utility efforts. Moreover, if it appears there may be some duplication where a combination of utilities, third parties and CCAs administer programs in a CCA's territory, we may adjust the "proportional share" accordingly.

This "proportional share" calculation must be provided to the Commission and interested parties any time a CCA has been established and the CCA is not administering local energy efficiency programs funded under Section 381. The utility must also present to the Commission its proposal for complying with the statute's requirement that the utility direct a "proportional share" of activities to the CAA's territory. The Commission will determine whether the calculation of the "proportional share" is accurate and reasonable, and whether the amount should be adjusted, consistent with Section 381.1.

F. What Kinds of Information Should the Utilities Provide to CCAs? Should That Information be Available to All Parties Who Request it?

AB 117 anticipates that "the administrator" of energy efficiency programs will work with CCAs and provide information about energy efficiency programs:

> Sec. 381.1(c)…The commission shall also direct the administrator to work with the community choice aggregator, to provide advance information where appropriate about the likely impacts of energy efficiency programs...

Cities appear to interpret this section broadly to require the utilities to provide information on proportional share and spending to all cities, counties and CCAs by geographic area. LGC also proposes that non-CCA program administrators be required to provide implementation plans and impact forecasts. In this regard, LGC proposes that non-CCA administrators be required to coordinate with CCAs so that CCAs may collaborate with administrators, develop accurate resource plans and design their own programs

in ways that are equitable, cost-effective and comprehensive. WEM and others seek information about what the utilities have collected in each local jurisdiction.

Sustainable Novato seeks detailed descriptions of the utilities' program implementation plans and energy efficiency programs for all cities and counties requesting such information. LGC believes having information about available funds would permit CCAs to plan their resource plans and give cities information necessary to analyze whether to become a CCA.

The utilities propose to provide certain types of information but caution that its collection and dissemination could be costly in some cases. On the basis of the utilities' proposals, we direct them to provide the information listed on Attachment C.[3] Where that information may be confidential, the utility should mask the information or require the city, county or CCA representative to sign a nondisclosure agreement.

The types of information listed in Attachment C should be provided to any party within one week of the request. We will direct each utility to file a tariff that permits cities, counties and CCAs to receive other types of data and information that the utilities do not currently compile or analyze, such as CCA territory load profiles or estimates of the proportional share for areas in which a CCA is not formed. This type of information should be available at an hourly rate that reflects actual utility costs. We will consider ordering the utility to provide additional types of information in the broader inquiry into AB 117 aggregation issues.

[3] Attachment C lists the information each respondent can currently provide, based on representations to the ALJ. Thus, the information differs for each respondent.

We will also require non-CCA administrators to provide to any requesting party copies of implementation plans and impact forecasts.

G. What Implementation Costs Must the Utilities be Able to Recover and From Whom?

The utilities state that they are entitled by AB 117 to recover the costs of implementing its provisions. SCE cites Section 366.2:

> Sec. 4 Section 366.2 is added to the Public Utilities Code to read: 366.2. (a) (17) An electrical corporation shall recover from the community choice aggregator any costs reasonably attributable to the community choice aggregator, as determined by the commission, of implementing this section.

This provision of AB 117, however, does not apply to the portions of the bill that address energy efficiency program funding. Section 366.2 explicitly limits itself to costs "of implementing this section." Here, "this section" only refers to the costs relating to CCA procurement programs.

Consistent with our findings today on other matters relevant to AB 117 energy efficiency program funding, we intend to implement only those program changes required by the statute. We are not today requiring extraordinary efforts of utilities to implement AB 117. They are fully reimbursed for the costs of implementing energy efficiency programs generally. The only incremental requirements imposed by this order are information the utilities state they already have or could easily compile. We invite the utilities to file tariffs that permit an hourly charge for compiling and analyzing other types of information. We therefore do not establish here any new funding mechanisms for implementing those portions of AB 117 that are the subject of this order and expect the utilities to absorb those costs as the normal cost of doing business.

IV. Comments on Draft Decision

The draft decision of the Administrative Law Judge (ALJ) in this matter was mailed to the parties on June 20, 2003 in accordance with Section 311(g)(1) of the Public Utilities Code and Rule 77.7 of the Rules of Practice and Procedure. Consistent with Section 311(g)(2), all parties have stipulated to reduce the 30-day period to 20 days. Several parties filed comments on June 30 and replies on July 7.

This decision makes minor changes to the ALJ's proposed decision on the basis of parties' comments. Those changes are generally intended to clarify our intent or program details. Some parties proposed broad policy changes to would facilitate CCA funded programs. We appreciate those comments and ideas but defer these larger issues to other phases of this proceeding and the CCA rulemaking we intend to initiate.

V. Assignment of Proceeding

Susan P. Kennedy is the Assigned Commissioner and Kim Malcolm is the assigned ALJ in this proceeding.

Findings of Fact

1. AB 117 requires the Commission to establish certain policies and procedures regarding energy efficiency program funding no later than July 15, 2003.

2. The Commission's existing policies and procedures for selecting energy efficiency programs and administrators (or "implementers" as defined by the Commission's energy efficiency policy manual) generally fulfill those portions of AB 117 that require the Commission to permit non-utilities to apply for program funding and that articulate policy criteria for selecting programs to be funded with revenues collected pursuant to Section 381.

3. The record in this proceeding does not support providing a preference for cities, counties or CCAs to be awarded energy efficiency program funding at this time.

4. It would be impractical and contrary to AB 117's policy objectives to allocate a "proportional share of cost-effective energy efficiency and conservation activities" unless funding levels are used as a proxy for "activities."

5. A reasonable definition of "proportional share" for purposes of implementing AB 117 is a utility's average statewide per capita Public Goods Charge energy efficiency program spending from the previous year times the population in a CCA's territory.

6. The utilities already collect and disseminate upon request certain types of data and information. Ordering the utilities to continue to collect and disseminate this information, as set forth in Attachment C, will not create a measurable financial burden on the utilities and such activity is integral to the utilities' normal business operations.

Conclusions of Law

1. AB 117 does not require Commission approval for cities and counties to create CCAs; although AB 117 requires a number of preconditions before a CCA may aggregate load and purchase power on behalf of local customers, no preconditions exist in the bill before a CCA may apply for energy efficiency funding authorized in Section 381.

2. AB 117 requires the Commission to permit parties other than utilities to apply for energy efficiency program funding authorized in Section 381.

3. AB 117 does not require or state as a matter of public policy that the Commission should provide a preference for cities, counties or CCAs in deciding which parties should be awarded funding for energy efficiency programs.

4. Existing procedures, schedules, selection criteria and EM&V requirements should apply to CCAs that seek energy efficiency program funding authorized under Section 381.

5. Energy efficiency program administrators should allocate a "proportional share of cost-effective energy efficiency and conservation activities" to CCA territories where the CCA is not the energy efficiency program administrator. AB 117 permits the Commission to adjust the proportional share under certain circumstances.

6. The proportional share of energy efficiency program funding, as defined herein, should be allocated to a CCA's territory where the CCA is not administering energy efficiency programs funded by revenues collected pursuant to Section 381.

7. The respondent utilities should provide certain information and data to cities, counties and CCAs, as set forth in Attachment C.

8. The utilities should file tariffs that facilitate the dissemination of information and data that would permit cities, counties and CCAs to develop and implement local energy resource plans and programs, as set forth herein.

9. Nothing in AB 117 requires the Commission to assure utilities collect additional revenues to implement those portions of AB 117 relating to energy efficiency programs and which are the subjects of this order.

10. The modifications to the Commission's energy efficiency policy manual, in Attachment A of this order, and consistent with the findings herein, should be adopted.

INTERIM ORDER

IT IS ORDERED that:

1. The modifications to the Commission's energy efficiency policy manual set forth in Attachment A and consistent with the findings of this order are adopted.

2. Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas & Electric Company and Southern California Gas Company (collectively, Sempra), shall propose ways to allocate a proportional share of energy efficiency program funding to a "Community Choice Aggregators" (CCAs) territory where the CCA does not administer energy efficiency programs funded with revenues collected pursuant to Section 381. Respondents shall calculate the proportional share consistent with this order.

3. PG&E, SCE and Sempra shall provide the information and data described in Attachment C to any city, county or CCA that requests it, as set forth in this order and without charge.

4. PG&E, SCE and Sempra shall file tariffs that propose a cost-based hourly rate for the collection, analysis and dissemination of data and information relevant to the energy resource plans and programs of cities counties and CCAs. The utilities shall work with cities, counties and CCAs to determine their information and data needs, consistent with this order.

This order is effective today.

Dated July 10, 2003, at San Francisco, California.

MICHAEL R. PEEVEY
President
CARL W. WOOD
LORETTA M. LYNCH

GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners

ATTACHMENT A

Funding for Community Choice Aggregators and Other Energy Efficiency Program Administrators

The following policies and procedures set forth how parties may apply to administer cost-effective energy efficiency and conservation programs established pursuant to Section 381. This section provides that "any party" may apply for funding. Among those parties who may qualify for funding are cities, counties or a combination of cities and counties that become Community Choice Aggregators (CCA). Other examples are non-profit entities, contractors, or community-based organizations.

These rules also establish how energy efficiency program administrators direct a proportional share of their program activities to the CCA's territory and set forth other administrative requirements.

This section implements AB 117 (Chapter 838, September 24, 2002) which ***modified the California Public Utilities Code.***

Definitions

- **Community Choice Aggregator** – As provided in Public Utilities Code Section 331.1, a CCA is any of the following entities, if that entity is not within the jurisdiction of a local publicly owned electric utility that provided electrical service as of January 1, 2003:

  a) Any city, county, or city and county whose governing board elects to combine the loads of its residents, businesses, and municipal facilities in a communitywide electricity buyers' program.

  b) Any group of cities, counties, or cities and counties whose governing boards have elected to combine the loads of their programs, through the formation of a joint powers agency established under Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

- **Administrators –** ***For purposes of implementing Section 381.1, an "administrator" is any party that receives funding for and implements energy efficiency programs pursuant to Section 381.***

- **Proportional Share** – ***For purposes of implementing Section 381.1, "proportional share" refers to the average per capita share of all the utility's Public Goods Charge energy efficiency program funding that occurred statewide in the previous year times the population in a CCA's territory. The average per capita share shall be determined using the latest California population listed in E-1 City/County Population Estimates published by the California Department of Finance Demographic Unit.***

Guidelines for Funding Applications

Any party that has been established by local authorities as a CCA pursuant to Section 331.1 may apply for energy efficiency funding subject to the guidelines, criteria, schedules, and EM&V that apply to third parties, as set forth in this Policy Manual and Commission rulings and orders. The CCA need not have Commission authority to aggregate electrical load or purchase energy on behalf of its customers in order to apply for energy efficiency program funding pursuant to Section 381.1.

In determining whether to approve an application to become administrators, the Commission will consider the value of program continuity and planning certainty and the value of allowing competitive opportunities for potentially new administrators. The Commission will weigh the benefits of each party's proposed program to ensure that the program meets the following objectives:

(1) Is consistent with the goals of the existing programs established pursuant to Section 381.
(2) Advances the public interest in maximizing cost-effective electricity savings and related benefits.
(3) Accommodates the need for broader statewide or regional programs.

The Commission may adjust the share of energy efficiency program activities directed to a CCA's territory to promote equity and cost-effectiveness. The Commission will maintain energy efficiency programs targeted to specific locations where needed to avoid or defer transmission or distribution system upgrades irrespective of whether the loads in that location are served by the CCA or an electrical corporation. The Commission may require program administrators to share information on program impacts with the CCA and to accommodate any unique community program needs by shifting emphasis of approved programs, provided that the shift in emphasis does not impact the effectiveness of overall statewide or regional programs.

For purposes of AB 117, CCAs may apply for energy efficiency program funding consistent with the timing of Commission authorized solicitations for energy efficiency proposals.

CCA Applications for Program Funding Extensions and Renewals

A CCA with program funding may apply to extend programs by submitting program implementation plan revisions to the Commission. The revised program implementation plans may propose existing or new programs. The program implementation plan revisions should consider evaluation, measurement and verification (EM&V) results from the previous term, if available or if required by the Commission. If the EM&V results are not final, CCAs should submit initial results.

The Commission may accept all, part, or none of the CCA's proposed programs. The Commission may condition additional funds on program changes. The CCA should be prepared to provide additional information on proposed changes.

Allocating the proportional share of program activities

In cases where a CCA is established but does not administer energy efficiency programs pursuant to Section 381, the jurisdictional utility shall propose how to allocate the proportional share of funding to that CCA's territory. The utility serving the CCA's territory shall submit its estimate of the proportional share for review of the estimate's accuracy and reasonableness. That estimate should be made available to the CCA upon request and to entities considering whether to create a CCA.

Consistent with Section 381.1, the Commission may adjust the proportional share allocated to a CCA's territory as follows:

> ***(a) to the extent that energy efficiency and conservation programs are targeted to specific locations to avoid or defer transmission or distribution system upgrades, the targeted expenditures shall continue and***
>
> ***(b) to accommodate any unique community program needs by placing more, or less, emphasis on particular approved programs to the extent that these special shifts in emphasis in no way diminish the effectiveness of broader statewide or regional programs.***
>
> ***(c) to ensure an equitable and cost-effective allocation of energy efficiency program activities.***

Non-CCA administrator roles and obligations

Any party may propose programs for all or part of a CCA's territory whether or not the CCA proposes energy efficiency programs for its customers.

Non-CCA administrators must coordinate with each other and the CCA to ensure that , to provide advance information where appropriate about the likely impacts of energy efficiency programs and to assure that CCAs are aware of existing programs for purposes of planning and avoiding duplication of program efforts.

Non-CCA administrators must provide implementation plans and impact forecasts to any party requesting those documents.

Utility Data

Utilities are responsible to develop information that will assist cities, counties and CCAs in resource planning and determining whether to apply for Section 381 funding. Each utility shall provide an estimate of the proportional share as described herein for a CCA's territory or proposed territory. It shall provide all types of information required by the Commission in its most recent order addressing CCA information and shall work with CCAs, cities and counties to develop data resources and information that is relevant to CCA resource planning and program implementation.

(END OF ATTACHMENT A)

ATTACHMENT B

RELEVANT PORTIONS OF AB 117

SEC. 2. Section 331.1 is added to the Public Utilities Code, to read:

331.1. For purposes of this chapter, "community choice aggregator" means any of the following entities, if that entity is not within the jurisdiction of a local publicly owned electric utility that provided electrical service as of January 1, 2003:

(a) Any city, county, or city and county whose governing board elects to combine the loads of its residents, businesses, and municipal facilities in a communitywide electricity buyers' program.

(b) Any group of cities, counties, or cities and counties whose governing boards have elected to combine the loads of their programs, through the formation of a joint powers agency established under Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

SEC. 4 Section 366.2 is added to the Public Utilities Code to read:

366.2. (a) (17) An electrical corporation shall recover from the community choice aggregator any costs reasonably attributable to the community choice aggregator, as determined by the commission, of implementing this section, including, but not limited to, all business and information system changes, except for transaction-based costs as described in this paragraph. Any costs not reasonably attributable to a community choice aggregator shall be recovered from ratepayers, as determined by the commission. All reasonable transaction-based costs of notices, billing, metering, collections, and customer communications or other services provided to an aggregator or its customers shall be recovered from the aggregator or its customers on terms and at rates to be approved by the commission.

SEC. 5. Section 381.1 is added to the Public Utilities Code, to read:

381.1. (a) No later than July 15, 2003, the commission shall establish policies and procedures by which any party, including, but not limited to, a local entity that establishes a community choice aggregation program, may apply to become administrators for cost-effective energy efficiency and conservation programs established pursuant to Section 381. In determining whether to approve an application to become administrators, the commission shall consider the value of program continuity and planning certainty and the value of allowing competitive opportunities for potentially new administrators. The commission shall weigh the benefits of the party' s proposed program to ensure that the program meets the following objectives:

(1) Is consistent with the goals of the existing programs established pursuant to Section 381.

(2) Advances the public interest in maximizing cost-effective electricity savings and related benefits.

(3) Accommodates the need for broader statewide or regional programs.

(b) All audit and reporting requirements established by the commission pursuant to Section 381 and other statutes shall apply to the parties chosen as administrators under this section.

(c) If a community choice aggregator is not the administrator of energy efficiency and conservation programs for which its customers are eligible, the commission shall require the administrator of cost-effective energy efficiency and conservation programs to direct a proportional share of its approved energy efficiency program activities for which the community choice aggregator's customers are eligible, to the community choice aggregator's territory without regard to customer class. To the extent that energy efficiency and conservation programs are targeted to specific locations to avoid or defer transmission or distribution system upgrades, the targeted expenditures shall continue irrespective of whether the loads in those locations are served by an aggregator or by an electrical corporation. The commission shall also direct the administrator to work with the community choice aggregator, to provide advance information where appropriate about the likely impacts of energy efficiency programs and to accommodate any unique community program needs by placing more, or less, emphasis on particular approved programs to the extent that these special shifts in emphasis in no way diminish the effectiveness of broader statewide or regional programs. If the community choice aggregator proposes energy efficiency programs other than programs already approved for implementation in its territory, it shall do so under established commission policies and procedures. The commission may order an adjustment to the share of energy efficiency program activities directed to a community aggregator's territory if necessary to ensure an equitable and cost-effective allocation of energy efficiency program activities.

(END OF ATTACHMENT B)

ATTACHMENT C

Utility Information Available to Cities, Counties and CCAs

Each utility shall provide the following information to Cities, Counties or CCAs requesting it, pursuant to this order:

SEMPRA shall provide:

- Aggregate annual usage data (kWh) broken out by city, zip code and customer and rate classes, on a monthly basis
- Public Goods Charge customer payments by zip code and city
  Quarterly or monthly aggregated participation data already tracked for Commission reports
- The proportional share in a CCA's territory or proposed territory as defined in the Commission's energy efficiency policy manual

PG&E shall provide:

- Energy consumption for each customer class for a given period of time and a given city
- Systemwide residential and nonresidential load shapes and most recent hourly load shapes (usually from the previous year) for a given climate band
- Dynamic and static load profiles posted daily at PG&E's website by rate categories
- The proportional share in a CCA's territory or proposed territory as defined in the Commission's energy efficiency policy manual

SCE shall provide:

- Number of accounts in each rate group
- Aggregate consumption for each rate group
- Aggregate noncoincident demand in each rate group where metered demand data is available
- Coincidence factors which estimate coincident demands where metered data is available
- Standard system average load profiles by rate group, to estimate load shapes
- The proportional share in a CCA's territory or proposed territory as defined in the Commission's energy efficiency policy manual

(END OF ATTACHMENT C)