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Via U.S. Mail and Electronic Mail

President Michael Picker
Commissioner Martha Guzman Aceves
Commissioner Clifford Rechtschaffen
Commissioner Carla Peterman
Commissioner Liane Randolph

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102-3298

Re: Comments of the City of San Diego on Draft Resolution E-4907

Dear President Picker and Commissioners:

Pursuant to the directions in Draft Resolution E-4907 (Draft Resolution) and the email instructions to interested parties from the Commission's Energy Division,[1] the City of San Diego (CSD) submits these comments on the Draft Resolution.

Background

On December 15, 2015 the San Diego City Council adopted a Climate Action Plan (CAP) that includes an electric energy component with an objective of achieving a 100% renewable fueled electricity supply in CSD by 2035. This objective not only supports CSD's own CAP but also supports California's greenhouse gas (GHG) reduction targets established by Assembly Bill 32 (2006) and Senate Bill 32 (2016). As a possible pathway toward that goal CSD's CAP specifically cites the possible formation of a CCA or another program to meet that end. Since the CAP was adopted CSD has commissioned consultants to prepare a CCA feasibility study. The draft study was recently completed and made publicly available and determined that CCA is a viable option for the City of San Diego. CSD is presently following the CCA feasibility study with the preparation of a CCA Business Plan. CSD's Mayor and City Council are expected to make a decision on which pathway to implement, CCA or another

[1] Emails from Energy Division Analyst Suzanne Casazza dated December 20 and 27, 2017 to January 11, 2018.

program, in 2018. In order to achieve these GHG reduction goals, CSD needs to preserve all options available that best serve San Diego communities, including the possible commencement of a CCA on a date most advantageous to the City and its citizens.

Although CSD has not determined if it will form a CCA at this time, the practical implications of Draft Resolution E-4907 are still possibly impactful and therefore very concerning to CSD. The ability to make decisions about CSD's energy future at the local level is important to CSD decision makers, residents, and businesses. CSD understands the complexity and momentum at which the energy landscape in California is changing and the required shift in planning and preparedness this change imposes on the Commission and staff. CSD supports the Commission in its effort to organize and coordinate diverse energy supply throughout the state and its mission to ensure safe, reliable energy and utility service. CSD understands that the Commission and all Load Serving Entities (LSEs) have a responsibility to timely coordinate Resource Adequacy (RA) procurement to ensure that RA exists for all customers and that costs are borne fairly and properly among bundled ratepayers, direct access customers, and those who receive the electric commodity from a CCA.

CSD believes that an essential requirement for the Commission in carrying out this responsibility of coordination must be preservation of fairness and local government choice. The Commission's responsibility to coordinate RA cannot occur at the expense of local government authority and statutory prerogative. The Draft Resolution fails the principle of fairness and choice at the expense of local governments because it would impose express conditions on CCAs not contained in the statutes. It allows scant opportunity to check the legitimacy of its factual foundations, or to determine the contours of the stated short term[2] RA cost allocation problem it aims to fix, or to propose alternative solutions. The Draft Resolution was issued very suddenly, with little or no notice to affected parties, and it proposes to implement material restrictions on CCAs without tested evidence or hearings. Even with the extension of time to file comments the proposed quick Resolution process suggests that the Commission regards CCA responsibility for short term RA costs to be a suddenly exigent problem requiring an immediate solution despite the fact that the underlying decision requiring establishment of an informal process for CCA implementation plans (D.05-12-041) was issued twelve years ago.

The Draft Resolution cites the inception of two actual CCAs between 2010 and 2015 and more CCA launches and growing interest from local communities since. The Draft Resolution concludes that "[a]s a result of this rapid growth in CCAs, it is appropriate *now* to address the directives of D.05-12-041 to create and publish processes for CCA implementation and registration."[3] (Emphasis added.) The Draft Resolution does not explain why these processes should not or could not have been created sooner, before the existence of the perceived exigence, through a fair process of dialog and decision in an open proceeding, rather than through the Resolution process that affords local governments little or no opportunity to check facts or voice positions. A.B. 117 (2002) enabled the formation of CCAs. As the Draft Resolution recites, there were no CCAs launched until Marin Clean Energy in 2010. With S.B. 790 (2011) the Legislature

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[2] For purposes of these comments "short term" means RA contract commitments of one year or less.
[3] Draft Resolution E-4907 page 2.

intended to reduce barriers to local government prerogatives in forming CCAs, not increase barriers. Overall, the intent of the Legislature in A.B. 117 and S.B. 790 was to enable the right of local governments to procure and generate more renewable energy, expand customer choice, and greatly accelerate regional efforts to address climate change.[4] Given that the Legislature passed S.B. 790 years ago to further facilitate the creation of CCAs, the Commission should not now be surprised that local communities have since been exploring or embarking upon CCA in larger numbers. If this realization comes suddenly now in reference to CCA implementation processes and short term RA cost responsibility, as the hasty proposed process of the Draft Resolution suggests, the solution for the issues created by this late (or at least now rapidly growing) realization cannot be forced to the prejudice and detriment of local governments which are invoking or exploring their energy choice program options.

The Draft Resolution is not well considered and would allow for almost no due process. If adopted as perfunctorily as proposed it could amount to a Commission overreach in interfering with local prerogatives the Legislature has expressly established. Public Utilities Code section 366.2(c)(8) requires that the Commission "…shall designate the earliest possible effective date for implementation of a community choice aggregation program, taking into consideration the impact on any annual procurement plan of the electrical corporation that has been approved by the commission". CSD acknowledges that the statutory mandate to "designate the earliest possible effective date" for implementation of a CCA program is qualified by "taking into consideration" the impact on electrical corporation procurement. This consideration is a valid qualification, however Draft Resolution E-4907 would reverse the priorities expressed in this statute. It would put the interests of electrical corporations ahead of implementing a CCA "at the earliest possible time." CSD is not dismissive of the interests of electrical corporations and bundled customers in being fairly compensated for any short term RA costs they may have incurred in a year in which a CCA was not assigned an RA obligation by the CAISO. However, for the Commission to adopt the Draft Resolution without a proceeding record could amount to an abuse of discretion. The Draft Resolution is conclusory in its determination that the only way to resolve the short term RA cost issue it identifies is to require CCAs to file implementation plans on or before January 1 of the year ahead of the year they intend to serve customers. No other possible solutions to the identified issue have been considered, and thus the Draft Resolution ignores the mandate in Public Utilities Code Section 366.2(c)(8) that the Commission must designate the earliest *possible* effective date for implementation of a CCA program. The "taking into consideration" of utility plans cannot result in requirements that materially limit earliest possible CCA effective dates where there is no record to support the requirements and where alternatives to such requirements have not been considered.

The impacts of departing load on the service obligations and resource capacities and planning of electrical corporations are being considered in the Power Charge Indifference Adjustment (PCIA) proceeding R.17-06-026. But Draft Resolution observes that the PCIA does not encompass contracts for less than one year because of a holding in D.11-12-018.[5] However justified the reasons for this may be, it remains a Commission-imposed rule that is now being

[4] S.B. 790 Section 2(j).
[5] Draft Resolution E-4907 page 7.

cited in the Draft Resolution to support "informal" procedural rules that would prevent CCA implementation at the earliest possible time.[6] The stated reasons for excluding transactions of less than a year from the PCIA, justified or not, cannot reduce the Commission's duty to designate the earliest *possible* implementation date for a CCA unless the Commission can demonstrate that cost responsibility for electrical corporation contracts for less than a year cannot possibly be assigned to CCAs without formally[7] compelling them to submit implementation plans at least one full year ahead of the year they intend to serve load. Since the Commission has no record showing that other alternatives are not possible for assigning short-term, semi-one year RA costs to CCAs, the Commission would be overreaching if it were to summarily adopt Draft Resolution E-4907.

The Commission should withdraw the Draft Resolution in favor of a more fair process to address the RA coordination and cost concerns it expresses. The Draft Resolution was issued far too late in 2017 to provide for fairness to CCA eligible entities. The timeline for CCA implementation plans posited in the Draft Resolution would unduly constrain local decisions over the timing of customer choice and would interfere with pathways to progress on achieving local energy goals. CSD believes the Commission must reject the Draft Resolution. CSD shares the Commission's concerns with assuring a just and timely allocation of RA costs between bundled and unbundled customers. To the extent that a short term RA cost allocation problem exists, the Draft Resolution cites only data from the PG&E area as evidence, and CCAs in that area have had no opportunity to confirm the assertions. There is no data showing exigence of this issue in the SDG&E area, as no CCAs have begun serving customers yet in this region. In so far as the problem is merely an asserted issue for the PG&E area and a projected issue at this point for other electrical corporation service areas, reasonable alternatives to the prejudicial summary requirement for CCAs to file implementation plans on or before January 1 of the year preceding the year in which they intend to serve load need to be explored.

CSD requests that the Commission's concern for CCAs bearing their fair share of the costs of meeting RA for their customers in launch or expansion years be taken up in the Resource Adequacy proceeding R.17-09-020 and/or the Power Charge Indifference Adjustment Proceeding R.17-06-026 and not by the abrupt, hasty, and CCA-impeditive Draft Resolution E-4907. The interest of CSD is to preserve all options afforded to local governments by state legislation to take action that is in the best interest of their communities and to ensure fairness for all ratepayers within the City of San Diego. So long as a process is assured to make electrical corporations and their bundled customers whole for RA procured in years for which a CCA did not receive an RA obligation from the CAISO, the Commission can and must assure that CCA

[6] Ordering paragraph 8 of D.05-12-041 called for development of an informal process for CCA implementation, not formal rules, providing in relevant part: "In order to facilitate the smooth operation of the CCA where its policies, practices, and decisions may affect the utility and its customers, the Executive Director shall develop and publish the steps of *an informal process* of review, as described herein, that provides a forum for the CCA and the utility to understand the CCA's implementation plans and assures the CCA is able to comply with utility tariffs. (Emphasis added.)

[7] Draft Resolution E-4907 posits an Adopted Timeline that will *formally*, not informally, *require* CCAs to file implementation plans on or before January 1 of the year before the year in which they plan to serve load.

implementation plans can be filed at the earliest possible date determined by a CCA and not unduly constrained to January 1 of the year ahead of the year in which they intend to serve customers. CSD respectfully requests that the Commission must not approve Draft Resolution E-4907.

Sincerely yours,

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By *<u>/s/Fredrick M. Ortlieb</u>*
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