



249 S. Highway 101, P. O. Box 564, Solana Beach, CA 92075 sandiegoenergydistrict.org

July 11, 2016

The Honorable California Public Utilities Commission President Michael Picker
The Honorable California Public Utilities Commissioner Michael Florio
505 Van Ness Avenue
San Francisco, CA 94102

RE: RESOLUTION E-4874, responding to SDGE's Advice Letter 2822-E

Dear President Picker and Commissioner Florio:

On behalf of the San Diego Energy District (SDED), we the undersigned officers, directors and advisors of SDED urge you to reject and deny the draft Resolution as written. In our view, it offers insufficient protection to California's emerging community choice market place the electrical competition envisioned under SB 790. SDED has served as the single-issue voice supporting the formation of community choice programs in the San Diego region since formation in 2011.

As drafted, Resolution E-4874 does not go far enough to balance the pervasive market power of the utility holding companies as they seek to propagate their views regarding community choice. Rather, the current draft allows the use of shareholder funds, as long as the "Independent Marketing Division" operates within the Affiliate Transactions Rules (ATR).

These rules and other elements in the draft Resolution do not, even in combination, apply sufficient counterweight to the tremendous imbalance of market power, name recognition, customer and airwave access enjoyed by the electrical corporations in comparison with new community choice programs. With the opportunity to require countervailing constraints on these large market actors, the Commission chose instead to inflict as little burden as possible on those companies. We submit that, by so doing, the Commission has voted to support Sempra and other corporate parents in their end-run around the legislative intent of SB790.

The draft Resolution should be denied until/ unless amended. The commenting Parties have offered a host of specific changes to the Resolution that would address this imbalance in part. In our view, the minimum changes required to preserve the intent of SB 790 in the face of shareholder-supported electrical corporation lobbying and communications are:

- Apply the CCA Code of Conduct and expedited complaint process to all CCA-related personnel, contracts and actions taken by "Sempra Services Corporation". Allow no ambiguity, no loopholes or exceptions.
- Mitigate the predictable consumer confusion to arise when Sempra's corporate voice weighs against CCA formation in a manner that SDGE has not to date. Requiring Sempra to



249 S. Highway 101, P. O. Box 564, Solana Beach, CA 92075 sandiegoenergydistrict.org

identify and disclose on all materials, websites, ads/videos, etc., that its interests are the same as SDG&E, even if its funding is distinct.

- Create a BIG disincentive to misuse market power. Stipulate that any Sempra actions triggering the CCA Code of Conduct complaint process will also trigger a CPUC mandate for Sempra to fund a "Market Imbalance Reimbursement Fund" to reimburse pro-CCA voices in an amount equal to Sempra's anti-CCA spending for one year.

SDED views the current draft Resolution as a roll back of California's community choice progress to the days of 2008-2010, prior to Proposition 16 and SB 790 CCA Code of Conduct. The progress since then has been possible because the investor-owned utilities were required to be neutral and factual. This Resolution not only recognizes that the parent electrical corporations will not be neutral toward community choice. It also explicitly allows them to use shareholder funds to exercise their greater market power in proselytizing this biased message.

SDED implores the CPUC to deny this effort to resume the one-sided battle. The Commission does not make any finding to justify the use of Public Purpose Funds for the non-profit voices that will now have to play on the Sempra-sized playing field. Without funding, these non-profit voices will be outgunned and outmaneuvered by Sempra. As in the past¹, the IMD will surely communicate up the chain to Sempra. Sempra in turn will communicate down the chain to SDGE on how to neutralize a Community Energy initiative in a city like Solana Beach, Del Mar, Encinitas, Chula Vista, or the City of San Diego. (Note 1 provides ample proof of the capability and will of Sempra and SDGE to quash the energy choice movement in San Diego).

SDED fully expects that approval of this Resolution will lead to a resumption of this type of activity, unless the draft is amended per above. We also expect that Sempra's actions will shortly prove that E-4874's proposed constraints are insufficient to protect SB 790-mandated outcomes. The Fund proposed above is envisioned as a partial step to rebalance the playing field by strengthening the many worthy non-profit entities fighting for community choice commensurate with the forces Sempra will levy against them.

In conclusion, SDED is clear that the Draft Resolution does not further the intent of the Assembly and people of California as embodied in all previous policy and actions supporting community choice. We respectfully request the Commission to deny the draft Resolution E-4874 in its entirety.

Sincerely yours,

Lane Sharman, Co-Founder, Board Chair
Michael Hetz, Vice Chair

1 "Future of SM Utility Still Unclear", Union Tribune, May 2004. See:
<http://www.sandiegouniontribune.com/news/2004/may/16/future-of-sm-utility-still-unclear/3/>



249 S. Highway 101, P. O. Box 564, Solana Beach, CA 92075 sandiegoenergydistrict.org

Erika Morgan, Secretary, Executive Director
Van Collinsworth, Director
Jamie Edmonds, Director
Jose Torre-Bueno, Director
Susan Davison, Advisor
David Sean Dufek, Advisor
Jay Klopfenstein, Advisor
Tobias Schultz, Advisor
Stuart Smits, Advisor
Charles Wilson, Advisor
Kurt Yeager, Advisor

IN ADDITION the Steering Committee of the California Alliance for Community Energy (CACE) has voted to endorse these comments. CACE is a coalition of organizations, initiatives, and individuals that supports and defends Community Choice energy programs in California. CACE's Mission is to support and defend California Community Choice programs that advance local clean energy for the environmental and economic benefit of our communities. [CA Community Energy.org](http://CACommunityEnergy.org)

Copies to:

Commissioner Catherine J. K. Sandoval cjs@cpuc.ca.gov
Commissioner Carla J. Peterman cap@cpuc.ca.gov
Commissioner Liane M. Randolph lr1@cpuc.ca.gov
Timothy Sullivan, Executive Director, CPUC timothy.sullivan@cpuc.ca.gov
Edward.Randolph, Energy Division Director, CPUC edward.randolph@cpuc.ca.gov
Energy Division, edtariffunit@cpuc.ca.gov
Will Maguire, Energy Division, CPUC wm4@cpuc.ca.gov
Jonathan Tom, Energy Division, CPUC, jpt@cpuc.ca.gov
Public Advisor, CPUC public.advisor@cpuc.ca.gov
Marin Clean Energy dweisz@mceCleanEnergy.org; regulatory@mceCleanEnergy.org
Sonoma Clean Power Regulatory@sonomacleanpower.org
Local Energy Aggregation Network shawnmarshall@leanenergyus.org
Californians for Energy Choice coalition@calenergychoice.org
California Alliance for Community Energy Members@CAcommunityenergy.org
Climate Action Campaign/ Sierra Club lamezcua27@gmail.com