Taking Community Out of Community Choice

Why *California Choice Energy Authority* Might Not Be the Right Choice for Your Community

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Introduction

California Choice Energy Authority (CCEA) is a new public entity that is offering smaller cities a "QuickStart" solution to establishing and managing a Community Choice energy program. CCEA's purported "turnkey" services include start up guidance, pre-launch planning and preparation, and then all requisite power supply, regulatory and business operation services once the new Community Choice program commences electricity sales.

CCEA's efforts to secure contracts with municipalities in Southern California Edison's service territory have garnered a great deal of concern among Community Choice advocates. This memo summarizes those concerns and is intended to be used to educate communities and public officials about potential downsides of retaining CCEA's services.

About CCEA

An outgrowth of Lancaster Choice Energy (LCE), the city of Lancaster's Community Choice program, CCEA has generally approached smaller cities considering involvement in Community Choice activities. CCEA ostensibly offers these cities the opportunity to "leverage [Lancaster's] knowledge and staff in order to benefit from lower energy procurement costs, regulatory matters, accounting, and compliance functions which are crucial to the success" of a Community Choice program.[1]

CCEA is formally a joint powers authority (JPA) of the cities of Lancaster and San Jacinto, however its governing board is the Lancaster City Council. To obtain CCEA's services, a city executes an Associate Membership Agreement. Associate Members of the CCEA are "not entitled to representation on the Board or to vote on any matter coming before the Board.

CCEA appeals to cities which might otherwise avoid establishing a Community Choice program either due to small size or budget constraints. CCEA offers them the benefits of economies of scale "without having to sacrifice key control often associated with JPAs."[2] CCEA's key sales argument is that by becoming a CCEA Associate Member, a city will have full independence and control to manage its Community Choice programs without being encumbered or constrained by a multi-member JPA (which is the preferred oversight structure utilized by most of California's operating Community Choice programs). Implied by CCEA's approach is that Associate Member cities can use Community Choice net revenues for general fund activities, a value proposition that can be very attractive to cash-starved jurisdictions.

To summarize, CCEA's Community Choice model is promoted to small cities as a superior alternative to a JPA governance structure by allowing "cities to hit the ground running and be operational quicker and easier than ever thought possible."[3]

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[1] https://californiachoiceenergyauthority.com/cca-history/

[2] Ibid

[3] Ibid

Concerns Regarding California Choice Energy Authority

Many find that the CCEA model of Community Choice, described above, actually undermines the basic tenets of Community Choice as a democratically-run public program for providing communities with local program control, local clean energy sources, electricity demand reduction, local economic benefits, and job development.

Community Choice advocates have raised a number of specific concerns, explained more fully in the paragraphs below:

- The CCEA model effectively takes the "community" out of Community Choice
- Associate Member cities have no governance role in CCEA
- CCEA determines all service provider terms and conditions
- CCEA provides no services for developing local renewable resources
- CCEA staffing may be inadequate to serve Associate Members' interests
- CCEA's track record does not reflect transparency
- The CCEA model could expose Associate Members to significant risk

1. CCEA model effectively takes the "community" out of Community Choice.

California's Community Choice Aggregation law, AB117, allows municipalities and other jurisdictions to offer residents and businesses a public, not-for-profit alternative to the private monopoly utilities. Community Choice energy programs open the way for public design and oversight of community energy systems. Indeed, community members can have significant input into program objectives, electricity sources, rate design, and programs to develop local renewable energy resources.

As a public service program, Community Choice can prioritize the public good, utilizing energy revenues for local economic benefit. Though CCEA claims Associate Members make independent decisions about the power supply content, rate setting, and local energy programs, the CCEA reality is that such decisions are constrained by the kind of services offered and the contractual terms of these services, all under the control of the CCEA Board, *not* the Associate Members.

And it should be noted that CCEA has neither a community advisory structure nor has it recommended community engagement processes for Associate Member Community Choice programs.

2. Associate Member cities have no governance role in CCEA.

CCEA is entirely governed by the City of Lancaster's five City Council members, and only allows cities to join as non-voting Associate Members. Associate Members do not participate in the setting of goals, policies, programs, operations, or management of CCEA. Associate Members merely sign bilateral contracts for CCEA services.

As such, Associate Member cities have no control over CCEA staff, how services are attained, contracted for, priced, or how they might evolve over time. While the initial "ease" of the CCEA model might be appealing to incipient Community Choice programs, the lack of control and transparency could be both frustrating and costly over time. Associate Members can only renegotiate the contracts or not renew them.

3. CCEA determines all service provider terms and conditions.

Associate Members contracting for CCEA services must use and compensate vendors selected solely by CCEA for those services and under terms and conditions established by CCEA and such vendors. Thus, it appears that Associate Members have no recourse or vendor choice even if there is a perceived conflict of interest, service quality is not satisfactory, or the assessed charges are too high.

4. CCEA provides no services for developing local renewable resources.

The extensive list of services offered by CCEA includes regulatory and legal affairs, rate analysis, financial projections, project scheduling, load forecasting, power procurement, marketing assistance, call center services, banking and accounting functions, among others.[4] These are all geared to procuring electricity on the market. Noticeably absent is support for local program development regarding energy efficiency, demand reduction, storage, local renewable energy generation, integrated resource management or related competencies needed for distributed energy resource (DER) development on either the customer or grid side of the meter.

CCEA does not provide services for such local programs or programming. These are up to the cities to establish for themselves; with CCEA only supporting remote energy procurement. In other words, cities otherwise too limited in size or resources to create a Community Choice program would have to create and manage sophisticated DER programs on their own.

In effect, signing up with CCEA means that a city receives no assistance to realize the most important aspects of Community Choice programs: the ability to develop local resources to meet the environmental, economic, and social justice needs of its communities.

5. CCEA staffing may be inadequate to serve Associate Members' interests.

CCEA services are provided by CCEA selected staff and contractors. Both the staff and contractors represent limited expertise and technical capability.

CCEA has four staff, chosen from employees of the City of Lancaster: the City Manager, Deputy City Manager, an "Energy Manager – Programs" (previously the City's Recreation Supervisor), and an "Energy Manager – Regulatory" (previously the City's Operations Manager). On the basis of their previous experience, it appears questionable whether current staff possess sufficient energy expertise to exercise effective oversight of contractors making muli-million dollar energy procurement and risk management decisions on behalf of Associate Members.

In addition, CCEA relies upon a small consultancy (Pacific Energy Advisors, a 3-person firm) and names a few power marketers (Direct Energy, Constellation, and Shell Energy) as "consultants." While this approach might be acceptable to Lancaster Choice Energy, comprehensive energy risk management and portfolio diversification requires more technically qualified staff and information systems operating on an around-the-clock basis to assure long-term stability and viability in interacting with volatile energy markets.

6. CCEA's track record does not reflect transparency.

CCEA does not publicly post its JPA Agreement or the Associate Member Agreements or Service Contracts offered (and more importantly, what fees are charged) to existing or prospective member cities. This makes it difficult for interested cities or Community Choice advocates to evaluate these agreements and service offerings.

One indication of this limited transparency is the challenge of finding information about LCE, the flagship Community Choice program in CCEA. LCE does not post any documentation of its energy procurement practices, contracts, or planning. According to its 2017/18 budget, it appears that LCE invests minimal revenues on local programs and Net Energy Metering, and that 4% of program revenues are being diverted into the City of Lancaster's General Fund for unspecified purposes.[5]

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[4] https://californiachoiceenergyauthority.com/our-services/

[5] http://www.cityoflancasterca.org/home/showdocument?id=32268]

7. The CCEA model could expose Associate Members to significant risk

By contracting with CCEA, a city could open itself up to several risks, beyond those normally incurred by Community Choice programs. These include the risk of CCEA failing to deliver or ceasing operation altogether. For example, should CCEA fail to procure power at costs sufficiently below the Community Choice contracted retail price, and as a result go bankrupt—a distinct possibility in the highly volatile energy market—then ratepayers would be left holding the bag, paying these higher market rates for the six-month delay in reverting back to the incumbent investor-owned utility, as well as any other ongoing power or financial obligations incurred by CCEA on behalf of Associate Members.

This risk is amplified if a city follows CCEA's model of allocating Community Choice net revenues to a city's general fund. Transferring net electricity revenues to a city's general fund has been challenged by ratepayers in court. Aside from the legal question, however, mingling electricity revenues with a city's general fund not only exposes the general fund to the risk described above, it also looks to ratepayers like their electricity bills are being used as a new kind of hidden tax.

One of the advantages of using a multi-member JPA to administer a Community Choice program is that it provides a firewall between the financial operations of the Community Choice program and the general funds of the participating cities.

Questions to Ask

Here are a few questions that any community should ask when considering a contract with CCEA:

- What control does an Associate Member have regarding decisions of CCEA, such as those regarding policies, service offerings, or terms of contract?
- How does the City of Lancaster benefit from running CCEA and does Lancaster Choice Energy incur the same charges as Associate Members?
- What support does CCEA provide to Associate Member cities for local program development and operations, especially for energy efficiency or community-based renewable energy generation?
- What happens to an Associate Member—and to ratepayers—if another Associate Member or if CCEA is forced to declare bankruptcy or decides to cease operations?
- How will CCEA help your city develop the capacity to run its own program?
- Why is CCEA "better" than participating as a voting member of a Community Choice joint powers agency, a stand-alone program like Apple Valley Choice Energy, or other alternatives?
- Who monitors and reports on CCEA and CCEA's consultants' performance?

In conclusion

As a city, Lancaster has set ambitious goals and developed innovative public policy in areas such as solar deployment and clean transportation, that position the city to be a leader in climate action. The City of Lancaster can, through both LCE and CCEA, continue to play an important role regionally by leveraging its leadership and experience to help neighboring communities set and achieve similar objectives.

However, the issues raised in this memo regarding CCEA should be the cause of great concern for the Lancaster City Council, current CCEA Associate Members, and communities considering a relationship with CCEA. The California Alliance for Community Energy challenges CCEA to address these issues before further promoting its model to other cities.