

Position Paper: Oppose SB 237



The [California Alliance for Community Energy](http://www.cacommunityenergy.org) opposes SB 237 (Hertzberg) as an ill-conceived disruption of California's electricity market. It provides for an unlimited, unfettered opening of Direct Access, similar to the State's previous attempt at electricity deregulation. It would undermine Community Choice energy programs and place at risk state climate and energy goals and local benefit objectives that these programs have been in the forefront of achieving.

What is SB 237?

SB 237 was introduced in June 2018 as a “gut-and-amend” replacement of a bill on vehicle infractions which had already begun legislative review. This tactic allowed the replacement language in SB 237 to get “fast track” consideration, deliberately short-cutting the normal public review and legislative process.

The substitute SB 237 would require the California Public Utilities Commission (CPUC) to initiate a two-year process to remove all caps on the ability of all non-residential customers to procure electricity directly from private electricity suppliers,¹ a program known as Direct Access (DA).

The last-minute, fast-track process indicates an intent to sneak into law a measure its sponsors might have expected to meet strong opposition—because of its widespread impacts on the state's environmental and climate objectives, on accountability and social equity objectives, and on Community Choice as a vehicle for achieving these and other community benefit objectives.

SB 237 Undermines state and local energy goals

Opening the market to direct procurement from wholesale direct access (DA) electricity providers, as prescribed in SB 237, would compromise state climate and energy goals and local benefit objectives that Community Choice energy programs—a large and growing market sector—have been in the forefront of achieving. SB 237 would impact these efforts in the following ways:

- Undercut Renewable Energy Mandates –Many Community Choice programs are close to or already exceeding state targets, while developing innovative ways to reach aggressive decarbonization objectives. While DA providers have to meet state mandates, their ability to offer the least-possible green products could slow down current progress. Renewable energy investment in California would drop along with jobs in the renewable energy sector. This will occur as Community Choice agencies, now the primary source of new renewable energy projects and associated jobs, curtail plans for long-term contracts and new projects.
- Obstruct State and Local Social Equity Objectives –Social equity objectives in energy development have been increasingly highlighted by the state. Community Choice energy programs are increasingly doing more than sell electricity. They are developing innovative programs to address broader community needs—like replacing neighborhood-polluting fossil plants with clean, renewable electricity. Exodus of large loads from Community Choice programs to DA providers puts this progress and its benefits in jeopardy.

¹ In 2018, the ability to procure electricity directly is limited to specific amounts in each utility territory; new businesses seeking to buy electricity directly must enter a wait list and participate in an annual enrollment lottery. See [“California Direct Access Program”](#).

- Undermine Local Control and Accountability – As public agencies, the governance, finances, program oversight and accountability of Community Choice programs are all the subject of public meetings and direct local oversight. DA providers are typically private entities, with no obligations for transparency, public oversight or accountability—except to their private owners and shareholders. Without public oversight over the serving of massive electricity loads, the path that we're on toward achieving public interest energy equity and sustainability objectives may become only a pipe dream.
- Undermine Community Benefits to Advantage the Few – By enabling non-residential customers to purchase electricity from any DA provider, the services and community benefits available to *all* members of the community through Community Choice entities will be undermined. Affordability is not simply about the price paid for electricity, but about benefits that a community-focused electricity system can provide.
- Undermine Market Oversight and Long-Term Stability – As a result of the previous California energy crisis, the Legislature enabled governmental entities to create Community Choice programs. These programs are committed to serving their customers over the long term under local governance, with transparency and municipal oversight. The history of DA providers in the last California Energy Crisis shows that they can leave the state when market conditions turn against them.
- Jeopardize reliability – The CPUC has expressed concern that the transition from three investor-owned utilities to behind the meter solar and Community Choice programs has jeopardized reliability. Under SB 237, the same direct access providers who have sought waivers from procuring sufficient resource adequacy to meet state requirements will be allowed to grow and expand.
- Undercut Public Process – The revised bill, the result of a short-cut taken less than a month ago, is headed for fast-track Committee/floor action. This sneak attack undermines legislative deliberation, allows virtually no public input or debate, and simply serves to further the interests of a select few over the community and California.

The Wrong Choice

SB 237 represents a *bad choice* for the people of California. It promotes the rights of large corporate entities over the rights of the community, and it would lead state energy policy in precisely the wrong direction by:

- Creating a lowest-cost market framework that undercuts the state's transition to renewable energy and undermines Community Choice energy programs
- Waiving public accountability objectives for a whole class of electricity providers
- Curtailing renewable energy investment in California, eliminating jobs in the renewable energy sector
- Failing to recognize the many benefits of public electricity services for most Californians while favoring large consumers and private DA providers, often located out of state.

Not only is SB 237 an effort to undermine Community Choice and the public interest at the behest of private interests. It is also a clear turn toward an unfettered, free electricity market along the lines of that in place prior to the last Energy Crisis.

The Right Choice

Many of the impacts of deregulation that surfaced during the last Energy Crisis have been addressed through the creation of publicly accountable local Community Choice energy programs. These programs were introduced not only to advance the transition to renewable energy sources, but also to ensure a degree of market control and public accountability unseen in the “open market” structure that precipitated the energy meltdown two decades ago.

Eighteen Community Choice programs now exist because their communities have created them and continue to govern and manage them. These public, not-for-profit agencies have already shown the ability to lead on implementation of the State's objectives for renewable energy development, equity, and public accountability.

Call to Action: Oppose SB 237

Community Choice providers have been created to serve their customers and citizens for the long haul. SB 237 would provide incentives for large commercial and institutional customers—the mainstay of most Community Choice programs—to move to the cheapest available electricity contracts, regardless of community impacts or environmental loss. As a result, Community Choice programs would be jeopardized.

Both communities and their workers could lose the environmental, economic, and social justice benefits that would otherwise be provided through local Community Choice agencies.

Expansion of the DA market is a *bad choice*. We urge opposition to SB 237, to protect the progress we have made with the growth of Community Choice agencies, and the benefits they are providing to millions of Californians.