

Legislative Proposal: Community Choice Bill of Rights



Introduction

California's 19 Community Choice energy programs provide important economic and environmental benefits to their communities. They are leading the state in meeting its climate goals and represent a compelling public alternative to the state's poorly performing private monopoly utilities.

Yet Community Choice is under attack by the California Public Utilities Commission (CPUC)!

The CPUC's attack on Community Choice creates a dangerous situation for California. The Commission is propping up an outmoded, centralized, private monopoly electricity model—and derelict, vulnerable, collapsing, and in some cases even criminal, corporate enterprises—while attacking the innovative, decentralized, public alternative that California needs to achieve a sustainable energy future. Combined, these actions represent an attack on our communities.

The recent dramatic increase in PCIA fees charged to Community Choice customers for having departed from a monopoly utility poses a major threat to Community Choice programs and the community benefits and community governance model that they represent.

It is only the most recent of a number of escalating actions by the CPUC to side with the investor-owned utilities (IOUs) against the growing alternative represented by Community Choice. Other anti-Community Choice actions of the CPUC include the following:

- failing to prevent monopoly utility lobbying against Community Choice, despite legislative direction to do so
- promoting “customer choice” retail markets in opposition to public, community-based energy service providers (Community Choice)
- trying to freeze new Community Choice programs
- attempting to impose limits on Community Choice procurement prerogatives, such as in proceedings on integrated resource planning and resource adequacy

These actions represent a consistent pattern of bias against Community Choice in favor of the monopoly utilities, as documented in the California Alliance for Community Energy's [CPUC bias paper](#).

Strong action is needed to address the CPUC attacks on Community Choice and protect our right to form public, not for profit energy service provider agencies that empower and serve our communities. Legislative remedies are needed to reverse the direct attack on Community Choice represented by the PCIA and, more importantly, to alter the balance of power that allows the CPUC to undermine Community Choice programs. What is needed is more effective legislative action than in the past: a **Community Choice Bill of Rights** to strengthen Community Choice as an institutional alternative to the state's monopoly utilities.

Proposed Legislative Remedies: A Community Choice Bill of Rights

Below are a proposed set of legislative measures that would comprise a Community Choice Bill of Rights:

1. Measures to counteract the PCIA

- Suspend the October 11, 2019 CPUC decision, freezing the PCIA at its previous level until a plan to sunset the PCIA is implemented.
- Strengthen transparency requirements and limitations on confidentiality that have obstructed equitable PCIA calculations.
- Sunset the PCIA over a two- to three-year period, providing for payment of stranded contract losses (through liquidation or auction or other mechanism), under transparent state supervision by a neutral party, such as the California Energy Commission.

2. Measures to clarify CPUC authority over Community Choice

- Require that the CPUC enforce the monopoly utility Code of Conduct (regarding Community Choice) mandated by AB 790 in 2011.
- Remove all authority of the CPUC over Community Choice program procurement (including electricity, resource adequacy, storage, and so forth).
- As in the case of the municipal utilities, mandate that the California Energy Commission (rather than the CPUC) certify that Community Choice programs conform to state mandates governing renewable portfolio standards, resource adequacy, storage, environmental justice, and so forth.

3. Measures to facilitate the growth and success of Community Choice

- Require that the CPUC facilitate, rather than obstruct, community-based provision of energy services through formation of Community Choice programs.
- Provide state-level Community Choice financing mechanisms through a green bank or Community Choice bond or revolving loan fund, to ease Community Choice formation and facilitate the financing of Community Choice projects and service offerings.
- Allow for Community Choice programs to provide consolidated billing for customers.

4. Measures to structurally redefine the monopoly utilities

- Enable conversion of the monopoly utilities into wires-only entities—splitting their transmission and distribution responsibilities into distinct and independent entities—with no responsibility for retail sales of electricity or provision of natural gas.
- Mandate a transition period during which cost recovery is completed and the PCIA disappears, and during which Community Choice programs assume load shed from the monopoly utilities, either through formation of new programs or expansion of existing programs.
- Facilitate Community Choice becoming the Provider of Last Resort, by creating collective mechanisms for Community Choice programs to assume load-serving obligations of any load-serving entity unable to meet its commitments.

Further Background to this Proposal

In the aftermath of California's devastating fires over the past two years, the CPUC has begun bailing out the state's monopoly utilities (Pacific Gas & Electric, Southern California Edison and San Diego Gas & Electric) for their liability in sparking the fires—throwing a lifeline to derelict and, in some cases, criminal private utility corporations. State regulators are poised to pass billions of dollars in fire damages onto California ratepayers. At the same time, the CPUC is escalating its attacks on public Community Choice energy service providers.

In October, the CPUC approved a dramatic increase in Power Charge Indifference Adjustment (PCIA) fees levied on Community Choice customers.

The purpose of the PCIA is to shield the state's monopoly utilities from bearing the cost of customers departing to more attractive Community Choice programs. Instead of requiring the monopoly utilities to compete with Community Choice programs, the CPUC allows these utilities to simply recover these costs through escalating, ongoing PCIA “exit” fees levied on those Community Choice customers. The remaining customers of the utilities continue to pay excessively high electricity rates, as the PCIA guarantees that the utilities have no incentive to lower costs.

The dramatic increase in PCIA fees will have devastating impact on Community Choice programs: it threatens both their near-term and long-term financial viability, while supporting the state's monopoly utilities. That makes the PCIA hike contrary to California's Community Choice law, which requires a level playing field for all electricity providers. The CPUC is overstepping its authority by attacking Community Choice on behalf of the monopoly utilities.

The recent PCIA decision comes in the face of growing support for Community Choice by counties and cities across the state, while the monopoly utilities demonstrate their inability to address community needs, most clearly indicated by the recent fires.

As Community Choice programs increasingly demonstrate their value in providing community benefits and their popularity with jurisdiction all over California, the CPUC has become more aggressive in its attempts to stop the movement. It's time to pass a **Community Choice Bill of Rights** to fend off these attacks.