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**COMMUNITY CHOICE AGGREGATION:**

**THE VIABILITY OF AB 117  
AND ITS ROLE IN CALIFORNIA'S ENERGY MARKETS**

**An analysis for the California Public Utilities Commission**

**June 13, 2005**

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## **EXECUTIVE SUMMARY**

California State Assembly Bill 117 (AB 117), passed and signed into law in 2002, gave California cities and counties the ability to aggregate the electric loads of residents, businesses and public facilities to facilitate the purchase and sale of electrical energy in a more competitive market.

Though the law was passed in 2002, no cities or counties have yet implemented such a Community Choice Aggregation (CCA). Several dozen local governments have expressed interest in forming a CCA, but the future role of CCAs in California's energy markets is still uncertain. Since California's earlier period of competitive deregulation, some 12.7% of the load formerly provided by the three main utilities is now supplied by competitive Electric Service Providers (ESPs).

Existing Community Choice Aggregation programs in other states, as well as studies performed specifically for local California communities, indicate substantial benefits for consumers and communities. For example, customers of the Cape Light Compact in Massachusetts saved between 11 and 22% on the generation portion of their bill, while estimated savings in San Francisco range from a Net Present Value (NPV) of \$266 million over 30 years<sup>1</sup> to \$1.47 billion over 20 years.<sup>2</sup> CCAs can also offer energy independence, price stability and more efficient Energy Efficiency programs. Increased reliance on renewable and alternative energies and boosts to local employment are gains that may also reflect local values.

CCAs would also incur known costs, such as costs for feasibility studies, political opportunity costs, and administrative costs. A host of unknown costs and obstacles, including many issues to be heard in Phase II proceedings, will play a role in determining the model's viability.

The demonstrated and predicted benefits lead us to conclude that CCAs hold the potential for a substantial improvement in the energy market and increased efficiency. Nonetheless, the viability of AB 117 revolves largely around several key uncertainties and the actions of those involved. The keys involve cost-shifting and the extent to which CCA customers may be mandated to cover costs incurred by the investor-owned utilities.

Resolution of these issues will depend partly on CPUC findings regarding the awarding of Energy Efficiency funds and In-kind power to CCAs. CCA proponents may affect this process by proposing amendments to AB 117 to clarify language and by making a case in CPUC proceedings for in-kind power.

A CCA-favorable resolution would also depend on potential CCA proponents' successfully navigating the procurement process timeline, which may result in a lower CRS. These efforts can be supported by improving transparency in the procurement review process. CCA proponents can also work together to improve the viability of CCAs politically and administratively.

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<sup>1</sup> "Community Choice Aggregation Draft Implementation Plan," San Francisco Public Utilities Commission, April 7, 2005, Ch. 1 p.6, Ch. 4 p.6.

<sup>2</sup> Electric Financial Feasibility Study," R.W. Beck, Inc., January 2004, p.ES-2.

## **I. Introduction**

AB117 was passed in partial response to and as a result of the California energy crisis of 2000-2001. As a result of the crisis, many concerns other than the simple price of electricity became of high priority for consumers and policymakers. Issues such as reliability and energy independence moved to the forefront, along with price stability. Many communities had already expressed support for increased reliance on renewable and alternative sources of energy. Given the high fossil fuel content of much of the energy on the market during the energy crisis, demand for green sources of power increased.

Areas such as Los Angeles stood out during the crisis, as they exhibited a certain level of energy independence by running on municipalized energy. Rather than suffering during the energy shortage and worrying about the blackouts affecting the state, Los Angeles experienced a surplus of energy and was able to sell that surplus on the market.

Cities such as San Francisco considered similar alternatives, and had two such proposals on the ballot in 2001. One was to create a Municipal Utility District in conjunction with its neighboring city Brisbane; the other was to form a similar Municipal Water and Power Authority. During the same election voters overwhelmingly passed a bond initiative to allow the City to issue bonds up to \$100 million for the development of solar power, demonstrating a willingness to pay for the more expensive alternative.

Even before the California energy crisis, other states had passed Community Choice laws. Massachusetts (1997) and Ohio (1999) have the most established versions of Community Choice Aggregation in place, and both have demonstrated positive effects for consumers. In California, 26 cities originally participated in a study with Navigant Consulting, Inc. to determine the feasibility of forming a CCA. Other cities have conducted similar feasibility studies. The results indicate hundreds of millions of dollars in savings, in addition to a doubling of the Renewable Portfolio Standard to 40% renewables, increased employment and other benefits.

Despite the apparent benefits, the future role that CCAs will play in California's energy markets is uncertain. To date, no city or county has yet established a CCA in California. The known costs and obstacles may hold back the development of some CCAs, especially those with small or less-than-ideal load profiles. These can be easily offset in some cases, or at least allow for a prediction of whether or not certain cities or counties will choose to establish a CCA. This would then allow for a reasonable estimation of the role CCAs would play in the California market.

The uncertainties seem to be the largest variable in determining the viability of CCAs. How the CPUC resolves key questions and what role the potential CCAs play in helping shape policy and in determining the costs allocated to local governments that seek to pursue this model will largely determine whether industrial, commercial, residential and public consumers enjoy the potential benefits of competitive deregulation and aggregation.

Predicting the impact that CCAs may have on statewide energy planning first requires an understanding of the associated benefits and costs. The extent to which benefits from aggregation outweigh the costs, factoring in local values and objectives, determines the number of communities that will implement such programs. Uncertainty is a further factor affecting community decisions. A discussion of these factors is presented below, in the following order: benefits; known costs and obstacles; and unknown costs and obstacles.

## **II. Benefits**

### ***Local Control***

One of the most prominent features of Community Choice Aggregation is that it provides communities with local control over energy decisions. Power over energy generation is removed from the hands of the state's three investor-owned utilities ("IOUs") and put into the hands of aggregators, usually cities, counties or joint power authorities ("JPAs"). This allows the CCA to not only choose *who* provides their community's energy generation, but also *what* provides it. CCAs actively choose between energy service providers ("ESPs") based on price but also on the source of energy generation.

### ***Lower Energy Rates***

CCAs hold promise for providing consumers with lower energy costs relative to the status quo. Because community choice opens up California's energy markets, competition is expected to yield cost savings, as regulatory capture by the IOUs falls.

Feasibility studies conducted for selected California communities predict significant cost savings under aggregation. Twenty-three cities, towns, and/or counties interested in aggregation hired Navigant Consulting, Inc. ("Navigant") to conduct feasibility analyses. (A list of these 23 communities can be found in Exhibit 1.) To date, 11 of the 13 feasibility studies have been completed and show an average benefit of 5 percent in generation cost savings from 2006 to 2024.

San Francisco, which is not one of the communities included in Navigant's study, has used other organizations to conduct feasibility analyses. The San Francisco Public Utilities Commission ("SFPUC") calculated a best-case scenario total savings of 8 percent for San Francisco ratepayers over 30 years, equivalent to a net present value ("NPV") of \$266 million.<sup>3</sup> R.W. Beck, Inc. ("R.W. Beck") also conducted a feasibility analysis for San Francisco, finding base-case savings ranging from a NPV of \$750 million to \$1.47 billion, using a 20-year time horizon.<sup>4</sup>

CCAs are operating presently in both Massachusetts and Ohio and may be used to exemplify the potential savings under aggregation. Massachusetts was the first state to

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<sup>3</sup> "Community Choice Aggregation Draft Implementation Plan," San Francisco Public Utilities Commission, April 7, 2005, Ch. 1 p.6, Ch. 4 p.6.

<sup>4</sup> "San Francisco Local Agency Formation Commission: Electric Financial Feasibility Study," R.W. Beck, Inc., January 2004, p.ES-2.

pass such a program. Their “Community Choice Rule” was enacted in November of 1997 and became effective on March 1, 1998. The most prominent Massachusetts CCA is the Cape Light Compact, composed of 21 towns in the southeastern portion of the state. In 2002, the Compact successfully negotiated with Mirant Corporation to provide cheaper power to 45,000 customers not eligible for lower state-set rates because they signed up for power on or after March 1, 1998. These patrons achieved between 11 and 22 percent generation savings, or between \$3.50 and \$7 per month for the average customer.<sup>5</sup> Presently, the Cape Light Compact buys power on behalf of 197,000 customers.

Ohio was the second state to enact CCA legislation, as part of their 1999 electric deregulation legislation. Ohio’s success with aggregation is well documented: more than 600,000 customers took part.<sup>6</sup> Parma was the first city in Ohio to get voter approval to aggregate in March 2000.<sup>7</sup> The CCA, which now serves 90,000 residents, attained a 17-percent discount on electricity generation, equivalent to a savings of \$60 to \$75 per year for most residential households.<sup>8</sup> A second notable CCA is the Northeast Ohio Public Energy Council, which serves 455,000 customers in 112 communities. In the spring of 2001, the council signed an agreement with Green Mountain Energy to provide its energy generation. The agreement, for September 2001 to 2006, called for 2 percent of generation from renewable sources, and generated customer-specific savings ranging from 1 percent to 15 percent. Total cost savings over the life of the contract are estimated to be \$10 million.<sup>9</sup>

### ***Renewable and Alternative Energy***

To the extent that a CCA values renewable and alternative energy generation over and above the levels mandated by the state’s renewable portfolio standard (“RPS”),<sup>10</sup> it can partner with an ESP that provides a specific portfolio of energy generation sources or procures renewable energy itself via capital investment. Increasing reliance on renewable energy sources appears to be a preference for many of those California communities presently interested in CCA formation. At the request of study participants, Navigant’s feasibility analyses assumed attainment of double the renewable levels mandated by the RPS, to reach 40 percent renewable power by 2017. Even with an increased reliance on

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<sup>5</sup> Whitcomb, Robert. “Bundling Municipal Electricity,” *Providence Journal-Bulletin*, April 25, 2002.

<sup>6</sup> “States Turn to Aggregation to Boost Markets, But Track Record Mixed So Far.” *Power Markets Week*, March 31, 2003.

<sup>7</sup> Sahley, Caroline. “Electric Consumer Aggregation Options: An Introductory Guide for Non-Profits, Local Governments, and Community Leaders,” Green Energy Ohio, May 2001.

<sup>8</sup> Brown, Matthew. “An Analysis of Opt-Out Aggregation in Ohio and Massachusetts,” September 2002. Prepared for the National Center for Appropriate Technology’s National Energy Affordability and Accessibility Project.

<sup>9</sup> Brown, Matthew. “An Analysis of Opt-Out Aggregation in Ohio and Massachusetts,” September 2002. Prepared for the National Center for Appropriate Technology’s National Energy Affordability and Accessibility Project.; and Sahley, Caroline. “Electric Consumer Aggregation Options: An Introductory Guide for Non-Profits, Local Governments, and Community Leaders,” Green Energy Ohio, May 2001.

<sup>10</sup> California’s renewable portfolio standard requires that all electricity generators procure at least 20 percent of their energy from renewable sources by 2017.

renewable energy, CCAs are generally predicted to remain as cost effective, if not more so, than the status quo under the IOUs. Navigant predicts realized total electricity cost savings (including the utility's charges for delivery) of between -1 percent and 5 percent, with an average benefit of approximately 3 percent under this scenario. (Note that these results assume that CCAs are able to finance new renewable energy resource development instead of purchasing from the wholesale market.) These positive results underestimate the benefits, as the Navigant studies did not include energy efficiency in the studies. Based on these positive results, the seven participants in the Bay Area have established a goal of achieving a 50-percent renewable energy level.

### ***Energy Efficient Production***

A CCA can encourage the development of new energy generation facilities either through contracting with ESPs or by funding such initiatives directly. Development of new generation, whether renewable or fossil-fueled, will displace production from old, inefficient generation sources (such as coal or oil-fired plants), which can significantly reduce the environmental impacts of electricity production. According to the California Energy Commission, current natural gas-fired generation units can operate 30 to 40 percent more efficiently than the 1960's-era generators that are currently online in California. For every kWh produced from a new generation resource, there would be up to 40 percent less natural gas used in production and even greater reductions in air emissions and greenhouse gases.<sup>11</sup>

### ***Energy Price Stability***

CCAs may also provide consumers with energy price stability relative to the current IOU system. Traditional energy sources are subject to limited supply and uncertain price. Through increasing their reliance on alternative and renewable sources of energy, CCAs may buffer themselves from future energy spikes. Navigant's feasibility analyses have estimated that by 2018, the market price of renewable energy is expected to be no greater than the cost of conventional generation resources. CCAs are able to finance conventional and renewable energy projects, which allows them to avoid the wholesale energy market for a portion of their power needs and further buffers them from market fluctuations. Finally, CCAs will lock in multi-year energy prices under contracts with ESPs, thus shielding themselves from short-term energy fluctuations.<sup>12</sup> Business customers in particular tend to value predictability in their energy costs for use in financial planning. Rate stability can be a feature used to attract new businesses into a community or retain those that may be considering leaving due to high and unstable energy costs.

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<sup>11</sup> "Community Choice Aggregation: Base Case Feasibility Evaluation County of Marin," Navigant Consulting Inc., March 2005.

<sup>12</sup> However, CCAs will periodically need to renegotiate these long-term contracts that will be subject to then-current market conditions, meaning that there is not a complete buffer from risk and the ESP may embed a risk premium into the rate structure of the long-term contract. Nevertheless, energy stability from CCAs is expected to be a net benefit.

### ***Energy Efficiency Programs***

California residents currently pay 2.87% of their electricity bills in a public goods charge, a portion of which goes to energy efficiency programs. Total energy efficiency funds are currently estimated at \$1 billion for 2006-2008. Community Choice Aggregators would have the ability to apply to become administrators for such programs as well as issue proposals for programs that might be more suitable for their customer base. The CPUC may also consider ordering energy efficiency program administrators to direct more programs toward CCAs to guarantee equity in the distribution of energy efficiency benefits.<sup>13</sup>

Studies by SESCO, Inc. have found that energy efficiency programs administered by the IOUs are less efficient than competitive programs<sup>14</sup>. If energy efficiency monies were allocated to CCAs, better managed programs could result in conservation, which in turn, could lead to cost savings for CCA customers.

### ***Advantages Relative to Municipalization***

CCAs are expected to form more quickly and carry less risk than municipalization – the primary alternative to CCA formation. CCAs also have an advantage relative to a municipal utility in that they do not incur as much political opposition. In 2000, the city of Davis was prevented from placing a proposal to create a municipal utility on the ballot, despite thousands of petition signatures, due to a LAFCo veto. A second advantage is that CCAs have less associated risk and fewer fixed costs than do municipal utilities. CCAs do not need to finance or generate their community's full energy needs (although they may undertake a portion, should they choose). The states' IOUs remain the "provider of last resort," which carries less risk than a municipal utility. Furthermore, a CCA would not own the distribution system within its community, unlike a municipal utility, which is one reason why the start-up costs for an aggregator tend to be significantly lower. Municipalization can also lead government agencies to spend valuable public funds purchasing outdated expensive IOU infrastructure and assets, while CCAs are not subject to the same likelihood.

While CCAs may offer advantages over municipalization for some localities, they do not preclude municipalization. For localities that wish to move toward municipalization, CCAs offer the ability to establish government involvement in electricity procurement at a lower start-up cost. A CCA may allow a community to increase its administrative capacity, as well as its generational and infrastructural capacity over a longer period of time to ease the transition toward municipalization. One plan in San Francisco, for example, would result in the construction and development of alternative and renewable energy sources via municipal bond funding, which requires that such sources eventually become the property of the City either upon termination of contract with the ESP or retirement of the bonds.

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<sup>13</sup> AB 117, 381.1(c)

<sup>14</sup> "The Myth of IOU Cost-Effectiveness: Reply Comments of SESCO, Inc. on Proposals For Energy Efficiency Administrative Structure." Esteves, Richard M., SESCO, Inc. May 5, 2004. CPUC Ruling R01-08-028



### ***Allows Municipalities to Meet Other Objectives***

Communities can use CCAs as a mechanism to meet other local objectives. CCAs can be an instrument through which the local economy is supported. CCAs must administer the program, which if managed locally can be done via employing local workers. Developing local conventional or renewable power projects would direct additional funds into the local economy. Finally, CCAs that increase reliance on renewable sources of energy will have an associated ancillary benefit of reduced local and regional air pollution.

## **III. Known Costs and Obstacles**

### ***Start-up Costs***

There are significant start-up costs associated with forming a CCA. In order to form a CCA, hundreds of hours must be spent preparing feasibility analyses, implementation plans, filing paperwork with the CPUC, attending workshops, educating residents and businesses, and networking/forming coalitions inside the city, and with other communities interested in forming CCAs. In addition to the time cost, there are significant monetary costs associated with formation, especially as private sector firms are used for specialized technical and operational assistance. These are costs that must be borne prior to the CCA ever receiving any revenue from ratepayers. The San Francisco Public Utilities Commission, for instance, estimates that the start-up costs for the six months prior to San Francisco CCA implementation would total at least \$5 million.<sup>15</sup>

- In addition to the fixed start-up costs, a CCA must functionally administer its program post-implementation including, but not limited to:
- power delivery scheduling;
- regulatory affairs;
- load forecasting;
- resource planning;
- service liaison with IOUs;
- consumer education, sales and marketing (including customer opt-out notification and processing); and
- customer service call centers.

Administration can be done fully or partially in-house through the CCA's ESP, or through another third party. If done in-house, the CCA would need to create an administration organization that may require recruiting outside skilled professional staff with electricity operations experience.

### ***Critical Mass***

Some municipalities may not be large enough and/or have the required load profile to make CCA formation economically viable. ESPs will be more willing to bid on a CCA proposal (and give them favorable energy rates) if they can anticipate with a high

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<sup>15</sup> "Community Choice Aggregation Draft Implementation Plan," San Francisco Public Utilities Commission, April 7, 2005, Ch. 7 p.20.

degree of certainty what the load size and energy demand pattern is likely to be. A CCA with an uncertain load profile or a CCA that uses large amounts of power during weekdays and peak times will be less attractive than a group that uses large amounts of power in off-peak times, such as in the winter and during evenings. Industrial customers tend to be consumers with more predictable load profiles and are therefore more attractive to an ESP than are residential customers. Load size is another factor that will impact the CCA's ability to obtain favorable energy prices. A sufficiently large load size may be enough to obtain lower prices via economies of scale, since the ESP gains many customers with no associated marketing costs and low transaction costs.

Individual communities with an insufficient or unattractive load profile can become more attractive to ESPs through forming a Joint Powers Authority (JPA) with surrounding communities. The JPA structure can provide critical mass for CCAs and provides economies of scale by enabling common program operations that enhance the economic benefits available to the CCA.

### ***Opt-Out Rates***

AB 117 provides for opt-out provisions, meaning that customers in a CCA territory are automatically placed in the CCA unless they opt out. This is a significant advantage to CCA formation versus the alternative opt-in provisions, as it allows for lower marketing expenditures to educate a critical mass of customers who would otherwise have to opt in. With opt-out provisions consumer indifference works in favor of the CCA. A CCA can therefore focus on customer retention (as opposed to customer recruitment under opt-in provisions) – a far less expensive proposition.

As mentioned above, ESPs are less likely to bid favorably on an aggregation pool that has an uncertain load. The opt-out provision means that there is no guarantee that all CCA customers will subscribe to the program, and that the true customer base will not be known until after the fact. This introduces a further degree of uncertainty when determining demand and load profiles. However, the experiences of Massachusetts and Ohio have shown that this degree of uncertainty may not be very large. Massachusetts has seen just a 1 percent opt-out rate, with successful education efforts likely playing a large role.<sup>16</sup> Ohio has experienced a 3-percent opt-out rate, on average.

### ***NIMBYism***

To the extent that CCAs choose to procure their own renewable and/or alternative energy, the political feasibility of project sites may be a barrier to development. One prominent example is the Boston-based Cape Wind Associates' \$770 million wind farm project. The farm would be the first offshore wind-power installation in the U.S., located on a shoal just off Cape Cod, and would provide enough power for three out of four homes in the area. The location is a near-perfect site - the wind conditions are ideal, as is the depth of water, and the plant would be close enough to the shore to tap into the region's existing power grid. A report published by the Army Corps of Engineers on

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<sup>16</sup> Brown, Matthew. "An Analysis of Opt-Out Aggregation in Ohio and Massachusetts," September 2002. Prepared for the National Center for Appropriate Technology's National Energy Affordability and Accessibility Project.

November 8, 2004, which includes assessments from 17 federal and Massachusetts state agencies, said property values in the Cape Cod area are unlikely to drop due to the farm. In fact, it said, the wind farm will probably boost the economy by attracting tourists and creating jobs. It estimated that the wind farm would generate up to 1,000 temporary jobs during the 27-month construction and about 150 permanent jobs once the turbines were operational. The report also said the damage to wildlife in the area would be minimal.

Opponents to the project, including the Alliance to Protect Nantucket Sound, have thus far been successful at blocking the project from moving forward. For many residents of Cape Cod these benefits do not justify spoiling their view. The installation requires speckling the horizon with 130 white, three-bladed turbines, each of them taller than the Statue of Liberty. Others are opposed to the fact that the wind farm would be owned by a private entity, rather than by the community or the Cape Light Compact. This second type of opposition might not be such a problem in California, where access to municipal bond funding results in assets being publicly owned.

Other examples in California include opposition to wind generation on the Berkeley pier, which could possibly result in harming birds, and opposition to solar panels due to glare.

### ***Loss of Political Will***

Many years are likely to pass from a community's first CCA feasibility analysis to the date on which a CCA begins power deliveries. In the case of San Francisco, the city engaged R.W. Beck on February 23, 2003 for a feasibility analysis. Currently, the SFPUC estimates that a San Francisco CCA could first begin power deliveries in March of 2007. This relatively long time horizon between idea and implementation creates the potential for a loss of political will for CCA formation. This may be due to slow tangible progress, change of leadership with conflicting ideology, and/or the success of CCA opponents in slowing the process of CCA formation.

### ***Utility Opposition***

California's three IOUs stand to lose significant revenue from CCAs. They may therefore be reluctant to support CCA formation and may even actively oppose it. For example, the General Rate Case for PG&E permits \$912 million in generation revenues for 2003, or 21 percent of total revenues.<sup>17</sup> PG&E stands to lose a significant portion of these revenues under aggregation even in a best-case scenario. San Francisco alone represents approximately 5 percent of PG&E's energy sales and 7 percent of its customer base.<sup>18</sup>

The state's IOUs may not oppose CCA formation evenly across customer bases. As discussed above, industrial customers are much more attractive to IOUs or an ESP due to relatively even and predictable load profiles. They also consume much more energy and accordingly generate much more revenue than do residential customers. In

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<sup>17</sup> PG&E Corporation Annual Report, 2004, p. 58.

<sup>18</sup> "Community Choice Aggregation Draft Implementation Plan," San Francisco Public Utilities Commission, April 7, 2005, Ch. 1 p.10.

2004, residential customers made up 88 percent of PG&E's customer base, but generated just 38 percent of total revenue. Industrial customers, on the other hand, made up just .03 percent of the customer base but generated 12 percent of total revenues.<sup>19</sup> In other words, it would take 1,056 residential customers to generate the same amount of revenue as 1 industrial customer (on average). An IOU could selectively target industrial customers for retention under aggregation to preserve much of its revenue (and subsequent profits). AB 117 clearly states, however, that the IOUs must not oppose attempts to form a CCA: "All electrical corporations shall cooperate fully with any community choice aggregators that investigate, pursue, or implement community choice aggregation programs."<sup>20</sup>

### ***Cost Recovery Surcharge / Customer Responsibility Surcharge (CRS)***

The cost recovery surcharge (CRS) is an exit fee that will be paid by CCA customers and is designed to shield the IOUs from any financial losses or cost increases that might result from customers switching to service from the CCA. Specifically, the CRS includes the costs associated with long-term contracts entered into during the 2000-2001 energy crisis mandated by the Department of Water Resources as well as any IOU stranded assets and liabilities occurring from CCA customer migration.

The CRS is a utility-specific charge. CCAs will be assessed a charge based on the liabilities of the IOU presently serving their area. Under its Phase I proceedings, the CPUC set a tentative charge of \$.02 per kWh across all utilities. The true CRS assessed for each CCA will not be known until the vintaging process is complete, whereby the actual CRS will be adjusted to reflect stranded costs at the time of the particular CCA's implementation. Actual levels of stranded assets are not known until after the fact as they are, in part, based on then-current market prices. Further, the IOUs may be able to recover some of their stranded assets by lowering the CRS. The CRS is not a permanent charge. As utilities plan for load excluding CCA customers, stranded assets will decline over time and the CRS will decline accordingly.

The CRS is paid on top of electricity generation charges and serves as a key determinant of CCA feasibility. A CRS that is too high will prevent customers and municipalities from realizing cost savings and undermine the economic feasibility of CCA formation. Whether a CCA can attain energy cost savings will be dependent on its ability to procure electricity from an ESP at a cost below the market price charged by the IOUs. This is a significant hurdle to overcome. The tentative \$.02 per kWh CRS represents a 64 percent premium over PG&E's current baseline charge for energy generation (\$.03142 per kWh).<sup>21</sup> For an average household using 1000 kWh of energy per month, the CRS amounts to an additional \$20 per month, representing a 17.5-percent premium over PG&E's March 2005 total residential rate (\$.1143).<sup>22</sup>

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<sup>19</sup> PG&E Corporation 2004 10-K.

<sup>20</sup> AB 117 366.2 (c) (9)

<sup>21</sup> Pacific Gas & Electric Company Schedule E-1 Residential Service, filed February 25, 2005.

<sup>22</sup> Ibid.

#### IV. Unknown Costs and Obstacles

The role CCAs could play in California's energy landscape will be determined by a host of unknown costs, obstacles and opportunities. The following uncertainties play the largest role in determining the CCAs' viability as a reliable, cost-effective energy generation model for local communities:

- The "True-Up" of the CRS
- Changing load predictions
- New reserve margin requirements of 17 percent by 2005
- Market fluctuations
- Short-term difficulties in attracting private investment
- Continuing procurement proceedings
- Complex local and state political negotiations

#### *CRS*

As discussed earlier, the CCA model has proven to be an efficient mechanism to get utilities and cities to the negotiating table, and to hammer out new models for statewide electricity generation. Nevertheless, many cities poised to form CCAs have misgivings about exposing their residential customers to potentially volatile CRS charges. Several city officials we spoke to expressed reluctance to sign contracts that lacked a fixed definition of CCAs' responsibility to compensate utilities for their stranded assets. To remain cost effective, CCAs need to obtain prices from ESPs that are sufficiently low so as to offset the CRS. The CRS depends not only on the initial charge of \$.02 per kWh, but on the specific circumstances of each utility, market prices, the timeframe in which the CCA starts up, as well as a range of other tariffs and fees to be determined in Phase II proceedings. In that sense, the level of burden encapsulated in the CRS will determine the feasibility of CCA design across the state.

The case of the City of Chula Vista illustrates this point well. A 2004 feasibility study modeled that from 2006-2023, implementing a CCA could yield the city potential savings with a NPV of between \$21 and \$122 million.<sup>23</sup> The study's authors also note that the CRS and transaction fees "could make the program uneconomical. Especially problematic would be unanticipated increases in these costs after the CCA program has begun. Such cost increases could impose financial hardship on the City or force CCA rates higher than the comparable SDG&E rates."<sup>24</sup>

In many ways, the CRS is still catching up to the lasting effects of the California energy crisis. In January 2001, when California's investor-owned utilities were unable to meet the elevated cost of energy, the Department of Water Resources ("DWR") assumed responsibility for purchasing the energy requirements of the retail customers served by the state's three IOUs, Pacific Gas and Electric Company ("PG&E"), Southern California

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<sup>23</sup> City of Chula Vista Municipal Energy Utility Feasibility Analysis, Duncan, Weinberg, Genzer & Pembroke, P.C. McCarthy & Berlin, L.L.P and Navigant Consulting, March 19, 2004, p. 12.

<sup>24</sup> *ibid*, p. 23.

Edison Company (“SCE”) and San Diego Gas & Electric Company (“SDG&E”).<sup>25</sup> DWR’s exclusive permission to purchase long-term energy contracts ended in early 2003, but not before the Department had bought 25,372 Megawatt Hours of long-term contract capacity on behalf of California ratepayers.<sup>26</sup>

The role of in-kind power is just one of many determinants of the CRS that will prove important to CCA viability. The CRS is a payment CCA customers would make to pay utilities back for the outstanding costs of the DWR’s negotiated long-term contracts. This exit fee, however, is not necessarily attached to any allotment of power given over to CCA customers. CCA advocates argue that if they are paying for the obligations, CCAs should be able to reap the benefit of the long-term power contracts. Subsequent “in-kind” power rulings will determine whether CCAs should be entitled to take delivery of the power through a physical allocation of the electricity, which would surely entail negotiations as well as the development of service agreements.<sup>27</sup>

Present rulings would allow IOUs to keep the DWR-negotiated energy while collecting the CRS exit fee from CCA customers, and would not erect any barriers to utilities selling excess energy on the spot market. Whether a CCA should have the opportunity to take delivery of any portion of a DWR or utility contract has already been the subject of CPUC Phase II workshops. Given local jurisdictions’ lack of enthusiasm for pursuing “in-kind” power, however, it appears unlikely that CCAs will be allotted the energy from the DWR contracts, which will likely have detrimental effects on the model’s success.

### ***Uncertain Load Predictions***

At least 23 California communities are currently interested in CCA formation (see Exhibit 1 for a list of these jurisdictions). This analysis sought to gauge the degree of local interest in the model to provide a direction for policymakers in understanding the potential impacts of CCAs on statewide resource planning. To do so, this research team administered a voluntary, five-question survey instrument distributed via email to a group of 23 cities that have expressed serious interest in forming CCAs, as well as San Francisco and Chula Vista.<sup>28</sup> Results represent a conservative estimate of interest since the survey population included only those cities willing to hire Navigant Consulting to perform a feasibility study, which excludes cities that have engaged other consultants or

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<sup>25</sup> “Department of Water Resources Determination of Revenue Requirements For the Period January 1, 2005, Through December 31, 2005,” Submitted To The California Public Utilities Commission Pursuant To Sections 80110 and 80134 of the California Water Code, p. 4.

<sup>26</sup> Interview with Oscar Hidalgo, spokesman for the Department of Water Resources, May 13, 2005.

<sup>27</sup> Order Instituting Rulemaking to Implement Portions of AB 117 Concerning Community Choice Aggregation, Order Resolving Phase I Issues on Pricing and Costs Attributable to Community Choice Aggregators and Related Matters, Decision 04-12-046 December 16, 2004, p. 32.

<sup>28</sup> Often called the frontrunners in CCA formation, both cities have passed ordinances to implement the model, have conducted feasibility studies, and are generally thought to be the furthest along in implementation planning.

that have not performed studies to explore CCA formation. The sample size for the survey was 23, and we had a 70-percent return rate.<sup>29</sup>

This new form of competition will have differential effects depending on the timeframe in which cities and counties decide to pursue the strategy. The table below gives a preliminary prediction of the percentage of California’s electricity load that could be aggregated in short, medium and long-term timeframes. By aggregating, these communities hope to achieve economies of scale that would allow them to expand to meet future demand at a lower price than the status quo IOU system.

**Table I: Short Term & Long Term Forecasts**

<b>Prediction of Community Choice Aggregation on Statewide Energy Consumption</b>							
<b>Short Term &amp; Long Term Forecasts</b>							
		<b>Short-term Forecast</b>			<b>Long-term Forecast</b>		
	<b>% Statewide Total Energy</b>	<b>Low</b>	<b>Moderate</b>	<b>High</b>	<b>Low</b>	<b>Moderate</b>	<b>High</b>
<b>Los Angeles Cnty</b>	16.60%		NR*			NR	
<b>San Francisco Cnty</b>	2.30%		2.30%			2.30%	
<b>OTHER CITIES</b>	8.42%		NR			NR	
<b>Berkeley</b>	0.30%		0.30%			0.30%	
<b>Beverly Hills</b>	0.06%			0.06%		0.06%	
<b>Richmond</b>	0.28%			0.28%			0.28%
<b>Marin Cnty</b>	0.63%		0.63%			0.63%	
<b>Emeryville</b>	0.02%			0.02%			0.02%
<b>Pleasanton</b>	0.19%		0.19%				0.19%
<b>San Marcos</b>	0.14%		0.14%			0.14%	
<b>TOTAL</b>	28.94%		3.56%	0.36%		3.43%	0.49%

\*NR indicates No Response

While current law directs utilities to plan for a reduced future load due to CCA formation, the extent to which they are doing so (and are able to do so) is uncertain. According to this group’s calculations, the jurisdictions interested in pursuing a CCA together make up nearly 29 percent of the state’s total electricity load. Whether CCAs take on a significant portion of the state’s generation capacity remains to be seen, however. Many smaller cities are waiting to see how the front-runners fare, and will make their decisions only after Phase II proceedings are completed.

<sup>29</sup> It should be emphasized that communities’ uncertainty regarding the process, and the sensitivity of the timing due to the ongoing workshops inherent to the Phase II proceedings limited our response rate. Numerous cities stated they were not sufficiently far along in the process to respond with any confidence.

Because California’s legislation allows customers to opt out of a CCA at any time, though at a cost, load predictions for CCAs are inherently unpredictable. This uncertainty surrounding the size of the customer base may cause the CCA to be less attractive to an energy service provider, and makes it difficult to determine how potential suppliers would bid on a group without being able to anticipate its load size and demand pattern. If ESPs cannot predict accurately, then they may attempt to structure contracts with cities so that the burden of the uncertainties is borne by the CCA ratepayers. (In Ohio, for example, CCAs must allow anyone enrolled an opportunity to opt out every two years without paying a switching fee.) ESPs’ willingness to bid is largely a function of expected net revenues discounted by the uncertainties. Thus, CCAs will need to mitigate their own risk and control their load predictions by using exit fees and re-entrance fees as tools in order to remain cost effective.

### ***“True-Up” and Current Procurement Proceedings***

This may represent the greatest potential unknown cost for CCAs. The Phase I rulings surrounding CCAs lay out a structure in which communities pay a CRS based on the IOU serving their area. In a hybrid world in which CCAs and utilities both procure energy, the CRS is likely to vary markedly from period to period, and is unlikely to be predictable or stable because of its sensitivity to changing market conditions. In response, Phase I proceedings laid out an annual “true-up” as a way to take into account the changing liabilities incurred by the IOU.

CCA advocates have argued for a mechanism that would “cap” the CRS so that once “true-up” began, the reconciling process would not creating additional uncertainty with large dramatic fluctuations in numbers. A CCA could also possibly write its agreement with an ESP such that the “true-up” is covered by the ESP rather than the CCA customers. Phase II CPUC proceeding are considering “vintaging” as a possible way to minimize uncertainty, so that the CRS would change to reflect the IOUs’ stranded costs at the time of that particular CCA’s implementation. These fees may also include the cost of energy contract commitments utilities reached after 2003 (as separate from the obligations related to the contracts brokered by the DWR). It should also be stated that the burden of the DWR liabilities, and their impact on each CCA, would vary according to the year in which the CCA was incorporated.

If we examine how these uncertainties play out in the City of Chula Vista, for instance, the impact of such rulings on the model’s viability becomes clear. For Chula Vista, “cost savings or benefits are projected to occur in the years 2006-10,”<sup>30</sup> according to the feasibility study, also performed by Navigant. By 2011, however, SDG&E is projected to reduce its rates due to the expiration of DWR power purchase contracts, which could eliminate the CCA’s savings or benefits in the years 2011 through 2014. After 2014, the utility’s rates are scheduled to go up again, the report assumes, providing additional savings to Chula Vista of \$11 million/year in 2023.<sup>31</sup> In short, depending on

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<sup>30</sup> City of Chula Vista Municipal Energy Utility Feasibility Analysis, Duncan, Weinberg, Genzer & Pembroke, P.C. McCarthy & Berlin, L.L.P and Navigant Consulting, March 19, 2004, p. 55.

<sup>31</sup> *ibid.*



when the CPUC calls for “true-up” or “vintaging” could greatly affect how the City of Chula Vista can compete with the utility’s rates.

Furthermore, the playing field has changed now that the utilities are in the long-term power purchasing business once again. Procurement proceedings are ongoing at the CPUC, in fore entirely separate from those dealing with CCAs. This could cause some conflict, as the proceedings are considering incentives for procurement. While the utilities are mandated by AB 117 to cooperate with attempts to form CCAs, incentives for procurement could run counter to both the utilities’ mandate to cooperate with CCA formation, as well as the CPUC’s mandate to facilitate competitive power procurement.<sup>32</sup>

In the case of San Francisco, the frontrunner for the CCA model, Pacific Gas & Electric is “embarking on contracting initiatives for thousands of megawatts of power.”<sup>33</sup> Such contracts will doubtless have a major impact on the liabilities San Francisco faces should the city opt for the public generation model.

While new state requirements that IOUs hold an energy reserve margin of 17 percent by 2006 may prevent the rolling blackouts of the late 1990s, the “true-up” that follows to adjust the CRS to reflect these new long-term energy contracts could act against the viability of CCAs as a model for local communities. Currently, the CPUC has proposed a single CRS statewide at \$.02 per Kwh. But with the reserve margin requirements of 17 percent, the potential costs of the CRS for all cities will rise, no matter the “vintaging.” Put simply, if the IOUs contract hundreds of megawatt hours of additional energy that each CCA must pay to exit from, the model could quickly become economically impossible.

### ***Market Factors***

To the extent that long-term energy contracts fail to fulfill 100 percent of the CCA’s power needs, local aggregators will need to buy power on the energy spot market. In such a scenario, it is uncertain how cities and suppliers can buffer themselves against major shocks to the energy market that would dramatically shift prices. AB 117 grants cities and counties the authority to competitively procure electric services rather than continuing to rely on IOUs as the single power supplier within their jurisdiction.

CCAs must renegotiate their power contracts periodically, but like a utility, to the extent that they lock in a temporary, unfavorable rate due to short-term market fluctuations, they appear to have little recourse for renegotiation. The SFPUC has argued that CCAs may get less favorable rates than utilities when negotiating power contracts with energy brokers since they are unable to exercise the same market power as an IOU. Several models are currently being explored to address this potential stumbling block: one in San Francisco would tie the CCA’s rate to the utility’s rate over time. Nonetheless, if the rate were high when the long-term contract was negotiated, CCA customers would still end up paying more should market rates then fall.

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<sup>32</sup> Public Utilities Code 366 (a)

<sup>33</sup> San Francisco Public Utilities Commission and San Francisco Department of the Environment, “Community Choice Aggregation Draft Implementation Plan,” Working Draft, April 7, 2005, p. 16.

If we look to Ohio as an example of a competitive energy market, we see that the experience with aggregation has not always been positive. In September of 2003, a natural gas opt-in program known as the Miami Valley Communications Council (MVCC) plan was made available to residential gas customers of Vectren Energy Delivery of Ohio living in Bellbrook, Centerville, Germantown, Kettering, Miamisburg, Moraine and Springboro, Ohio. The program, offered through Shell Energy, provided residents a fixed rate for natural gas through the winter heating season, November through March, and allowed for a variable rate the remainder of the year. The aggregation program was offered through direct mail, and over 4,000 residents opted in to the program.

The aim of the MVCC plan was to provide a stable rate for natural gas customers through the winter months that normally see the greatest fluctuation in gas prices. To that end the program was a success. However, the winter of 2003/2004 was unusual in that the winter rates for natural gas, which usually increase over the course of the winter months, were stable or decreased from month to month. Ultimately, the program ended up costing the average household approximately \$20 more than they would have paid Vectren for the same five month period.<sup>34</sup> This experience in part led the Dayton Area Chamber of Commerce to publicly oppose energy aggregation programs.<sup>35</sup>

CCAs will face additional difficulties attracting private investment to finance the start-up costs associated with switching to a new generation system. Cities have the unique ability to mitigate some of these costs through issuing revenue bonds for the finance or refinance the acquisition, construction, installation, equipping, improvement or rehabilitation of equipment or facilities for renewable energy and energy conservation. Municipal bonds have several benefits. First, they provide up-front financing for the development of alternative energy sources. Second, the lower bond prices result in cheaper prices compared to other developers of alternative energy. Third, they may be used to provide incentives for private energy service providers through lease-buyback arrangements where the CCA issues the bonds and contracts the energy service provider to build the alternative generation source.

Per Navigant's calculations, CCAs possess an important competitive advantage relative to investor-owned utilities in their ability to utilize low-cost financing for capital projects. Such financing can also be used to create ratepayer savings for CCA customers. Nonetheless, as the SFPUC suggested in its draft implementation plan, meeting bond-rating criteria may be an obstacle to the extent that CCAs still experience unpredictability during the customer opt-out period.<sup>36</sup>

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<sup>34</sup> MVCC program homepage, <http://www.mvcc.net>, visited May 2, 2005.

<sup>35</sup> Jim Bohman, "Cities Defer Action on New Gas Plan: Participants in aggregation paid more than others." *Dayton Daily News*, February 10, 2004.

<sup>36</sup> San Francisco Public Utilities Commission and San Francisco Department of the Environment, "Community Choice Aggregation Draft Implementation Plan," Working Draft, April 7, 2005, p. 16.

The San Francisco LAFCo is currently discussing how a CCA could apportion some of the future CCA savings towards offsetting short-term higher costs, which could in turn offset initial higher costs from general fund revenues. The SFPUC estimates that CCA revenues paid in rates by CCA customers could be \$200 million annually, a figure that makes San Francisco an intriguing proposition for wholesale electricity suppliers.<sup>37</sup>

A few other market factors will also complicate the future for CCAs. Aggregators will need to compete with the residential and industrial discounts offered under the status quo IOU system. Low-income consumers, for instance, are not guaranteed discounted energy rates in the CCA model. Although CCAs are not required to continue such programs under AB 117, to the extent that they chose to, this discount is another cost they would bear. In addition, all industrial/commercial customers may not be available for the CCA energy pool due to two major factors: (a) Direct Access, a provision that allows customers to contract directly with energy service providers; and (b) economic development rates, or the discounts offered to these customers by IOUs to keep them in-state.

At present, CCAs are also ineligible for energy efficiency funds and in-kind power. When viewed as a whole, these discounts could become a major obstacle for CCAs in the market in California. Massachusetts' experiment with deregulation provides a relevant comparison. Under Massachusetts' legislation enabling CCAs, the state allowed incumbent utilities to offer a "standard offer" 10-percent discount to all customers. Customers that remained with the utilities received an automatic 10-percent discount for the first year of CCA legislation (March 1, 1998 – March 1, 1999) and a 15-percent discount for the following 4 years. This proved a huge barrier to CCA viability as communities found it very difficult to locate an ESP that could match or beat this discount. The Cape Light Compact experienced several failed attempts to locate an ESP that could provide a competitive rate for all of its customers.<sup>38</sup> Ultimately, it was only able to secure a discount for those customers not eligible for the standard offer discount.

In that sense, introducing competition into the electricity market via CCAs had the effect of lowering Massachusetts' energy rates for all consumers. Thus, CCA-enabling legislation led to cheaper electricity bills for Massachusetts customers, but failed to further the two main community values enshrined in the law, those of energy self-sufficiency and local control. Since the "standard offer" ended on March 31, 2005, it will be important to monitor how the demand for CCAs responds in the newly competitive market. The discount largely worked to the favor of utilities in the short-run, and without careful understanding of how energy efficiency and in-kind power may be providing a similar type of "built-in discount," the same framework could be replicated in California.

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<sup>37</sup> San Francisco Public Utilities Commission and San Francisco Department of the Environment, "Community Choice Aggregation Draft Implementation Plan," Working Draft, April 7, 2005, p. 16.

<sup>38</sup> Christopher Swope. "Power to the People?" *Congressional Quarterly DBA Governing Magazine*, January 2001.

### ***Energy Efficiency***

As noted earlier, California residents currently pay 2.87% of their electricity bills in a public goods charge, a portion of which goes to energy efficiency programs. Total energy efficiency funds are currently estimated at \$1 billion for 2006-2008. In July 2004, the CPUC ruled that these funds would remain with investor-owned utilities for the next 3-year cycle.

Under the decision, the investor-owned utilities are responsible for the administration – including planning, oversight and management – of energy efficiency programs run by both utility and non-utility implementers. According to their May 1, 2004 filings for year-end 2003, the IOUs conducted 37 statewide and local “savings” programs in 2003.<sup>39</sup> Of these, 14 were non-residential programs and 23 were residential programs. Six of the residential programs were implemented by contractors on behalf of the IOUs. The remaining 17, which were implemented directly by the IOUs, had an average Total Resource Cost (TRC) ratio of 0.87. A cost-effective level consists of a TRC ratio of at least 1.00. Of the 17, only 3 are cost effective, while the other 14 have TRCs ranging from 0.92 to 0.05.

AB 117 emphasizes that energy efficiency programs should advance the public interest “in maximizing cost-effective electricity savings and related benefits” and requires the CPUC to consider “the value of competitive opportunities for potentially new administrators.”<sup>40</sup> If energy efficiency monies were allocated to CCAs, better managed programs could result in conservation, which in turn, could lead to cost savings for CCA customers.

CCA advocates have not mounted a legal challenge to avow whether CCAs are entitled to a share of these funds. According to some interpretations, CCAs are legally entitled to a proportional share of energy efficiency funds, which amounts to a significant sum of money (some portion of the “public goods charge” of 2.87% of each electricity bill). Should CCAs successfully challenge this decision at the state level through rewording AB 117, the funds would go to energy efficiency programs that the CCAs may manage more effectively than current recipients. To the extent that this occurs, reduced energy consumption would further CCA energy savings.

### ***Politics***

One last hurdle for local communities seeking to become involved in energy resource development is the local and statewide political climate. CCAs can be slow to form. From start to finish, formation may take at least two years, during which time local decision-makers must wrangle with a complex body of information and make major choices regarding institutional change. In this time period, organized opposition can further slow the political process, which per regulations, is open to public comment in every phase. Given the environmental and other regulatory hurdles central to the process,

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<sup>39</sup> The Myth of IOU Cost-Effectiveness, 2003, Reply Comments of SESCO, Inc. on Proposals for Energy Efficiency Administrative Structure, May 5, 2004, p. 5.

<sup>40</sup> The Myth of IOU Cost-Effectiveness, Comments on the August 1, 2003 Draft Decision and Alternate Draft Decision and Reply Comments on the August 1, 2003 Comments, August 8, 2003, p. 3.

alternative energy goals may also be subject to fierce debate and unexpected constraints in the local decision-making.

On the state level, the coalition to bring back the Direct Access model, composed of powerful industrial and commercial interests, holds more sway in Sacramento than does the group petitioning to change AB 117 to reallocate energy efficiency funds to local jurisdictions. Should Direct Access reemerge, CCAs will be hard-pressed to offer competitive alternatives to businesses within their jurisdiction. Direct Access customers could be ordered to pay a CCA an additional exit fee, but studies have failed to understand how this complex set of negotiations impacts CCAs.

One peer review of the Navigant report of Chula Vista pointed out that it was unclear whether the consulting firm had factored in the amount of revenue SDG&E derives from direct access exit fee revenues (similar to the concept of the CRS). SDG&E direct access loads approach 20% of its overall demand, so the utility receives substantial revenues from its direct access exit fee. This, in turn, makes DWR considerably cheaper for SDG&E, and would put the CCA at a disadvantage.<sup>41</sup>

## V. Conclusion

Community Choice Aggregation can demonstrably lead to substantial benefits for consumers and communities. Yet these benefits will depend in large part on the favorable resolution of the described uncertainties. Several key uncertainties stand out as those most easily resolved. Favorable resolution will be determined partly by the CPUC rulings and decisions and partly by the level of participation on the part of potential CCAs.

**Energy Efficiency:** There is still some ambiguity over whether Energy Efficiency funds from the Public Goods Charge will be allocated to the CCAs or to the utilities. CPUC decision D05-01-055 awarded the funds to the utilities for the years 2006 – 2008. CCA proponents claim that the decision left an opening for the issue to be revisited specifically in the situation that a CCA would want to administer those funds. The specific clause states: “Our interpretation of “administrator” for purposes of AB 117, as articulated in D.03-07-034 and reiterated in this decision, is consistent with the competing interests articulated in Section 381.1 as well as the requirements for handling ratepayer money. Nothing in today’s decision prevents the Commission from modifying the process for allocating PGC funds to Community Choice Aggregators in the future, or revisiting the question of whether CCA customers should be relieved of their responsibility for energy efficiency PGC and procurement surcharges if the CCA elects to take over these functions.”<sup>42</sup>

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<sup>41</sup> Evaluation of Navigant Consulting’s Long-term SDG&E Rate Forecast, *Crossborder Energy*, Prepared for the City of Chula Vista, March 24, 2004, p. 14.

<sup>42</sup> CPUC Decision D05-01-055

This issue has not yet been resolved by the CPUC, but it will have a considerable effect on the viability of a CCA. Given that more than \$1 billion will be available statewide in energy efficiency funds over the 2006 – 2008 period, to the extent that CCA customers pay into the funds and don't receive the benefits, they will be subsidizing the utilities, the current administrators of the funds. Three possibilities are to allocate the funds to the CCA directly, direct the funds to programs in the CCA territory, or waive the PGC charge for CCA customers. Another possibility is that interested parties lobby the legislature to amend AB117 to clarify the language to ensure there is no cost-shifting between the utilities and the CCAs.

**In-kind Power:** As described above, this issue concerns energy contracts paid for by the utilities, but for which CCA consumers must also pay a share. Status quo is that the utilities have access to the full amount of electricity delivered under the contracts. Again, to the extent that CCA consumers pay for the electricity and don't have access to it, they will in essence be subsidizing the utilities. After having been paid once for the energy, the utilities can in turn sell the surplus electricity on the market.

This issue has similarities to the energy efficiency issue. Resolution depends on the outcome of the CPUC decision, which in turn is affected by interested parties participating in the process. Who participates in the process, and to what extent, will largely determine the allocation of these funds.

There may also be some room for renegotiation of power contracts. While the DWR power contracts may be more difficult to renegotiate, New World Generation contracts appear to be more flexible. Rather than relying on cost recovery for power contracts, IOUs could conceivably renegotiate contracts, either for amended amounts of power delivery or to include the CCA as a participant.

**CRS:** Likewise with the previous two issues, this depends in part on the CPUC decisions, and in part on the active participation of potential CCAs. Phase II proceedings, likely to end in the summer of 2005, are scheduled to resolve many of the remaining charges to be included in the CRS. Careful participation by CCA advocates can help shape the outcome of this decision. As mentioned earlier, in some areas, this issue alone can determine the viability of a CCA.

There are several main factors regarding the CRS that would improve the viability of CCAs. One is to make the procurement review process transparent. Much of the information regarding current utility procurement of energy is kept confidential and inaccessible for those communities wishing to form a CCA. AB 117 mandates that utilities cooperate fully in the provision of relevant information with potential CCAs, but the current procurement review process hampers the access of important information.

The second factor is closely related to the first. Communities interested in forming a CCA should pay close attention to the long-term contracts being procured for their service territory. Timing is crucial for the optimum CRS, so paying attention to

when current contracts expire and when utilities are in the process of negotiating new contracts will help a CCA act in a timely manner.

The CPUC may also play a role by limiting procurement of long-term power contracts once a community declares its commitment to forming a CCA. CCAs may also consider including changing costs of “true-ups” into their RFPs and contracts with ESPs.

**Load Profile:** Many communities interested in forming CCAs are already working to accommodate the disadvantage of a less-than-ideal load size or profile. Forming a Joint Powers Authority improves the feasibility of a CCA, in that costs are shared and a single contract can be negotiated for many communities. NOPEC in Ohio consists of over 100 communities in one aggregated coalition, for instance. Marin County is currently considering forming a CCA with 11 communities (I thought it was 9!).

Exit fees for CCA customers who wish to opt out after the initial opt-out period can also reduce uncertainty regarding load size and profile.

**Direct Access:** The future of direct access will depend in part on the California Legislature and in part on the CCAs. There are several things potential CCAs can do to diminish the likelihood that customers will choose Direct Access (DA) over a CCA. One is to form a CCA while DA is still not an option. Customers choosing to opt out after the initial 60-day period would then have to pay an exit fee to the CCA, making opting out less desirable.

Another option is to lobby the legislature to garner more support for AB117 instead of supporting Direct Access. The most effective thing potential CCAs could do is to be sufficiently successful so that there is no consumer demand for Direct Access. In Ohio, where CCAs and DA are both an option, 93% of consumers in the two programs are CCA customers.

### *Summary*

To summarize, the role of Community Choice Aggregation in the future of California’s deregulated energy markets will be largely determined by the as yet unresolved uncertainties. The benefits of CCAs have been demonstrated both through examples in other states and through detailed analyses particular to the local context. A successful CCA implementation in California will further reduce uncertainties and increase the viability of Community Choice Aggregation as a whole. CCAs represent a preferable alternative to the current regulated monopoly market structure and, depending on a community’s characteristics, may offer significant gains to all classes of consumers.

The known costs are predictable and in most cases will not prevent the formation of a CCA. The unknown costs, or the uncertainties, represent the biggest threat to the viability of CCAs, and therefore any resolution of these uncertainties offers the best insight into the overall viability of Community Choice Aggregation.

CCA proponents can play a large role in affecting statewide process to increase the model's viability on the local level, and ultimately, throughout the state. As the Phase II proceedings near their close, the CPUC's actions in key areas of uncertainty will have a lasting impact on the future of statewide energy planning.



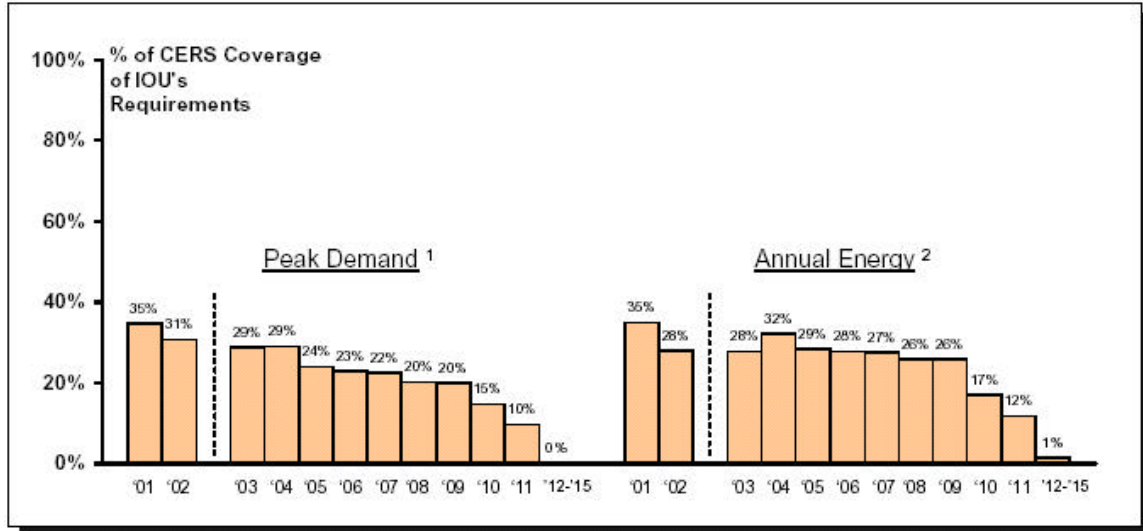
**Exhibit 1**

**Communities Included in Navigant’s Feasibility Analysis**

<b>Bay Area (served by PG&amp;E)</b>	<b>Southern CA (served by SoCal Edison)</b>	<b>San Diego Area (served by SDG&amp;E)</b>
Berkeley Emeryville Oakland Marin County (11 Cities) Pleasanton Richmond Vallejo	Beverly Hills Los Angeles County Torrance West Hollywood	San Diego County San Marcos

## Exhibit II.

The California Energy Resources Scheduling division at the DWR covered 35% of the three utilities' peak demand and energy requirements in 2001, at the height of the energy crisis. The remaining DWR long-term contracts will only cover approximately 15% of the utilities' requirements by 2010.

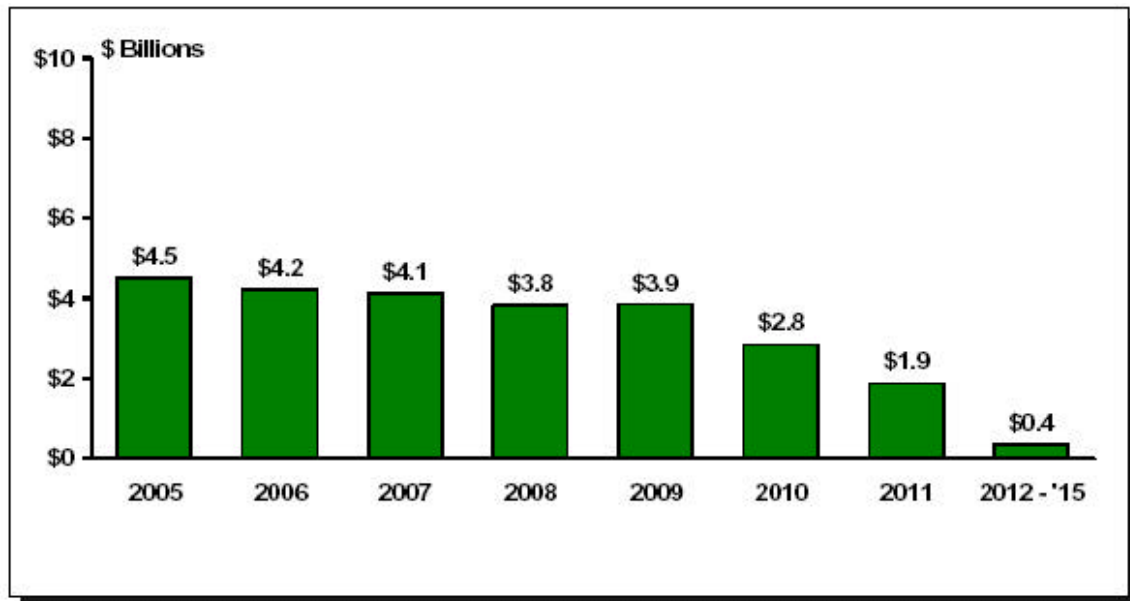


**Notes:**

- (1) For 2001 through 2003, percentage based on MW's scheduled by CERS and CAISO peak demand. PG&E, SCE, and SDG&E primarily account for CAISO total demand. For 2004 and beyond, percentage based on MW's under contract and 2% annual escalation of '03 peak demand.
- (2) For 2001 and 2002, percentage based on CERS recorded and energy deliveries to utility customers as reported in utilities financial statements. For 2003 and beyond percentage based on total contract deliveries (excluding surplus sales) and 2% annual escalation of '02 total energy requirements of the three utilities.

source: <http://www.cers.water.ca.gov/>

## Exhibit III.



The remaining cost for the portfolio of contracts, from 2005 through 2015, is \$25.6 billion dollars.

source: <http://www.cers.water.ca.gov/>

LIST OF ACRONYMS:

AB 1890 – Assembly Bill 1890

AB 117 – Assembly Bill 117

CCA – Community Choice Aggregation

CEC – California Energy Commission

CPUC – California Public Utilities Commission

CRS – Cost Responsibility Surcharge

CTC – Competition Transition Charge

DG – Distributed Generation

DWR – Department of Water Resources

FERC – Federal Energy Regulatory Commission

GRC – General Rate Case

IOU – Investor Owned Utilities

JPA – Joint Powers Agency

KW - Kilowatt

KWh – Kilowatt hour

MW – Megawatt

MWh – Megawatt hour

NOPEC – Northeast Ohio Public Energy Council

PG&E – Pacific Gas and Electric Company

PUC – Public Utilities Code

PUCO – Public Utilities Commission of Ohio

RPS – Renewable Portfolio Standard

SCE – Southern California Edison Company

SDG&E – San Diego Gas and Electric Company

SFPUC – San Francisco Public Utilities Commission

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