

CITY OF OAKLAND
MAY 8 PM 3:11
BILL ANALYSIS



Date: May 8, 2014

Bill Number: AB 2145

Bill Author: Assemblymember Steven Bradford

DEPARTMENT INFORMATION

Contact: Oliver Luby

Department: Office of Dan Kalb, Councilmember, District 1

Telephone: 510-238-7013 Fax: 510-238-69130 email: oluby@oaklandnet.com

RECOMMENDED POSITION: Oppose

Summary of the Bill: Existing state power regulation rules provide that customers may aggregate their electric loads using community choice aggregators (CCA) and allow customers to affirmatively opt-out of an implemented CCA. The chief effect of AB 2145 would be to replace the existing opt-out requirement for CCAs with an opt-in mechanism.

In addition, the bill contains some non-controversial CCA disclosure provisions.

Positive Factors for Oakland: None

Negative Factors for Oakland: This bill would make it virtually impossible to achieve the critical mass necessary to implement a CCA, due to the impact of the opt-in requirement. The negative impact for Oakland that this causes is the reduction of local control and options.

PLEASE RATE THE EFFECT OF THIS MEASURE ON THE CITY OF OAKLAND:

- Critical (top priority for City lobbyist, city position required ASAP)
 Very Important (priority for City lobbyist, city position necessary)
 Somewhat Important (City position desirable if time and resources are available)
 Minimal or None (do not review with City Council, position not required)

Support:

Item: 7
Rules & Legislation Comte.
May 15, 2014

Support:

Coalition of California Utility Employees
Pacific Gas and Electric (PG&E)
State Building and Construction Trades Council

Opposition:

Alliance for Retail Energy Markets
Asian Pacific Environmental Network
California Solar Energy Industries Association
California State Association of Counties
Carbon Free Mountain View
City of Richmond
City of San Pablo
City of Sunnyvale
Climate Protection Campaign
Community Environmental Council
County of Marin
Enlightenment Energy
Environmental Health Coalition
Greenlining Institute
League of California Cities
LEAN Energy US
Local Clean Energy Alliance of the San Francisco Bay
Area
LA County Board of Supervisors
Marin Clean Energy
Marin County Board of Supervisors
Monterey Regional Waste Management District
Office of Ratepayer Advocates, CPUC
OurEvolution Energy & Engineering
Pacific Energy Advisors, Inc.
Public Interest Coalition
Resilient Neighborhoods
San Diego Clean Energy
San Francisco Clean Energy Advocates Alliance
Santa Cruz County Board of Supervisors
School Project for Utility Rate Reduction
Sierra Club California
Solar Energy Industries Association
SolEd Benefit Corporation
Sonoma Clean Power

Sonoma County Board of Supervisors
Sonoma County Regional Climate Protection Authority
Sonoma Water Agency
Sungevity
Sustainable Marin
The Utility Reform Network (TURN)
Town of Fairfax
Western Power Trading Forum

Attached: bill text.

Respectfully Submitted,

Councilmember Dan Kalb

AMENDED IN ASSEMBLY APRIL 10, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2145

Introduced by Assembly Member Bradford

February 20, 2014

An act to amend Section 366.2 of the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

AB 2145, as amended, Bradford. Electricity: community choice aggregation.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, as defined. ~~Existing law~~ *The Public Utilities Act* authorizes a community choice aggregator, as defined, to aggregate the electrical load of interested electricity consumers within its boundaries and requires a community choice aggregator to file an implementation plan with the commission and requires that the plan include disclosures of certain information and describe other matter. ~~Existing law~~ *The act requires the community choice aggregator to provide each customer an opportunity to opt out of his or her community's aggregation program. The act provides that customer participation in the community choice aggregation program does not require a positive written declaration for participation, but each customer shall be informed of his or her right to opt out of the program. The act provides that if no negative declaration is made by the customer regarding participation, the customer shall be served by the community choice aggregation program. The act requires an electrical corporation to cooperate fully with any community choice aggregator that investigates, pursues, or implements*

community choice aggregation programs, including providing appropriate billing and electrical load data. ~~Existing law~~ *The act* requires an electrical corporation, when requested by, and at the expense of, a community choice aggregator, to install, maintain, and calibrate metering devices at mutually agreeable locations within or adjacent to the community choice aggregator's political boundaries. ~~Existing law~~ *The act* requires a community choice aggregator to register with the commission, which may require additional information to ensure compliance with basic consumer protection rules and other procedural matters.

This bill would instead provide that each customer be given an opportunity to opt in to his or her community's aggregation program. The bill would require a positive declaration from a customer for participation in the community choice aggregation program and that each customer be informed of his or her right to opt in to the program. The bill would provide that a customer shall be served by the community choice aggregation program if an affirmative declaration is made. The bill would require solicitations of customers by a community choice aggregator contain, and communication by the community choice aggregator to the public or prospective and existing customers to be consistent with, specified information and would require the implementation plan to include the disclosure of those specified information. The bill would require that the implementation plan filed by a community choice aggregator ~~make full disclosure of certain information and~~ completely describe other matter required to be disclosed under existing law. The bill would authorize the commission to require that a community choice aggregator, when registering with the commission, provide additional information to ensure compliance with basic consumer protection and other rules and other procedural matters. The bill would make other technical, nonsubstantive revisions to the community choice aggregator provisions.

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the bill would impose requirements regarding communication by a community choice aggregator, a violation of which would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 366.2 of the Public Utilities Code is
- 2 amended to read:
- 3 366.2. (a) (1) Customers shall be entitled to aggregate their
- 4 electric loads as members of their local community with
- 5 community choice aggregators.
- 6 (2) Customers may aggregate their loads through a public
- 7 process with community choice aggregators, if each customer is
- 8 given an opportunity to opt-out of in to his or her community's
- 9 aggregation program.
- 10 (3) If a customer ~~opts out of~~ does not opt in to a community
- 11 choice aggregator's program, or has no community choice
- 12 aggregation program available, that customer shall ~~have the right~~
- 13 to continue to be served by the existing electrical corporation or
- 14 its successor in interest.
- 15 (4) The implementation of a community choice aggregation
- 16 program shall not result in a shifting of costs between the customers
- 17 of the community choice aggregator and the bundled service
- 18 customers of an electrical corporation.
- 19 (5) A community choice aggregator shall be solely responsible
- 20 for all generation procurement activities on behalf of the
- 21 community choice aggregator's customers, except where other
- 22 generation procurement arrangements are expressly authorized by
- 23 statute.
- 24 (b) If a public agency seeks to serve as a community choice
- 25 aggregator, it shall offer the opportunity to purchase electricity to
- 26 all residential customers within its jurisdiction.
- 27 (c) (1) Notwithstanding Section 366, a community choice
- 28 aggregator is hereby authorized to aggregate the electrical load of
- 29 interested electricity consumers within its boundaries to reduce
- 30 transaction costs to consumers, provide consumer protection, and
- 31 leverage the negotiation of contracts. However, the community

1 choice aggregator may not aggregate electrical load if that load is
2 served by a local publicly owned electric utility. A community
3 choice aggregator may group retail electricity customers to solicit
4 bids, broker, and contract for electricity and energy services for
5 those customers. The community choice aggregator may enter into
6 agreements for services to facilitate the sale and purchase of
7 electricity and other related services. Those service agreements
8 may be entered into by an entity authorized to be a community
9 choice aggregator, as defined in Section 331.1.

10 (2) Under community choice aggregation, customer participation
11 ~~may not shall~~ require a positive written ~~declaration, but~~ *declaration*
12 *and* each customer shall be informed of his or her right to opt-out
13 ~~of in to~~ the community choice aggregation program. If ~~no negative~~
14 *an affirmative* declaration is made by a customer, that customer
15 shall be served through the community choice aggregation
16 program. If an existing customer moves the location of his or her
17 electric service within the jurisdiction of the community choice
18 aggregator, the customer shall retain the same subscriber status as
19 prior to the move, unless the customer affirmatively changes his
20 or her subscriber status. If the customer is moving from outside to
21 inside the jurisdiction of the community choice aggregator,
22 customer participation shall ~~not~~ require a positive written
23 ~~declaration, but~~ *declaration and* the customer shall be informed
24 of his or her right to ~~elect not to receive service through the~~
25 ~~community choice aggregator. opt in to the community choice~~
26 *aggregation program.*

27 (3) A community choice aggregator establishing electrical load
28 aggregation pursuant to this section shall develop an
29 implementation plan detailing the process and consequences of
30 aggregation. The implementation plan, and any subsequent changes
31 to it, shall be considered and adopted at a duly noticed public
32 hearing. The implementation plan shall contain all of the following:

33 (A) An organizational structure of the program, its operations,
34 and its funding.

35 (B) Ratesetting and other costs to participants.

36 (C) Provisions for full disclosure *of all information specified*
37 *in paragraph (15)* and due process in setting rates and allocating
38 costs among participants.

39 (D) The methods for entering and terminating agreements with
40 other entities.

1 (E) The rights and responsibilities of program participants,
2 including, but not limited to, consumer protection procedures,
3 credit issues, and shutoff procedures.

4 (F) Termination of the program.

5 (G) A description of the third parties that will be supplying
6 electricity under the program, including, but not limited to,
7 complete information about financial, technical, and operational
8 capabilities.

9 (4) A community choice aggregator establishing electrical load
10 aggregation shall prepare a statement of intent with the
11 implementation plan. Any community choice load aggregation
12 established pursuant to this section shall provide for the following:

13 (A) Universal access.

14 (B) Reliability.

15 (C) Equitable treatment of all classes of customers.

16 (D) Any requirements established by state law or by the
17 commission concerning aggregated service, including, but not
18 limited to, those rules adopted by the commission pursuant to
19 paragraph (3) of subdivision (b) of Section 8341 for the application
20 of the greenhouse gases emission performance standard to
21 community choice aggregators.

22 (5) In order to determine the cost-recovery mechanism to be
23 imposed on the community choice aggregator pursuant to
24 subdivisions (d), (e), and (f) that shall be paid by the customers of
25 the community choice aggregator to prevent shifting of costs, the
26 community choice aggregator shall file the implementation plan
27 with the commission, and any other information requested by the
28 commission that the commission determines is necessary to develop
29 the cost-recovery mechanism in subdivisions (d), (e), and (f).

30 (6) The commission shall notify any electrical corporation
31 serving the customers proposed for aggregation that an
32 implementation plan initiating community choice aggregation has
33 been filed, within 10 days of the filing.

34 (7) Within 90 days after the community choice aggregator
35 establishing load aggregation files its implementation plan, the
36 commission shall certify that it has received the implementation
37 plan, including any additional information necessary to determine
38 a cost-recovery mechanism. After certification of receipt of the
39 implementation plan and any additional information requested,
40 the commission shall then provide the community choice

1 aggregator with its findings regarding any cost recovery that must
2 be paid by customers of the community choice aggregator to
3 prevent a shifting of costs as provided for in subdivisions (d), (e),
4 and (f).

5 (8) No entity proposing community choice aggregation shall
6 act to furnish electricity to electricity consumers within its
7 boundaries until the commission determines the cost recovery that
8 must be paid by the customers of that proposed community choice
9 aggregation program, as provided for in subdivisions (d), (e), and
10 (f). The commission shall designate the earliest possible effective
11 date for implementation of a community choice aggregation
12 program, taking into consideration the impact on any annual
13 procurement plan of the electrical corporation that has been
14 approved by the commission.

15 (9) An electrical corporation shall cooperate fully with any
16 community choice aggregators that investigate, pursue, or
17 implement community choice aggregation programs. Cooperation
18 shall include providing the entities with appropriate billing and
19 electrical load data, including, but not limited to, electrical
20 consumption data as defined in Section 8380 and other data
21 detailing electricity needs and patterns of usage, as determined by
22 the commission, and in accordance with procedures established
23 by the commission. The commission shall exercise its authority
24 pursuant to Chapter 11 (commencing with Section 2100) to enforce
25 the requirements of this paragraph when it finds that the
26 requirements of this paragraph have been violated. Electrical
27 corporations shall continue to provide all metering, billing,
28 collection, and customer service to retail customers that participate
29 in community choice aggregation programs. Bills sent by the
30 electrical corporation to retail customers shall identify the
31 community choice aggregator as providing the electrical energy
32 component of the bill. The commission shall determine the terms
33 and conditions under which the electrical corporation provides
34 services to community choice aggregators and retail customers.

35 (10) If the commission finds that an electrical corporation *or*
36 *community choice aggregator* has violated this section, the
37 commission shall ~~consider the impact of the violation upon~~
38 ~~community choice aggregators.~~ *order appropriate corrective*
39 *action.*

1 (11) The commission shall proactively expedite the complaint
2 process for disputes regarding an electrical corporation's *or*
3 *community choice aggregator's* violation of its obligations pursuant
4 to this section in order to provide for timely resolution of
5 ~~complaints made by community choice aggregation programs;~~
6 ~~complaints,~~ so that all complaints are resolved in no more than
7 180 days following the filing of a ~~complaint by a community choice~~
8 ~~aggregation program concerning the actions of the incumbent~~
9 ~~electrical corporation.~~ *complaint.* This deadline may only be
10 extended under either of the following circumstances:

11 (A) Upon agreement of all of the parties to the complaint.

12 (B) The commission makes a written determination that the
13 deadline cannot be met, including findings for the reason for this
14 determination, and issues an order extending the deadline. A single
15 order pursuant to this subparagraph shall not extend the deadline
16 for more than 60 days.

17 (12) (A) An entity authorized to be a community choice
18 aggregator, as defined in Section 331.1, that elects to implement
19 a community choice aggregation program within its jurisdiction
20 pursuant to this chapter, shall do so by ordinance. A city, county,
21 or city and county may request, by affirmative resolution of its
22 governing council or board, that another entity authorized to be a
23 community choice aggregator act as the community choice
24 aggregator on its behalf. If a city, county, or city and county, by
25 resolution, requests another authorized entity be the community
26 choice aggregator for the city, county, or city and county, that
27 authorized entity shall be responsible for adopting the ordinance
28 to implement the community choice aggregation program on behalf
29 of the city, county, or city and county.

30 (B) Two or more entities authorized to be a community choice
31 aggregator, as defined in Section 331.1, may participate as a group
32 in a community choice aggregation program pursuant to this
33 chapter, through a joint powers agency established pursuant to
34 Chapter 5 (commencing with Section 6500) of Division 7 of Title
35 1 of the Government Code, if each entity adopts an ordinance
36 pursuant to subparagraph (A). Pursuant to Section 6508.1 of the
37 Government Code, members of a joint powers agency that is a
38 community choice aggregator may specify in their joint powers
39 agreement that, unless otherwise agreed by the members of the
40 agency, the debts, liabilities, and obligations of the agency shall

1 not be the debts, liabilities, and obligations, either jointly or
2 severally, of the members of the agency. The commission shall
3 not, as a condition of registration or otherwise, require an agency's
4 members to voluntarily assume the debts, liabilities, and obligations
5 of the agency to the electrical corporation unless the commission
6 finds that the agreement by the agency's members is the only
7 reasonable means by which the agency may establish its
8 creditworthiness under the electrical corporation's tariff to pay
9 charges to the electrical corporation under the tariff.

10 (13) Following adoption of aggregation through the ordinance
11 described in paragraph (12), the program shall allow any retail
12 customer to opt-out and to continue to be served as a bundled
13 service customer by the existing electrical corporation, or its
14 successor in interest. *in to the community choice aggregation*
15 *program.* Delivery services shall be provided at the same rates,
16 terms, and conditions, as approved by the commission, for
17 community choice aggregation customers and customers that have
18 entered into a direct transaction where applicable, as determined
19 by the commission. Once enrolled in the aggregated entity, any
20 ratepayer that chooses to opt out within 60 days or two billing
21 cycles of the date of enrollment may do so without penalty and
22 shall be entitled to receive default service pursuant to paragraph
23 (3) of subdivision (a). Customers that return to the electrical
24 corporation for procurement services shall be subject to the same
25 terms and conditions as are applicable to other returning direct
26 access customers from the same class, as determined by the
27 commission, as authorized by the commission pursuant to this
28 code or any other provision of law, except that those customers
29 shall be subject to no more than a 12-month stay requirement with
30 the electrical corporation. Any reentry fees to be imposed after the
31 opt-out period specified in this paragraph, shall be approved by
32 the commission and shall reflect the cost of reentry. The
33 commission shall exclude any amounts previously determined and
34 paid pursuant to subdivisions (d), (e), and (f) from the cost of
35 reentry.

36 (14) Nothing in this section shall be construed as authorizing
37 any city or any community choice retail load aggregator to restrict
38 the ability of retail electricity customers to obtain or receive service
39 from any authorized electric service provider in a manner consistent
40 with law.

1 ~~(15) (A) The community choice aggregator shall fully inform~~
2 ~~participating customers at least twice within two calendar months;~~
3 ~~or 60 days, in advance of the date of commencing automatic~~
4 ~~enrollment. Notifications may occur concurrently with billing~~
5 ~~cycles. Following enrollment, the aggregated entity shall fully~~
6 ~~inform participating customers for not less than two consecutive~~
7 ~~billing cycles. Notification may include, but is not limited to, direct~~
8 ~~mailings to customers, or inserts in water, sewer, or other utility~~
9 ~~bills. Any notification shall fully inform customers of both of the~~
10 ~~following:~~

11 ~~(i) That they are to be automatically enrolled and that the~~
12 ~~customer has the right to opt out of the community choice~~
13 ~~aggregator without penalty.~~

14 ~~(ii) All terms and conditions of the services offered.~~

15 ~~(B) The community choice aggregator may request the~~
16 ~~commission to approve and order the electrical corporation to~~
17 ~~provide the notification required in subparagraph (A). If the~~
18 ~~commission orders the electrical corporation to send one or more~~
19 ~~of the notifications required pursuant to subparagraph (A) in the~~
20 ~~electrical corporation's normally scheduled monthly billing~~
21 ~~process, the electrical corporation shall be entitled to recover from~~
22 ~~the community choice aggregator all reasonable incremental costs~~
23 ~~it incurs related to the notification or notifications. The electrical~~
24 ~~corporation shall fully cooperate with the community choice~~
25 ~~aggregator in determining the feasibility and costs associated with~~
26 ~~using the electrical corporation's normally scheduled monthly~~
27 ~~billing process to provide one or more of the notifications required~~
28 ~~pursuant to subparagraph (A).~~

29 ~~(C) Each notification shall also include a mechanism by which~~
30 ~~a ratepayer may opt out of community choice aggregated service.~~
31 ~~The opt out may take the form of a self-addressed return postcard~~
32 ~~indicating the customer's election to remain with, or return to,~~
33 ~~electrical energy service provided by the electrical corporation, or~~
34 ~~another straightforward means by which the customer may elect~~
35 ~~to derive electrical energy service through the electrical corporation~~
36 ~~providing service in the area.~~

37 ~~(15) Every solicitation of customers by a community choice~~
38 ~~aggregator shall contain, and communication by the community~~
39 ~~choice aggregator to the public or to a prospective or existing~~
40 ~~customer shall be consistent with, the following information:~~

1 (A) The electric supply rate for the customer if the customer
2 remains with the electrical corporation compared to the electric
3 supply rate if the customer chooses to be served by the community
4 choice aggregator. Rates shall be specific to the customer class
5 of that customer and shall be provided for the next five years of
6 service. The electrical corporation shall provide its projected
7 electric supply rate to the community choice aggregator.

8 (B) The annual greenhouse gas emissions rate for electricity
9 actually delivered to customers for the previous two years if the
10 community choice aggregator has been serving customers and the
11 projected annual greenhouse gas emissions rate for electricity to
12 be actually delivered in the next five years of service. The projected
13 greenhouse gas emissions rate for each year shall be calculated
14 using the regulations and protocols established by the State Air
15 Resources Board, and for previous years using the greenhouse
16 gas emissions reported pursuant to Article 2 (commencing with
17 Section 95100) of Subchapter 10 of Chapter 1 of Division 3 of
18 Title 17 of the California Code of Regulations. The greenhouse
19 gas emissions rate shall include any emissions otherwise
20 attributable to any first importer supplying electricity to the
21 community choice aggregator, whether or not the community
22 choice aggregator is a first deliverer as defined in paragraph (175)
23 of subdivision (a) of Section 95102 of Title 17 of the California
24 Code of Regulations.

25 (16) A community choice aggregator shall have an operating
26 service agreement with the electrical corporation prior to furnishing
27 electric service to consumers within its jurisdiction. The service
28 agreement shall include performance standards that govern the
29 business and operational relationship between the community
30 choice aggregator and the electrical corporation. The commission
31 shall ensure that any service agreement between the community
32 choice aggregator and the electrical corporation includes equitable
33 responsibilities and remedies for all parties. The parties may
34 negotiate specific terms of the service agreement, provided that
35 the service agreement is consistent with this chapter.

36 (17) The community choice aggregator shall register with the
37 commission, which may require additional information to ensure
38 compliance with basic consumer protection and other rules and
39 other procedural matters.

1 (18) Once the community choice aggregator's contract is signed,
2 the community choice aggregator shall notify the applicable
3 electrical corporation that community choice service will
4 commence within 30 days.

5 (19) Once notified of a community choice aggregator program,
6 the electrical corporation shall transfer all applicable accounts to
7 the new supplier within a 30-day period from the date of the close
8 of the electrical corporation's normally scheduled monthly
9 metering and billing process.

10 (20) An electrical corporation shall recover from the community
11 choice aggregator any costs reasonably attributable to the
12 community choice aggregator, as determined by the commission,
13 of implementing this section, including, but not limited to, all
14 business and information system changes, except for
15 transaction-based costs as described in this paragraph. Any costs
16 not reasonably attributable to a community choice aggregator shall
17 be recovered from ratepayers, as determined by the commission.
18 All reasonable transaction-based costs of notices, billing, metering,
19 collections, and customer communications or other services
20 provided to an aggregator or its customers shall be recovered from
21 the aggregator or its customers on terms and at rates to be approved
22 by the commission.

23 (21) At the request and expense of any community choice
24 aggregator, an electrical corporation shall install, maintain, and
25 calibrate metering devices at mutually agreeable locations within
26 or adjacent to the community choice aggregator's political
27 boundaries. The electrical corporation shall read the metering
28 devices and provide the data collected to the community choice
29 aggregator at the aggregator's expense. To the extent that the
30 community choice aggregator requests a metering location that
31 would require alteration or modification of a circuit, the electrical
32 corporation shall only be required to alter or modify a circuit if
33 that alteration or modification does not compromise the safety,
34 reliability, or operational flexibility of the electrical corporation's
35 facilities. All costs incurred to modify circuits pursuant to this
36 paragraph, shall be borne by the community choice aggregator.

37 (d) (1) It is the intent of the Legislature that each retail end-use
38 customer that has purchased power from an electrical corporation
39 on or after February 1, 2001, should bear a fair share of the
40 Department of Water Resources' electricity purchase costs, as well

1 as electricity purchase contract obligations incurred as of the
2 effective date of the act adding this section, that are recoverable
3 from electrical corporation customers in commission-approved
4 rates. It is further the intent of the Legislature to prevent any
5 shifting of recoverable costs between customers.

6 (2) The Legislature finds and declares that this subdivision is
7 consistent with the requirements of Division 27 (commencing with
8 Section 80000) of the Water Code and Section 360.5 of this code,
9 and is therefore declaratory of existing law.

10 (e) A retail end-use customer that purchases electricity from a
11 community choice aggregator pursuant to this section shall pay
12 both of the following:

13 (1) A charge equivalent to the charges that would otherwise be
14 imposed on the customer by the commission to recover
15 bond-related costs pursuant to any agreement between the
16 commission and the Department of Water Resources pursuant to
17 Section 80110 of the Water Code, which charge shall be payable
18 until any obligations of the Department of Water Resources
19 pursuant to Division 27 (commencing with Section 80000) of the
20 Water Code are fully paid or otherwise discharged.

21 (2) Any additional costs of the Department of Water Resources,
22 equal to the customer's proportionate share of the Department of
23 Water Resources' estimated net unavoidable electricity purchase
24 contract costs as determined by the commission, for the period
25 commencing with the customer's purchases of electricity from the
26 community choice aggregator, through the expiration of all then
27 existing electricity purchase contracts entered into by the
28 Department of Water Resources.

29 (f) A retail end-use customer purchasing electricity from a
30 community choice aggregator pursuant to this section shall
31 reimburse the electrical corporation that previously served the
32 customer for all of the following:

33 (1) The electrical corporation's unrecovered past
34 undercollections for electricity purchases, including any financing
35 costs, attributable to that customer, that the commission lawfully
36 determines may be recovered in rates.

37 (2) Any additional costs of the electrical corporation recoverable
38 in commission-approved rates, equal to the share of the electrical
39 corporation's estimated net unavoidable electricity purchase
40 contract costs attributable to the customer, as determined by the

1 commission, for the period commencing with the customer's
2 purchases of electricity from the community choice aggregator,
3 through the expiration of all then existing electricity purchase
4 contracts entered into by the electrical corporation.

5 (g) Estimated net unavoidable electricity costs paid by the
6 customers of a community choice aggregator shall be reduced by
7 the value of any benefits that remain with bundled service
8 customers, unless the customers of the community choice
9 aggregator are allocated a fair and equitable share of those benefits.

10 (h) (1) Any charges imposed pursuant to subdivision (e) shall
11 be the property of the Department of Water Resources. Any charges
12 imposed pursuant to subdivision (f) shall be the property of the
13 electrical corporation. The commission shall establish mechanisms,
14 including agreements with, or orders with respect to, electrical
15 corporations necessary to ensure that charges payable pursuant to
16 this section shall be promptly remitted to the party entitled to
17 payment.

18 (2) Charges imposed pursuant to subdivisions (d), (e), and (f)
19 shall be nonbypassable.

20 (i) The commission shall authorize community choice
21 aggregation only if the commission imposes a cost-recovery
22 mechanism pursuant to subdivisions (d), (e), (f), and (h). Except
23 as provided by this subdivision, this section shall not alter the
24 suspension by the commission of direct purchases of electricity
25 from alternate providers other than by community choice
26 aggregators, pursuant to Section 365.1.

27 (j) (1) The commission shall not authorize community choice
28 aggregation until it implements a cost-recovery mechanism,
29 consistent with subdivisions (d), (e), and (f), that is applicable to
30 customers that elected to purchase electricity from an alternate
31 provider between February 1, 2001, and January 1, 2003.

32 (2) The commission shall not authorize community choice
33 aggregation until it has adopted rules for implementing community
34 choice aggregation.

35 (k) (1) Except for nonbypassable charges imposed by the
36 commission pursuant to subdivisions (d), (e), (f), and (h), and
37 programs authorized by the commission to provide broader
38 statewide or regional benefits to all customers, electric service
39 customers of a community choice aggregator shall not be required
40 to pay nonbypassable charges for goods, services, or programs

1 that do not benefit either, or where applicable, both, the customer
2 and the community choice aggregator serving the customer.

3 (2) The commission, Energy Commission, electrical corporation,
4 or third-party administrator shall administer any program funded
5 through a nonbypassable charge on a nondiscriminatory basis so
6 that the electric service customers of a community choice
7 aggregator may participate in the program on an equal basis with
8 the customers of an electrical corporation.

9 (3) Nothing in this subdivision is intended to modify, or prohibit
10 the use of, charges funding programs for the benefit of low-income
11 customers.

12 (l) (1) An electrical corporation shall not terminate the services
13 of a community choice aggregator unless authorized by a vote of
14 the full commission. The commission shall ensure that prior to
15 authorizing a termination of service, that the community choice
16 aggregator has been provided adequate notice and a reasonable
17 opportunity to be heard regarding any electrical corporation
18 contentions in support of termination. If the contentions made by
19 the electrical corporation in favor of termination include factual
20 claims, the community choice aggregator shall be afforded an
21 opportunity to address those claims in an evidentiary hearing.

22 (2) Notwithstanding paragraph (1), if the Independent System
23 Operator has transferred the community choice aggregator's
24 scheduling coordination responsibilities to the incumbent electrical
25 corporation, an administrative law judge or assigned commissioner,
26 after providing the aggregator with notice and an opportunity to
27 respond, may suspend the aggregator's service to customers
28 pending a full vote of the commission.

29 (m) Any meeting of an entity authorized to be a community
30 choice aggregator, as defined in Section 331.1, for the purpose of
31 developing, implementing, or administering a program of
32 community choice aggregation shall be conducted in the manner
33 prescribed by the Ralph M. Brown Act (Chapter 9 (commencing
34 with Section 54950) of Part 1 of Division 2 of Title 5 of the
35 Government Code).

36 (n) *Amendments to this section made by Assembly Bill 2145 of*
37 *the 2013–14 Regular Session do not affect the enrollment status*
38 *of a customer already enrolled in a community choice aggregation*
39 *program prior to January 1, 2015.*

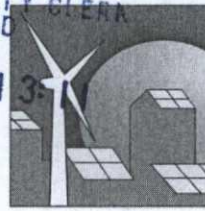
1 *SEC. 2. No reimbursement is required by this act pursuant to*
2 *Section 6 of Article XIII B of the California Constitution because*
3 *the only costs that may be incurred by a local agency or school*
4 *district will be incurred because this act creates a new crime or*
5 *infraction, eliminates a crime or infraction, or changes the penalty*
6 *for a crime or infraction, within the meaning of Section 17556 of*
7 *the Government Code, or changes the definition of a crime within*
8 *the meaning of Section 6 of Article XIII B of the California*
9 *Constitution.*

O

April 23, 2014

The Honorable Steven Bradford, Chair
Assembly Utilities and Commerce Committee
State Capitol
P.O. Box 942849
Sacramento, CA 94249-0062

FILED
OFFICE OF THE CITY CLERK
OAKLAND
14 MAY -8 PM 3:11



LOCAL
CLEAN
ENERGY
ALLIANCE

RE: AB 2145 – OPPOSE

Dear Assemblymember Bradford and Committee Members:

On behalf of the Local Clean Energy Alliance of the San Francisco Bay Area and the 23 organizations signed on to this letter, I would like to express our strong opposition to California Assembly Bill 2145 (AB 2145), the Monopoly Protection Bill, which would essentially reverse the Community Choice Aggregation law (AB 117) passed in 2002.

Many communities, individuals, and businesses in our region strongly support Community Choice programs as a tool to foster healthy competition, to increase the development of energy efficiency and new local renewable power resources, to achieve substantial reductions in greenhouse gas emissions, to stimulate local economies, and to create new local living wage jobs. Community Choice programs support State energy and economic development goals, and State law should facilitate the expansion of such programs by local governments.

In the northern California service territory there has been no choice of provider for electricity consumers for over 100 years. The investor-owned utility enjoys a "natural monopoly" in its service territory.

No one ever opted in to the investor-owned utility; its customers are captive ratepayers. The opt-out structure that AB 2145 would eliminate simply levels the playing field. Without that structure, it would not be possible to establish Community Choice programs.

AB 2145 is clearly targeted by powerful special interests to undermine and eliminate Community Choice programs. AB 2145 follows in the footsteps of AB 976 in 2011/12, correctly vetoed by Governor Brown, and Proposition 16 in 2010, smartly defeated by the California electorate. AB 2145 represents a direct attack on the intent of AB 117 just as it is beginning to bear fruit in Marin and Sonoma Counties, and as many other communities throughout California are actively exploring Community Choice programs.

The Local Clean Energy Alliance therefore urges you to help the State achieve its clean energy and economic development goals by strongly opposing AB 2145.

Sincerely,

A handwritten signature in black ink, appearing to read "Al Weinrub". The signature is fluid and cursive, written in a professional style.

Al Weinrub
Coordinator, Local Clean Energy Alliance

Signatories

Oakland City Councilmember Lynette McElhaney
Clean Energy & Jobs Oakland Campaign, Oakland Climate Action Coalition
Community Choice Energy Working Group, Berkeley Climate Action Coalition
Sun Light & Power
Sierra Club, San Francisco Bay Chapter
Wellstone Democratic Renewal Club
West Oakland Environmental Indicators Project
Global Exchange
350 Bay Area
People United for a Better Life in Oakland (PUEBLO)
Kehilla Community Synagogue, Greening Committee
Energy Solidarity Cooperative
Everybody Solar
Bay Localize
Planting Justice
Alameda County Green Party
Movement Generation Justice and Ecology Project
RE-volv
Victory Garden Foundation
Rose Foundation for Communities & the Environment
New Voices Are Rising
Greywater Action
The Action Hub, Richmond

cc:

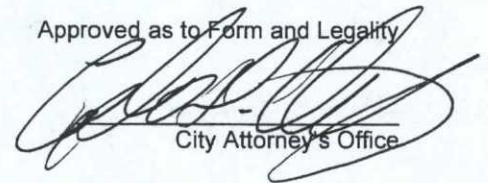
Jim Patterson, Vice Chair
Susan A. Bonilla, Member
Joan Buchanan, Member
Rocky J. Chávez, Member
Brian Dahle, Member
Paul Fong, Member
Beth Gaines, Member
Cristina Garcia, Member
Roger Hernández, Member
Brian W. Jones, Member
Kevin Mullin, Member
Bill Quirk, Member
Anthony Rendon, Member
Nancy Skinner, Member
DaVina Flemings, Principal Consultant, Assembly Utilities and Commerce Committee
Daryl Thomas, Consultant, Assembly Republican Caucus
Martha Guzman, Deputy Legislative Secretary, Governor's Office

The Local Clean Energy Alliance is the Bay Area's largest clean energy coalition, with 90 affiliated member organizations, including environmental justice, social justice, environmental, business, and community groups. The Alliance sees the need for an integrated energy policy that includes both energy demand reduction and local renewable generation resources. We believe that it is through developing both these types of resources that communities can achieve their full greenhouse gas reduction and climate adaptation potential while enhancing local economies, providing clean energy jobs, strengthening community resilience, advancing social equity, and improving community health.

FILED
OFFICE OF THE CITY CLERK
OAKLAND

14 MAY -8 PM 3:11

Approved as to Form and Legality



City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

INTRODUCED BY COUNCILMEMBER KALB

RESOLUTION IN OPPOSITION TO ASSEMBLY BILL (AB) 2145 (BRADFORD) – STATE LEGISLATION THAT WOULD EFFECTIVELY IMPEDE LOCAL JURISDICTIONS’ ABILITY TO CREATE WORKABLE ELECTRICITY COMMUNITY CHOICE AGGREGATION PROGRAMS BY REPLACING THE CURRENT OPT-OUT STRUCTURE WITH AN OPT-IN STRUCTURE

WHEREAS, existing state power regulation rules provide that customers may aggregate their electric loads using community choice aggregators (CCA) and require customers to affirmatively opt-out of an implemented CCA; and

WHEREAS, AB 2145 authored by Assemblymember Steven Bradford would replace the existing opt-out requirement for CCAs with an opt-in mechanism; and

WHEREAS, a letter to Assemblymember Bradford from the Local Clean Energy Alliance in Oakland refers to AB 2145 as the “Monopoly Protection Bill” and notes that it would essentially reverse the Community Choice Aggregation Law passed in 2002, since an opt-in requirement would make it virtually impossible to achieve the critical mass necessary to implement a CCA; and

WHEREAS, AB 2145 is reminiscent of other legislative efforts to impede the formation of CCAs, including California Proposition 16, which Pacific Gas & Electric spent over \$44 million to pass, would have required two-thirds voter approval before local governments could expend funds or issue bonds to establish public electricity service or a CCA, and the electorate voted to reject in 2010; and

WHEREAS, AB 2145 fundamentally reduces local control over the CCA process; and

WHEREAS, AB 2145 is opposed by numerous organizations and governments, including Asian Pacific Environmental Network, the Cities of Richmond, San Pablo, and Sunnyvale, Greenlining Institute, League of California Cities, Sierra Club California, and The Utility Reform Network; now, therefore, be it

RESOLVED: That the Oakland City Council hereby opposes AB 2145.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF, AND
PRESIDENT KERNIGHAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LATONDA SIMMONS
City Clerk and Clerk of the Council of the
City of Oakland, California