Harnessing the Power of Communities

August 30, 2018 VIA EMAIL

Julie Peacock, Senior Policy Advisor
Oregon Public Utility Commission
201 High Street, SE, Suite 100
Salem, OR 97301-3398

RE: SB 978: Comments regarding Draft Report to Legislature

Dear Ms. Peacock and Commissioners:

Thank you for the opportunity to comment on the recently released draft report pursuant to SB 978 that directed the PUC to *"establish a public process for the purpose of investigating how developing industry trends, technologies and policy drivers in the electricity sector might impact the existing regulatory system and incentives currently employed by the Commission. If warranted, the commission may consider changes to the existing regulatory system and incentives."* We appreciate the effort and public process that went into creating the draft, and we urge Commission staff to meaningfully integrate feedback received in advance of the report's final publication.

LEAN Energy US is a not-for-profit organization with national expertise in Community Choice Aggregation (CCA), a local energy choice model that currently exists in 8 States – CA, MA, NY, NJ, RI, VA, OH and IL - with several others exploring it for the purpose of greater customer choice, dramatic reductions in carbon emissions, and affordable electric rates, all of which are highlighted as key goals and themes in the draft report.

With that in mind, LEAN Energy US respectfully offers the following suggestions and comments on the draft report:

1. **We are concerned that the draft report falls short of SB 978's goals by advocating for an enhanced version of the status quo.** This is evidenced by its focus on performance-based regulation for IOUs and its recommendation against non-IOU models to provide greater customer choice and deliver on state and local goals. With all due respect, we find it curious and somewhat troubling that the Commission recommends against exploring customer choice - either around Community Choice Aggregation or Direct Access - but does recommend an exploration of Performance Based Regulation for the IOUs. This enshrines the status quo with little effort spent exploring new regulatory frameworks and how they could work in Oregon - which is a stated goal of the SB 978 process. Many communities and large energy consumers are actively exploring, if not actually pursuing,

both Community Choice Aggregation and Direct Access. It would seem only prudent, per the statutory language and current activity in the marketplace, that the Commission afford at least the same level of effort to the CCA and DA models as it does for PBR.

2. **LEAN Energy is not advocating for full retail deregulation and agrees with the Commission's concerns in this regard.** In fact, CCA preserves many aspects of the existing regulatory compact and fits nicely within Oregon's existing hybrid market structure espoused by SB 1149. This is because CCAs operate in partnership with incumbent utilities, are regulated by the PUC, and are close cousins of the Direct Access model as mandated by SB 1149.

3. **CCA is responsive to the Commission's goals of safety, reliability and broadly affordable rates and can function well within an organized regional transmission market.** It is critical, now more than ever, that the grid infrastructure remains safe and resilient. Whether or not there are substantive changes to the regulatory framework, the growth in distributed energy resources both in front and behind the meter will continue. LEAN proposes that the PUC and IOUs allow load serving entities such as CCAs to implement community-based solutions in response to climate change and assurance of equity and affordability. This approach has resulted in lower rates in many of the states where CCAs have been implemented.

4. **CCA is responsive to social equity concerns and environmental justice goals.** The SB 987 process should open the door to Oregon's environmental justice and social equity stakeholders who can employ CCAs as a vehicle to better achieve their objectives of a fair and just society by assuring that the benefits of Community Choice accrue to all. In addition to potential rate savings, CCAs can also provide a more rapid transition to renewable power through the development of local distributed generation, micro-grids, community solar, and energy efficiency programs tailored to benefit their respective jurisdictions. CCAs can also partner with labor and other non-profit groups to provide their constituents with the skills necessary to participate in the transition to a clean energy economy. The attached Local Development Business Plan (LDBP) developed by East Bay Community Energy in the San Francisco Bay Area articulates many of the ways local communities benefit from CCAs. The LDBP was developed as a result of coordinated efforts by labor, environmental justice, and social equity organizations. Also attached is the California Community Choice Association (CalCCA) information sheet on California CCA programs that address environmental justice and social equity concerns.

5. **CCAs enable the rapid deployment of new energy technologies that enhance IOU efforts.** As local energy providers, CCAs are trusted partners in their communities and serve as effective channels for the introduction and adoption of energy programs and technologies that respond to aspirations such as those articulated by many of the stakeholders in the SB 978 process. Examples from existing CCAs include greater penetration of distributed energy resources, integration of energy storage, promotion of

energy resilience through development of local micro-grids, and the advancement of transportation electrification and electric vehicle adoption.

6. **We acknowledge the challenges associated with changing the current IOU and regulatory framework and the need for thoughtful and fair departing-load cost allocation and financing of future obligations.** However, these and other regulatory issues can be and are being managed. There are examples and lessons-learned from around the country that can inform Oregon's design of a regulatory framework that is responsive to State policy and supports a smooth transition and effective service arrangement between the PUC, the IOUs and their local CCA partners.

7. **In advising the State of Oregon to consider the CCA model, LEAN is not advocating against the IOUs.** Rather, we are advocating for a regulatory environment that reflects innovation and evolution in the marketplace, a greater emphasis on customer choice, and focus on the integration of clean power solutions. Our goal is to allow the utilities to do what they do best – build, manage and maintain the grid – while empowering communities to make locally-based decisions about their energy supply and integration of new technology at an affordable cost to the customer.

In closing, we know that initiatives like SB 978 aren't easy, and evolving past the status-quo, vertically-integrated utility model is harder still. But we also know that the effort to innovate and introduce greater choice and competition is worth it! Please accept our thanks for the opportunity to provide feedback and please publish the attachments to this letter as part of our comments.

Sincerely,

Shawn Marshall
Executive Director, LEAN Energy US

Tom Kelly
Executive Director, KyotoUSA

Attachments:
1. Moody's Investor Service Report – provided in support of the creditworthiness of CCAs
2. East Bay Community Energy – Local Development Business Plan
3. Cal-CCA Information Sheet on Environmental Justice and Social Equity

MOODY'S
INVESTORS SERVICE

Rating Action: Moody's assigns Baa2 issuer rating to Marin Clean Energy (CA) (MCE) ; stable outlook

16 May 2018

First Community Choice Aggregator (CCA) rated

New York, May 16, 2018 -- Moody's Investors Service has assigned a first-time Baa2 Issuer Rating to Marin Clean Energy (CA) (MCE). MCE is a not-for-profit community choice aggregator (CCA) with an established operating record as a California Joint Powers Authority (JPA). The rating outlook is stable.

RATINGS RATIONALE

The Baa2 Issuer Rating reflects the strength of the California Joint Power Agency (JPA) statute and the MCE JPA agreement which together underpin MCE's creation and business model, and help fortify the ongoing stability of its existing customer base. The rating further recognizes the self-regulated rate-setting authority afforded to MCE, its established track record of operations and consistently improving financial performance, and the economic strengths within its growing service territory. The Baa2 rating considers our belief that state and policymakers remain supportive of the CCA model as a tool to advance the use of renewable resources throughout the state, a key consideration, and we view the current relationship with the California Public Utilities Commission (CPUC) from a policy standpoint to be favorable to MCE's credit quality. MCE has an adequate liquidity profile driven in large part by growing internal liquidity sources. MCE's electric rates continue to remain moderately lower than investor-owned utility, Pacific Gas & Electric Company (PG&E: A3 negative), and we view favorably PG&E's role as the billing servicer for MCE's customers which help to support the strong performance of MCE's accounts receivable.

These credit strengths are balanced against several challenges facing MCE, the most significant of which relates to their ability to manage power procurement risk which can be accompanied by uncertainties concerning resource production variability and future market structure. While MCE has been able to manage the strong customer growth experienced over the last several years reasonably well, MCE's ability to procure resources to support future growth objectives introduces incremental risk.

A particular challenge is the potential for MCE to procure more energy under long term contracts than is needed to serve their customers' load requiring them to sell the more expensive excess energy into the wholesale power market at lower market prices. According to MCE's financial statements, MCE has entered into forward purchase commitments for delivery of renewable energy on an as-available basis that aggregates $1.8 billion at year-end 2017. In an extreme worst case scenario where there is a sudden decline in customer load, MCE could find itself in an under collected position should contracted power prices paid by MCE under these long-term arrangements exceed wholesale market prices for a sustained period. This scenario, for example, could emerge should a substantially higher than normal number of customers "opt-out" and return to PG&E for their generation product or through sustained technological advances which may permanently limit customer load growth. To date, MCE has experiencd a very modest level of customers opting-out, with most of the migration occurring during the intial 120 day enrollment period. MCE appears to have mitigated the procurment risk by layering in contractual arrangements with differing tenors and going from a few suppliers to a diverse list of energy suppliers with no dominant contract and by maintaining a net short position in the mid to long term, and in an extreme case, has the ability to raise retail rates on its remaining customers if needed. Importantly, as part of the MCE's newly implemented energy risk policy, MCE manages its supply portfolio in the year forward net-short position, which minimizes the likelihood of this risk occurring and targets the maintenance of higher internal liquidity sources.

In addition to power procurement risk, additional challenges facing MCE are the newness of the CCA model within the California market, the continued evolution of the California electric market which continues to be on the cutting edge of change, the unresolved nature of the Power Cost Indifference Adjustment (PCIA) hearings with the investor-owned utilities, which could impact the cost competitiveness of MCE relative to the local investor-owned uility, and the pressure for MCE to maintain its customer value propostion as a provider of affordable renewable energy, as the business model offers customers choice.

A critically important rating consideration is the CCA's key governing documents including the California JPA statute requirement (Title 1, Division 7, Chapter 5, Article 1 (or Section 6500-6539) as well as MCE's JPA agreement which has been approved by each of the 33 participating municipalities, and which stipulates under Article 7 that the municipalities must pay their remaining cost obligations to MCE should they choose to depart from MCE. Article 7 is an important credit consideration as it is helps to mitigate MCE's substanital exposure to future power commitments and is the mechanism by which there could be recourse to each of the 33 participating municipalities should one elect to depart from MCE. While the ultimate legal underpinning of this municipal obligation to MCE has not been court tested as to its effectiveness, our rating recognizes that all participating members acknowledged and accepted this risk prior to becoming parties to the MCE-JPA agreement.

Under the California CCA structure, electricity is procured by MCE primarily from commercial suppliers and delivered through PG&E 's existing infrastructure with the utility continuing to provide transmission, distribution, billing and related collection services to MCE customers. Once a municipal ordinance is adopted for a municipality to join a CCA such as MCE, all customers in the municipality automatically enroll as CCA customers unless the customer elects to "opt-out" and return to PG&E in this case. A customer can "opt-out" before scheduled enrollment or anytime thereafter. Customers can opt-out without charge durring the first 60 days of service. A $5 residential or $25 commercial one-time exit fee is applied for customers who opt out after the first 60 days of service. MCE has not implemented additional charges (but could do so) given the very low "opt-out" rates and its continued customer growth.

A key aspect of the value proposition offered by MCE and other California CCAs is the requirement that renewable and clean energy be a major component of the customers' power supply mix. This value is one of the most significant factors that provides strength to the long-term business model. In that regard, during 2017, renewable energy accounted for 62% of MCE's retail sales. MCE customer base now exceeds over 400,000 customers making it the third largest municipally governed electric enterprise in California, behind Los Angeles Department of Water and Power (LADWP) (Aa2 stable) and Sacramento Municipal Utility District (SMUD) (Aa3 stable).

LIQUIDITY PROFILE

As alluded above, maintaining a strong liquidity profile is a key credit consideration when procuring power for customers. Liquidity provides time for MCE to react with its locally controlled rate setting and to implement other power procurement mitigation measures. The Baa2 Issuer Rating incorporates our expectation the MCE will maintain growing levels of internal liquidity on its balance sheet as its customer base expands and also has ready access to incremental external liquidity to supplement its liquidity profile. In that regard, the rating acknowledges MCE's new Board reserve policy as a credit positive, and recognizes MCE's continued ability to generate annual free cash flow.

At year-end FY 2017, MCE had unrestricted cash of $37 million or about 86 days cash on hand that is supplemented by a $25 million committed line of credit that has no conditionality for advances. Because of the significant addition of new customers during 2018 and MCE's ability to generate annual free cash, MCE projects cash on hand to exceed $60 million by FY 2019 representing more than 70 days cash on hand and 100 days liquidity on hand when factoring in the $25 million line of credit. MCE's working capital needs appear to be modest as it receives cash payments from PG&E each day for its portion of the PG&E bill while paying its suppliers for purchased power at regular intermittent times over the course of the month. As such, MCE is typically able to generate positive cash flow in each month, including the shoulder months of the year.

RATING OUTLOOK

The rating outlook is stable incorporating a view that the CCA business model will remain intact including the statutory and municipal ordinances that permit full cost recovery, that CCAs will continue to enjoy independent local retail rate-setting authority, that MCE will be able to manage power procurement risk and reach and maintain appropriate liquidity targets that support its growth.

FACTORS THAT COULD LEAD TO AN UPGRADE

-Continued trend of sound financial performance, including free cash generation, enabling days cash on hand to reach at least 150 days on a consistent basis with total liquidity levels able to mitigate a 20% load loss requirement should customers depart

-Demonstrated track record of managing power procurement and related liquidity risks

-Narrowing of remarketing risk

-Ability to demonstrate resiliency to technogical change or economic weakness

FACTORS THAT COULD LEAD TO A DOWNGRADE

-Liquidity profile not keeping pace with customer growth

-Change in direction in power procurement strategy to one more focused on ownership versus purchases which is aggressively financed and does not include protective covenants for debt or lease investors

-Incurrence of losses on a sustained basis from energy remarketing that drains financial liquidity

-Competitive position being challenged owing to lower cost options being offered by competitors and MCE's customers having to pay higher transition fees.

-Sudden increase in customers "opting-out" relative to historical levels

LEGAL SECURITY

Not Applicable

USE OF PROCEEDS

Not Applicable

PROFILE

With offices in San Rafael and Concord, CA, MCE is a California JPA founded in 2008 pursuant to the Joint Exercise of Powers Act and a public agency separate from its members. MCE provides electric service to retail customers as a CCA under the California Public Utilities Code Section 366.2.

MCE's mission is to address climate change by reducing energy related greenhouse gas emissions through renewable energy supply and energy efficiency at stable and competitive rates, while promoting local economic and workforce benefits. MCE provides electric service to retail customers and has the rights and powers to set rates and charges for electricity and services it furnishes, incur indebtedness, and issue bonds or other obligations. The parties to MCE's JPA consist of 33 local governments. Pursuant to the California Public Utilities Code, when new parties join MCE, all electricity customers in its service territory automatically become default customers of MCE for electric generation, and have the right "opt out".

METHODOLOGY

The principal methodology used in this rating was US Municipal Joint Action Agencies published in October 2016. Please see the Rating Methodologies page on www.moodys.com for a copy of this methodology.

REGULATORY DISCLOSURES

For ratings issued on a program, series or category/class of debt, this announcement provides certain regulatory disclosures in relation to each rating of a subsequently issued bond or note of the same series or category/class of debt or pursuant to a program for which the ratings are derived exclusively from existing ratings in accordance with Moody's rating practices. For ratings issued on a support provider, this announcement provides certain regulatory disclosures in relation to the credit rating action on the support provider and in relation to each particular credit rating action for securities that derive their credit ratings from the support provider's credit rating. For provisional ratings, this announcement provides certain regulatory disclosures in relation to the provisional rating assigned, and in relation to a definitive rating that may be assigned subsequent to the final issuance of the debt, in each case where the transaction structure and terms have not changed prior to the assignment of the definitive rating in a manner that would have affected the rating. For further information please see the ratings tab on the issuer/entity page for the respective issuer on www.moodys.com.

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Environmental Justice & Social Equity

CalCCA
California Community Choice Association
cal-cca.org

APRIL 2018

As local government agencies, CCAs strive to promote diversity and inclusion. By harnessing the dynamic power of community, we empower customers to make better choices for their households, for the climate, and for our collective future. We seek to ensure the diversity of our communities is included in our service offerings and programs, workforces and supply chains. Doing so invests back into our customer base and drives sustainable futures.

CCAs have launched a wide range of programs and initiatives to increase equity and support disadvantaged community members.

Local Control: Accessible, Accountable & Transparent Governance

CCA Boards, goverened by locally elected officials, set policy for:

- Procurement
- Rates
- Projects and Programs
- Workforce Development
- Community Benefits

Board meetings are open to the public, subject to the Brown Act, and held in the communities they serve, inviting direct participation and observation in decision-making. By contrast, average customers do not have access to CPUC Commissioners, who are appointed, in the way they have access to CCA governing boards, who they elect and are located in their community. Customers also do not have access to IOU executives or IOU board members, as their primary legal obligation is to their shareholders.

Making Rooftop Solar Accessible

- $2 Million allocated by CleanPowerSF for solar rebates for underserved residential customers through GoSolarSF. Low-income homeowners can save up to 100% off the installed cost of solar.
- $345,000 allocated by MCE for low-income solar rebates. Estimates indicate rebate-asstisted installations have saved customers $2+ Million on their electricity bills.
- Lancaster Choice Energy focuses on low-income customers with California HERO and California first to offer Property Assessed Clean Energy (PACE) financing.

(Continues on next page)

$89,378,000

CCA BILL SAVINGS

3 generations of Richmond residents: Kathy, Doria, and Innua Robinson

BILL ASSISTANCE

CALIFORNIA ALTERNATIVE RATES FOR ENERGY (CARE)

CARE offers a minimum discount of 20% on gas and electric rates, and CCA customers receive this discount in full. Eligibility is usually determined by the number of individuals in a household and the total gross household income. CARE is also available to:

- Tenants of sub-metered residential facilities
- Qualified nonprofit group living facilities
- Agricultural employee housing facilities
- Migrant farm worker housing facilities

% CARE CUSTOMERS BY CCA

Pico Rivera Innovative Municipal Energy	42%
Lancaster Choice Energy	40%
Apple Valley Clean Energy	35%
Redwood Coast Energy Authority	28%
Sonoma Clean Power	18%
MCE	16%
CleanPowerSF	12%

CalCCA
California Community Choice Association
cal-cca.org

Environmental Justice & Social Equity

Energy Efficiency for Home Comfort, Health & Savings

- $1.7 Million allocated annually through MCE's Low-Income Tenants & Families program for $1,200 per unit rebate and free electric heat pump. Participants must be at or below 200% Federal Poverty Guidelines.
- Sonoma Clean Power is expanding access to home energy audits with free do-it-yourself toolkit in all public libraries.
- $408,000 in energy efficiency rebates distributed by MCE to 760 affordable multifamily units.

Local Job Training & Employment

CCAs are committed to creating partnerships with and financially supporting organizations that provide workforce development opportunities, including training, apprenticeship and per-apprenticeship programs in diverse communities.

- $470,812 contributed to local green workforce job training and employment programs by MCE.
    - 1,797 hours of on the job training, Marin City Community Development Corporation
    - 330+ hours of construction skills training, numeracy and literacy training, job placement, case management, job-site mentoring and employment counseling, RichmondBUILD
    - Trained youth provided no-cost energy and water assessments and installations to Richmond, San Pablo and El Cerrito residents through MCE's Multifamily Energy Savings Program, Rising Sun Energy Center
    - Local solar install training, focusing on under-served communities, GRID Alternatives

Ruben Pendroza and family, RichmondBUILD graduate

GRID ALTERNATIVES

GRID Alternatives is a nonprofit that manages the country's first dedicated solar rebate for low-income families. They provide no-cost solar systems for low-income families, while providing hands-on installation experience for job seekers and community volunteers.

Access to Electric Vehicle Programs

- Sonoma Clean Power provides electric vehicle purchase assistance and lease discounts for CARE customers; 30% of electric vehicle rebates are allocated for low-income customers.
- Lancaster Choice Energy is partnering with Atelope Valley Transit Authority, which provides free transit to seniors, to convert to all-electric bus fleet within three years.

ECO2SCHOOLS

Eco2Schools Program is led by Center for Climate Protection inspires students in two high schools and a youth organization in Hunters Point to be more sustainable and reduce carbon footprints, with assistance from CleanPowerSF.

COMMUNITY POWER COALITION

MCE's Community Power Coalition of ratepayer advocates and community-based organizations focuses on the interests of underrepresented and historically marginalized constituencies. Partners include Communities for a Better Environment, the Greenlining Institute, Grid Alternatives, the Sierra Club and local community environmental justice organizations.

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