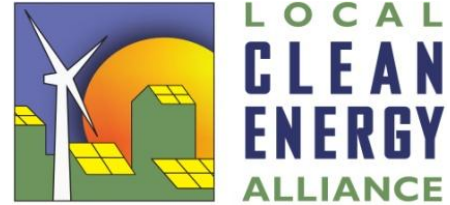


Taking Community Out of Community Choice

Why *California Clean Power* Might Not Be the Right Choice for Your Community



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Introduction

California Clean Power (CCP) is a new company that offers cities and counties a “QuickStart” solution to establishing and managing a Community Choice energy program. CCP’s purported “turnkey” solutions include regulatory filings, financing, energy procurement, and customer relations, among others.

CCP’s efforts to secure contracts with municipalities and some counties have garnered a great deal of concern among Community Choice advocates. This memo summarizes those concerns and is intended to be used by local Community Choice activists who want to educate their communities and local elected officials about potential downsides of retaining CCP’s services.

The memo is based on information from the following sources:

- The presentation by CCP on its [website](#)
- An April 1, 2014 [presentation to the Arcata City Council](#) (Item IX.A)
- A written [presentation](#) to Lake County Board of Supervisors
- A [draft contract](#) between CCP and Lake County
- Information provided by concerned citizens and Community Choice advocates

Since its formation in late 2014, CCP has, as of this writing, approached at least 13 municipalities and counties with its turnkey Community Choice solution, in some cases, pressuring them with a “take it or leave it” deal that must be consummated within 30 days. CCP has generally approached jurisdictions that have barely begun to consider Community Choice and know relatively little about it. CCP offers them what the company claims is a “no-risk,” comprehensive Community Choice management package with guaranteed revenue for their general funds, a value proposition that is very attractive to cash-starved jurisdictions.

CCP’s promotional presentations to these jurisdictions have put forth a number of questionable or misleading claims intended to entice, intimidate, and/or rush them into retaining CCP without appropriate due diligence or competitive bidding. Examples of these misrepresentations can be found below, but most involve hyping the risk of Community Choice programs, disparaging the competence and credit-worthiness of local governments, and promising windfalls to their general funds.

Beyond these dubious practices, however, CCP represents the outsourcing of Community Choice program management to a for-profit company. Many find this undermines the basic premise of Community Choice as a not-for-profit, democratically-run program that provides communities with clean energy, electricity demand reduction, and local economic benefits and job development. Hiring a for-profit private company to manage the program effectively takes the “community” out of Community Choice and essentially re-privatizes the electricity sector just when Community Choice has been shown to be a viable public alternative to the corporate utilities’ century-long stranglehold.

Concerns Regarding California Clean Power

1. CCP takes the “community” out of Community Choice.

California’s Community Choice Aggregation law, AB117, allows for municipalities and other jurisdictions to offer residents and businesses a public, not-for-profit alternative to the private monopoly utilities. Community Choice energy programs open the way for public participation in the design of the program and oversight of decisions made. Community members have input into the objectives of the program, sources of electricity, rates, and program design for local renewable energy.

As a public service program, Community Choice can prioritize the public good, utilizing energy wealth for local economic benefits. Outsourcing control of a Community Choice energy program to a private, for-profit company undermines that fundamental premise.

Though CCP claims that communities can still make all the decisions, these decisions will be constrained by contractual terms, which reflect the financial interests of CCP.

2. CCP presents a conflict of interest with the community.

One of the main benefits of Community Choice is that net electricity revenues can be reinvested in the program to provide benefits to the community rather than siphoned off into corporate coffers. CCP’s business model provides for CCP to prioritize its company interests and return only a percentage of net revenue to the Community Choice program.

In this way CCP’s financial interests as a marketer of electric power are in conflict with the community’s interest in low rates, quality energy efficiency services, and a renewable energy portfolio that prioritizes local energy resource development. The more electricity CCP sells and the higher the rate, the more CCP profits; it has little incentive to promote energy efficiency or incentivize local “behind-the-meter” rooftop solar.

It’s worth noting that, whereas CCP has been promising communities a rate savings of 2-3% over the incumbent utility, Sonoma Clean Power’s customers enjoy rates that are 6-9% below PG&E’s. The discrepancy is attributable to the fact that Sonoma Clean Power serves public interests, whereas CCP is profit-driven.

Another conflict of interest arises from CCP’s interest in structuring the program so as to front-load profits during the early years of a Community Choice program (that is, for the duration of CCP’s contract), while the community has an interest in the program’s long-term viability, which favors investment in the development of local renewable energy resources that pay off in the long term.

3. CCP is not “zero cost”

CCP tells municipalities and other jurisdictions that they “don’t have to spend a dime,” that they can avoid the up-front costs of establishing a Community Choice program. However, these recoverable one-time costs shouldn’t be confused with the much larger ongoing costs of paying a for-profit company to run the program. Outsourcing program management to a private entity for as much as ten years represents the potential for ongoing lost revenue for the Community Choice program, dwarfing any start-up costs that are avoided.

4. CCP's business model is unproven and risky.

CCP is attempting to sign three, five and ten year contracts to manage Community Choice programs, including electricity procurement, with no track record of successfully providing this kind of service. By contracting with CCP, a municipality would open itself up to several risks, including the risk of CCP failing to deliver or folding. For example, should CCP fail to procure power at costs sufficiently below the Community Choice contracted retail price, and as a result go bankrupt—a distinct possibility in the highly volatile energy market—then ratepayers would be left holding the bag, paying these higher market rates for the six month delay in reverting back to the incumbent investor-owned utility.

Based on such possibilities, San Mateo County has wisely [conducted a risk analysis](#) concerning CCP's model of fully outsourcing Community Choice program management. The analysis, completed by Pacific Energy Advisors, Inc. on June 24, 2015, concluded that “the risks associated with such an approach substantially outweigh prospective benefits.”

None of the three existing California Community Choice programs have outsourced all program management. However, they do contract out certain functions where expertise is an issue; for example, parts of electricity procurement. It is unclear who CCP will contract with as an electricity retailer. A Community Choice program can directly contract with an energy supplier and cut out the middleman (CCP).

The boards of directors and agency staff of Sonoma Clean Power and Marin Clean Energy, by hiring qualified public servants, have proven to be extremely capable of managing these programs, maintaining high customer participation rates, and achieving significant environmental and economic benefits for their communities while keeping rates below PG&E's.

5. CCP is not committed to reducing electricity demand.

One of the big advantages of Community Choice programs is their potential to decrease electricity consumption through a combination of load-shaping, peak pricing, demand reduction technologies, and energy efficiency products and retrofits. However, demand reduction does not seem to be on CCP's radar, nor does it appear to have in-house expertise to carry out what should be the cornerstone of any sensible Community Choice program. As mentioned earlier, reducing demand is not in CCP's interest as a marketer of electric power.

6. It is unknown where CCP sources its renewable energy content.

CCP is principally a marketer of electric power. Its leadership team shows no significant experience in the development of clean energy-generating projects, neither local nor remote, and it has barely mentioned this essential component of Community Choice in its presentations to local elected officials. Rather, its energy supply will be purchased on the market and sold to Community Choice program customers.

CCP promises to deliver 33% clean energy at the launch of a Community Choice program, five years ahead of the 2020 state Renewable Portfolio Standard (RPS) mandate. CCP makes no promise of developing local or remote renewable generation capacity and its profit margins will depend on keeping the cost of purchased electricity low. Market conditions are currently favorable for contracting for new renewable power. Is it not possible, however, that under less favorable conditions and stronger price pressure, that CCP's claims of renewable energy above the current RPS requirements will be based on the purchase of unbundled Renewable Energy Certificates (RECs)? In other words, that extra “renewable” energy will actually consist of fossil fuel-derived electricity that has been green-washed with unbundled RECs (For an explanation of unbundled RECs and their relevance to Community Choice procurement,

see [What the Heck is a REC?](#)). In any case there is little transparency about the source of CCP's renewable energy.

7. CCP makes questionable or misleading claims.

Municipalities should conduct due diligence to verify CCP's claims which lack detail and can even be contradictory.

For instance, CCP presentations to Arcata and Lake County have emphasized the ability of municipalities or counties to make decisions regarding energy supplies and programs after contracting with CCP, but the [draft contract for Lake County](#) makes no mention of this decision-making role. Rather, the contract includes the following clause, "Community expressly authorizes CCP to act on its behalf and as its sole agent in performing and providing CCA Services."

CCP "guarantees" rates 2-3% below PG&E's rates and specifies payments to the general funds of the contracting jurisdictions. But those guarantees and payments to general funds would clearly depend on choices that CCP claims municipalities are free to make. For instance, CCP does not mention how varying renewable energy portfolios might affect such "guarantees."

CCP claims that the money they pay to the participating city or county "can be a new source of revenue for funding community programs or enhancing critical service budgets," implying that such payments would go into the jurisdiction's general fund. However, there are legal, ethical, and political questions about whether such a kickback to the general fund is advisable.

Transferring surplus utility revenues to a municipality's general fund has been [challenged by ratepayers in court](#). Aside from the legality, such a maneuver is likely to raise the ire of local ratepayers who don't want their electricity payments subsidizing their jurisdiction's general fund. This could engender hostility toward a Community Choice program even before it launches.

CCP emphasizes the risk to municipalities or counties of establishing Community Choice programs. However, MCE Clean Energy has been in operation for five years and Sonoma Clean Power for one year, and both programs are solvent. Neither program co-mingles the finances of the Community Choice program with the general funds of participating jurisdictions.

CCP material emphasizes the benefits of municipalities going it alone in the formation of Community Choice programs rather than forming a Joint Powers Authority (JPA) with other jurisdictions. In their presentation to the Arcata City Council, CCP made the false claim that if a JPA fails the burden falls on the participating municipalities. In fact, formation of a JPA to administer a Community Choice program provides a firewall between the financial operations of the Community Choice program and the general funds of the participating jurisdictions.

Though CCP claims that it takes on all the risk of a Community Choice program, it is not clear that the general fund of a participating city or county would be protected if CCP went bankrupt, not to mention the potential impact on ratepayers.

CCP also claims that finding financing to cover the cost of electricity before rate-payer revenues come in can be very difficult. However, Sonoma Clean Power, only the second Community Choice program to form in California, had multiple lenders competing to cover this cost, and the agency is paying off the loan in roughly a year's timeframe.

8. Sound too good to be true? Ask some questions.

Here are some questions that any community should ask in considering a contract with CCP.

- What profit margin does CCP expect to make, and what margin would be required for CCP to stay in business?
- What is the detailed budget? Can CCP provide a pro forma?
- CCP makes 10 year projections on energy costs, but the energy market is notoriously volatile. How can CCP guarantee benefits for a 10 year contract period, when market conditions might render that agreement unprofitable?
- Why is there no mention of a reserve fund or other hedges against market volatility?
- What happens to the municipality or county—and to ratepayers—if CCP is forced to declare bankruptcy?
- What kind of public oversight is there over CCP's handling of program finances?
- How do decisions about renewable portfolio content affect electricity rates?
- How does CCP plan to engage in energy efficiency work?
- How does CCP plan to develop local renewable energy resources?

9. The process for selecting a company to manage all or parts of the program should be competitive and unhurried and should include community input.

A contract to provide electricity services to a municipality or other jurisdiction should be entered into only after consideration of multiple bids submitted pursuant to a Request for Proposal (RFP). In fact, many cities and counties are required by local ordinance to solicit bids through a RFP before entering a contract. ([See eg. Alameda County](#)).

CCP has been pressuring local elected officials to make a hurried decision to engage CCP, in at least one instance threatening to withdraw its offer within 30 days. Municipalities should take time for thorough due diligence concerning CCP's promises and expertise.

CCP's offer of a free feasibility study presents yet another opportunity for promoting its self-interest. It would violate good management practices, and therefore the public trust, for any jurisdiction to retain as managers of a Community Choice program the same firm that conducted the feasibility study for that program.

Finally, municipalities should engage local stakeholders, including businesses, organized labor, residents, campuses, and community and environmental groups in the process of defining program goals, deciding whether or not to outsource program management and, if deemed desirable, selecting the appropriate firm to manage the program.