

# **Butte Choice Energy**

## **COMMUNITY CHOICE AGGREGATION IMPLEMENTATION PLAN AND STATEMENT OF INTENT**

**[December 2019]**

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## Chapter 1 – Introduction

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Butte Choice Energy (BCE) is a public agency located within Butte County, formed for the purpose of implementing a community choice aggregation program (CCA). Member Agencies of the BCE includes one (1), the City of Chico, a municipality located within the County of Butte (“County”) as well as the unincorporated areas of the County itself (together, the “Members” or “Member Agencies”), which have elected to allow BCE to provide electric generation service within their respective jurisdictions. Currently, the following Members Agencies comprise BCE:

- Unincorporated Butte County
- City of Chico

This Implementation Plan and Statement of Intent (“Implementation Plan”) describes BCE’s plans to implement a CCA program for applicable electric customers within the jurisdictional boundaries of the County that currently take bundled electric service from Pacific Gas & Electric (“PG&E”). The BCE Program will provide electricity customers the opportunity to join together to procure electricity from competitive suppliers, with such electricity being delivered over PG&E’s transmission and distribution system. The planned start date for the Program is April 1, 2021. All current PG&E customers within BCE’s service area will receive information describing the CCA Program and will have multiple opportunities to choose to remain full requirement (“bundled”) customers of PG&E, in which case they will not be enrolled. Thus, participation in the BCE Program is completely voluntary; however, customers, as provided by law, will be automatically enrolled according to the anticipated phase-in schedule later described in Chapter 5 unless they affirmatively elect to opt-out.

Implementation of BCE will enable customers within BCE’s service area to take advantage of the opportunities granted by Assembly Bill 117 (“AB 117”), the Community Choice Aggregation Law. BCE’s primary objectives in implementing this Program are to provide cost competitive electric services; promote economic development, reduce electric sector greenhouse gas emissions (“GHGs”) within the County; stimulate renewable energy development; implement distributed energy resources; promote energy efficiency and demand reduction programs; and sustain long-term rate stability for residents and businesses through local control. The prospective benefits to consumers include stable and competitive electric rates, increased renewable and other low-GHG emitting energy supplies, and the opportunity for public participation in determining which technologies are utilized to meet local electricity needs.

To ensure successful operation of the Program, BCE will solicit energy suppliers and marketers through a competitive process and will negotiate with one or more qualified suppliers throughout the summer and fall of 2020. Final selection of BCE’s initial energy supplier(s) will be made by BCE following administration of the aforementioned solicitation process and related contract negotiations. Information regarding the anticipated solicitation process for BCE’s initial energy services provider(s) is contained in Chapter 10.



The California Public Utilities Code provides the relevant legal authority for BCE to become a Community Choice Aggregator and invests the California Public Utilities Commission (“CPUC” or “Commission”) with the responsibility for establishing the cost recovery mechanism that must be in place before customers can begin receiving electrical service through the BCE Program. The CPUC also has the responsibility for registering BCE as a Community Choice Aggregator and ensuring compliance with basic consumer protection rules. The Public Utilities Code requires that an Implementation Plan be adopted at a duly noticed public hearing and that it be filed with the Commission in order for the Commission to determine the cost recovery mechanism to be paid by customers of the Program in order to prevent shifting of costs to bundled customers of the incumbent utility.

On December 16, 2019, at a duly noticed public hearing, the BCE Board considered and adopted this Implementation Plan, through Resolution # (a copy of which is included as part of Appendix A). The Commission has established the methodology that will be used to determine the cost recovery mechanism, and PG&E has approved tariffs for imposition of the cost recovery mechanism. Finally, each of BCE’s Members has adopted an ordinance to implement a CCA program through its participation in BCE, and each of the Members has adopted a resolution permitting BCE to provide service within its jurisdiction.<sup>1</sup> With each of these milestones accomplished, BCE submits this Implementation Plan to the CPUC. Following the CPUC’s certification of its receipt of this Implementation Plan and resolution of any outstanding issues, BCE will take the final steps needed to register as a CCA prior to initiating the customer notification and enrollment process.

## **Organization of this Implementation Plan**

The content of this Implementation Plan complies with the statutory requirements of AB 117. As required by Public Utilities Code Section 366.2(c)(3), this Implementation Plan details the process and consequences of aggregation and provides BCE’s statement of intent for implementing a CCA program that includes all of the following:

- Universal access;
- Reliability;
- Equitable treatment of all customer classes; and
- Any requirements established by State law or by the CPUC concerning aggregated service.

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<sup>1</sup> Copies of individual ordinances adopted by the BCE Members are included within Appendix A.

The remainder of this Implementation Plan is organized as follows:

- Chapter 2: Aggregation Process
- Chapter 3: Organizational Structure
- Chapter 4: Startup Plan & Funding
- Chapter 5: Program Phase-In
- Chapter 6: Load Forecast & Resource Plan
- Chapter 7: Financial Plan
- Chapter 8: Rate setting
- Chapter 9: Customer Rights and Responsibilities
- Chapter 10: Procurement Process
- Chapter 11: Contingency Plan for Program Termination
- Appendix A: BCE Resolution to Adopt the Implementation Plan
- Appendix B: BCE Joint Powers Agreement
- Appendix C: Chico and Butte County Enabling Ordinances for Joining JPA

The requirements of AB 117 are cross-referenced to Chapters of this Implementation Plan in the following table.

### ***AB 117 Cross References***

<b>AB 117 REQUIREMENT</b>	<b>IMPLEMENTATION PLAN CHAPTER</b>
Statement of Intent	Chapter 1: Introduction
Process and consequences of aggregation	Chapter 2: Aggregation Process
Organizational structure of the program, its operations and funding	Chapter 3: Organizational Structure Chapter 4: Startup Plan & Funding Chapter 7: Financial Plan
Disclosure and due process in setting rates and allocating costs among participants	Chapter 8: Rate setting
Rate setting and other costs to participants	Chapter 8: Rate setting Chapter 9: Customer Rights and Responsibilities
Participant rights and responsibilities	Chapter 9: Customer Rights and Responsibilities
Methods for entering and terminating agreements with other entities	Chapter 10: Procurement Process
Description of third parties that will be supplying electricity under the program, including information about financial, technical and operational capabilities	Chapter 10: Procurement Process
Termination of the program	Chapter 11: Contingency Plan for Program Termination

## **Chapter 2 - Aggregation Process**

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### **Introduction**

This chapter describes the background leading to the development of this Implementation Plan and describes the process and consequences of aggregation, consistent with the requirements of AB 117.

Beginning in 2015, Butte County began investigating formation of a CCA Program in the County, pursuant to California state law, with the following objectives: 1) provide cost-competitive electric services; 2) promote local economic development; 3) reduce greenhouse gas emissions related to the use of electric power within the County; and 4) increase the use of renewable energy resources relative to the incumbent utility. A technical feasibility study for a CCA Program serving the County was completed for the Cities of Chico, Paradise, and Oroville as well as for Unincorporated Butte County in August 2018.

After nearly two years of collaborative work by representatives of Butte County, city governments, independent consultants, local experts and stakeholders, BCE was formed in November 2019 for purposes of implementing the BCE Program. Subsequently, BCE approved this Implementation Plan through a duly-noted public hearing, complying with the standards stated in California Public Utilities Code Section 366.2. BCE is continuing discussions with additional Cities regarding membership in the JPA. This Implementation Plan will be updated if and when additional Cities become partners in BCE.

The BCE Program represents a culmination of planning efforts that are responsive to the expressed needs and priorities of the citizenry and business community within the Member Agencies. BCE plans to offer choices to eligible customers through the creation of innovative programs for voluntary purchases of renewable energy, net energy metering to promote customer-owned renewable generation, energy efficiency, demand responsiveness to promote reductions in peak demand, distributed energy generation, customized pricing options for large energy users, and support of local renewable energy projects through offering of a standardized power purchasing agreement or Feed-In Tariff. The analysis contained in this Plan does not include commercial direct access customers as it is assumed that customers taking direct access service from a competitive electricity provider will continue to remain with their current supplier.

### **Process of Aggregation**

Before they are enrolled in the Program, prospective BCE customers will receive two written notices in the mail from BCE that will provide information needed to understand the Program's terms and conditions of service and explain how customers can opt-out of the Program, if desired. All customers that do not follow the opt-out process specified in the customer notices will be automatically enrolled, and service will begin at their next regularly scheduled meter read date

no later than thirty days following the date of automatic enrollment, subject to the service phase-in plan described in Chapter 5. Direct Access customers will not be automatically enrolled. The initial enrollment notices will be provided to the first phase of customers in November 2020. Initial enrollment notices will be provided to subsequent customer phases consistent with statutory requirements and based on schedule(s) determined by BCE. These notices will be sent to customers in subsequent phases twice within 60 days of automatic enrollment.

Customers enrolled in the BCE Program will continue to have their electric meters read and to be billed for electric service by the distribution utility (PG&E). The electric bill for Program customers will show separate charges for generation procured by BCE as well as other charges related to electricity delivery and other utility charges assessed by PG&E.

After service cutover, customers will have approximately 60 days (two billing cycles) to opt-out of the BCE Program without penalty and return to the distribution utility (PG&E). BCE customers will be advised of these opportunities via the distribution of two additional enrollment notices provided within the first two months of service. Customers that opt-out between the initial cutover date and the close of the post enrollment opt-out period will be responsible for Program charges for the time they were served by BCE but will not otherwise be subject to any penalty for leaving the program. Customers that have not opted-out within thirty days of the fourth enrollment notice will be deemed to have elected to become a participant in the BCE Program and to have agreed to the BCE Program's terms and conditions, including those pertaining to requests for termination of service, as further described in Chapter 9.

## **Consequences of Aggregation**

### **Rate Impacts**

BCE customers will pay the generation charges set by BCE and no longer pay the costs of PG&E generation. Customers enrolled in the Program will be subject to the Program's terms and conditions, including responsibility for payment of all Program charges as described in Chapter 9.

BCE's rate setting policies described in Chapter 8 establish a goal of providing rates that are competitive with the projected generation rates offered by the incumbent distribution utility (PG&E). BCE will establish rates sufficient to recover all costs related to operation of the Program, and actual rates will be adopted by BCE's Board.

Initial BCE Program rates will be established following approval of BCE's inaugural program budget, reflecting final costs from the BCE Program's energy supplier(s). BCE's rate policies and procedures are detailed in Chapter 8. Information regarding final BCE Program rates will be disclosed along with other terms and conditions of service in the pre-enrollment and post-enrollment notices sent to potential customers.

Once BCE gives definitive notice to PG&E that it will commence service, BCE customers will generally not be responsible for costs associated with PG&E's future electricity procurement

contracts or power plant investments. Certain pre-existing generation costs and new generation costs that are deemed to provide system-wide benefits will continue to be charged by PG&E to CCA customers through separate rate components, called the Cost Responsibility Surcharge and the New System Generation Charge. These charges are shown in PG&E's electric service tariffs, which can be accessed from the utility's website, and the costs are included in charges paid by both PG&E bundled customers as well as CCA and Direct Access customers<sup>2</sup>.

### **Local Economic Development Impacts**

The indirect effects of creating a BCE includes the effects of increased commerce, and disposable income. The technical feasibility study completed for Butte County included an input-output- (IO) analysis that analyzed indirect effects of implementing a CCA. The IO model turns on the assumption that forming a CCA will lead to lower energy rates for their customers. Three types of impacts are analyzed in the IO model. These are described below.

*Local Investment* – BCE may choose to implement programs to incentivize investments in local distributed energy resources (DER). Participants in BCE may pursue local clean DER. These resources can be behind the meter or community projects where several customers participate in a centrally located project (e.g. "community solar"). This demand for local renewable resources will lead to an increase in the manufacturing and installation of DER, and lead to an increase in employment in the related manufacturing and construction sectors.

*Increased Disposable Income* – BCE retail rates may be lower than PG&E rates creating more disposable income for individuals and greater revenues for businesses. These cost savings could then lead to more investment by individuals and businesses for personal or business purposes. This increase in spending could result in increased employment for multiple sectors such as retail, construction, and manufacturing.

*Environmental and Health Impacts* – With the creation of a CCA such as BCE, other non-commerce indirect effects will occur. These may be environmental, such as improved air quality or improved human health due to the CCA potentially utilizing more renewable energy sources versus continuing use of traditional energy sources which may have a greater GHG footprint.

### **Renewable Energy Impacts**

A second consequence of the Program will be a likely increase in the proportion of energy generated and supplied by renewable resources. The resource plan includes procurement of renewable energy sufficient to meet California's prevailing renewable energy procurement mandate for all enrolled customers. BCE customers will also have the opportunity to participate in a 50 percent or 100 percent renewable supply option. To the extent that customers choose BCE's 50 percent or 100 percent renewable energy option, the renewable content of BCE's aggregate supply portfolio will further increase. Initially, requisite renewable energy supply will be sourced through one or more power purchase agreements. Over time, however, BCE will likely

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<sup>2</sup> For PG&E bundled service customers, the Power Charge Indifference Adjustment element of the Cost Responsibility Surcharge is contained within the tariffed Generation rate. Other elements of the Cost Responsibility Surcharge are set forth in PG&E's tariffs as separate rates/charges paid by all customers (with limited exceptions).

consider independent development of new local renewable generation resources. BCE seeks to establish a resource portfolio that encourages the use and development of cost-effective local renewable and distributed energy resources.

### **Energy Efficiency Impacts**

A third consequence of the Program will be an anticipated increase in energy efficiency program investments and activities. The existing energy efficiency programs administered by the distribution utility are not expected to change as a result of BCE Program implementation. BCE customers will continue to pay the public benefits surcharges to the distribution utility, which will fund energy efficiency programs for all customers, regardless of generation supplier.

The energy efficiency investments ultimately planned for the BCE Program, as described in Chapter 6, will follow BCE's successful application for and administration of requisite program funding (from the CPUC) to independently administer energy efficiency programs within its jurisdiction. Such programs will be in addition to the level of investment that would continue in the absence of BCE-administered energy efficiency programs. Thus, the BCE Program has the potential for increased energy savings and a further reduction in emissions due to expanded energy efficiency programs.

## Chapter 3 – Organizational Structure

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This section provides an overview of the organizational structure of BCE and its proposed implementation of the CCA program. Specifically, the key agreements, governance, management, and organizational functions of BCE are outlined and discussed below.

### Organizational Overview

On November 5, 2019, BCE formed its Board of Directors to serve as its Governing Board. The Board is responsible for establishing BCE Program policies and objectives and overseeing BCE's operation. On December 16, 2019, the Board appointed two Interim Executive Co-Directors to manage the operation of BCE in accordance with policies adopted by the Board. When BCE receives CPUC certification, the executive director will proceed to appoint staff and contractors to manage BCE's activities. These activities include support services (administration, finance and IT), marketing and public affairs (community outreach, key account management and customer advocacy), supply acquisition (energy trading, contract negotiation and system development), and legal and government affairs.

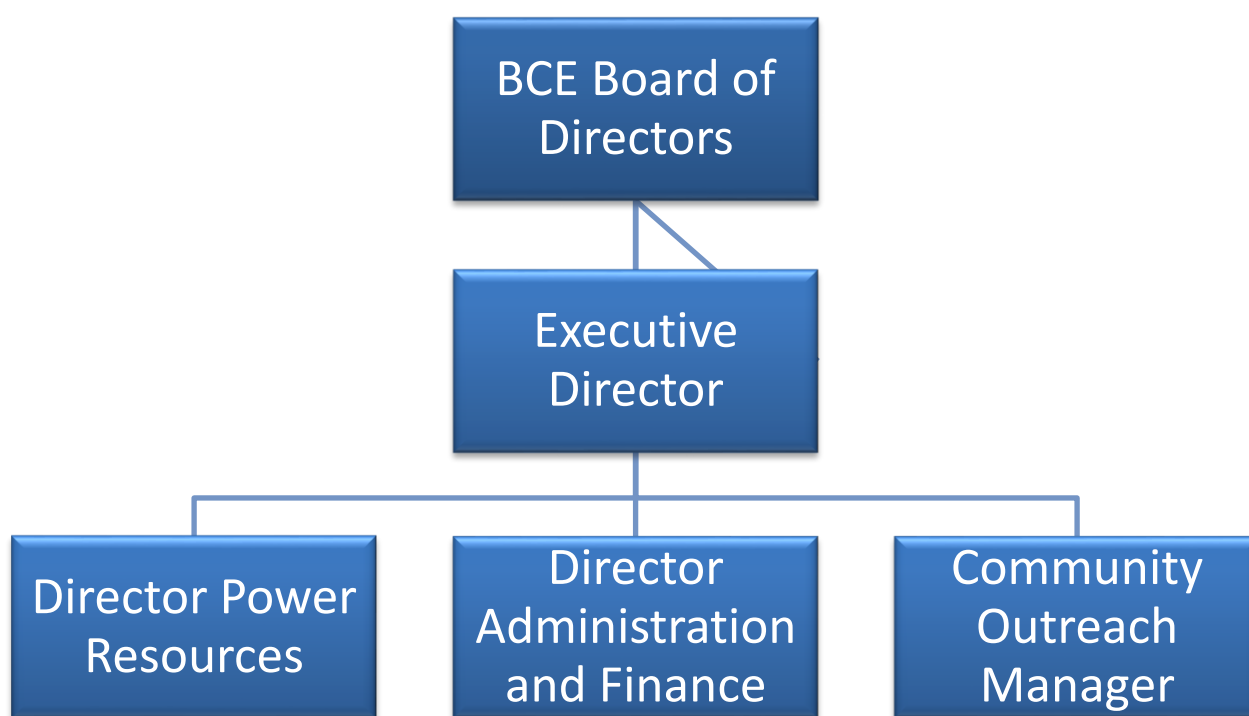
### Governance

The BCE Program will be governed by BCE's Board, which shall include two appointed designees from each of the Members. BCE is a joint powers agency created on November 5, 2019 and formed under California law. The Members of BCE include one (1) municipality located within the County as well as the unincorporated areas of the County, all of which have elected to allow BCE to provide electric generation service within their respective jurisdictions. BCE's Board will be comprised of representatives appointed by each of the Members in accordance with the JPA agreement. The BCE Program will ultimately be operated under the direction of an executive director appointed by the Board, with legal and regulatory support provided by a Board appointed General Counsel.

The Board's primary duties are to establish program policies, approve rates and provide policy direction to the Executive Director, who has general responsibility for program operations, consistent with the policies established by the Board. The Board has elected a Chairman and Vice Chairman and may establish an Executive Committee, Finance Committee, and Community Advisory Committee. In the future, the Board may also establish other committees and sub-committees, as needed, to address issues that require greater expertise in particular areas. BCE may also form various standing and ad hoc committees, as appropriate, which would have responsibility for evaluating various issues that may affect BCE and its customers and would provide analytical support and recommendations to the Board in these regards.

## Management

The BCE Board of Directors has appointed two Interim Executive Co-Directors, who has management responsibilities over functional areas of Administration & Finance, Marketing & Public Affairs, Power Resources & Energy Programs, and Government Affairs as well as BCE's General Counsel. In performing his obligations to BCE, the Executive Director may utilize a combination of internal staff and/or contractors. Certain specialized functions needed for program operations, namely the electric supply and customer account management functions described below, may be performed initially by third - party contractors. The organization chart below illustrates the management structure proposed for BCE.



Major functions of BCE that will be managed by the Executive Director are summarized below. Some of these functions will, at least initially, be fulfilled by outside consultants.

### Administration

BCE's Executive Director is responsible for managing the organization's human resources and administrative functions and will coordinate with the BCE Board, as necessary, with regard to these functions. The functional area of administration will include oversight of employee hiring and termination, compensation and benefits management, identification and procurement of



requisite office space and various other issues.

## **Finance**

The Executive Director is also responsible for managing the financial affairs of BCE, including the development of an annual budget, revenue requirement and rates; managing and maintaining cash flow requirements; arranging potential bridge loans as necessary; and other financial tools.

Revenues via rates and other funding sources (such as a rate stabilization fund, when necessary) must, at a minimum, meet the annual budgetary revenue requirement, including recovery of all expenses and any reserves or coverage requirements set forth in bond covenants or other agreements. BCE will have the flexibility to consider rate adjustments within certain ranges, administer a standardized set of electric rates, and may offer optional rates to encourage policy goals such as economic development or low-income support programs, provided that the overall revenue requirement is achieved.

BCE may also offer customized pricing options such as dynamic pricing or contract-based pricing for energy intensive customers to help these customers gain greater control over their energy costs. This would provide such customers – mostly larger energy users within the commercial sector – with greater rate-related flexibility than what is currently available.

BCE's finance function will be responsible for arranging financing necessary for any capital projects, preparing financial reports, and ensuring sufficient cash flow for successful operation of the BCE Program. The finance function will play an important role in risk management by monitoring the credit of energy suppliers so that credit risk is properly understood and mitigated. In the event that changes in a supplier's financial condition and/or credit rating are identified, BCE will be able to take appropriate action, as would be provided for in the electric supply agreement(s).

## **Marketing & Public Affairs**

The marketing and public affairs functions include general program marketing and communications as well as direct customer interface ranging from management of key account relationships to call center and billing operations. BCE will conduct program marketing to raise consumer awareness of the BCE Program and to establish the BCE "brand" in the minds of the public, with the goal of retaining and attracting as many customers as possible into the BCE Program. Outgoing communications will also promote BCE's customer programs. Additionally, BCE will communicate with key policy-makers at the State and local level, community business and opinion leaders, and the media.

In addition to general program communications and marketing, a significant focus on customer service, particularly representation for key accounts, will enhance BCE's ability to differentiate itself as a highly customer-focused organization that is responsive to the needs of the community. BCE will also establish a customer call center designed to field customer inquiries and routine interaction with customer accounts.

The customer service function also encompasses management of customer data. Customer data management services include retail settlements/billing-related activities and management of a customer database. This function processes customer service requests and administers customer enrollments and departures from the BCE Program, maintaining a current database of enrolled customers. This function coordinates the issuance of monthly bills through the distribution utility's billing process and tracks customer payments. Activities include the electronic exchange of usage, billing, and payments data with the distribution utility and BCE, tracking of customer payments and accounts receivable, issuance of late payment and/or service termination notices (which would return affected customers to bundled service), and administration of customer deposits in accordance with credit policies of BCE.

The customer data management services function also manages billing-related communications with customers, customer call centers, and routine customer notices. BCE will initially contract with a third party who has demonstrated the necessary experience and administers an appropriate customer information system to perform the customer account and billing services functions.

### **Power Resources & Energy Programs**

BCE must plan for meeting the electricity needs of its customers utilizing resources consistent with its policy goals and objectives as well as applicable legislative or regulatory mandates. BCE's long-term resource plans (addressing the 10 to 20-year planning horizon) will comply with California Law and other pertinent requirements of California regulatory bodies. BCE may develop and administer complementary energy programs that may be offered to BCE customers, including green pricing, energy efficiency, net energy metering and various other programs that may be identified to support the overarching goals and objectives of BCE.

BCE will develop integrated resource plans that meet program supply objectives and balance cost, risk and environmental considerations. Integrated resource plans are planning documents used by electric utilities to produce least cost resource planning by looking at both supply-side (solar, natural gas) and demand-side (energy efficiency) resources. Such integrated resource plans will also conform to applicable requirements imposed by the State of California. Integrated resource planning efforts by BCE will make maximum use of demand side energy efficiency, distributed generation and demand response programs as well as traditional supply options which rely on structured wholesale transactions to meet customer energy

requirements. Integrated resource plans will be updated and adopted by BCE on an annual basis.

### **Electric Supply Operations**

Electric supply operations encompass the activities necessary for wholesale procurement of electricity to serve end use customers. These highly specialized activities include the following:

- *Electricity Procurement* – assemble a portfolio of electricity resources to supply the electric needs of Program customers.
- *Risk Management* – application of standard industry techniques to reduce exposure to the volatility of energy and credit markets and insulate customer rates from sudden changes in wholesale market prices.
- *Load Forecasting* – develop load forecasts, both long-term for resource planning and short-term for the electricity purchases and sales needed to maintain a balance between hourly resources and loads.
- *Scheduling Coordination* – scheduling and settling electric supply transactions with the CAISO.

BCE will initially contract with one or more experienced and financially sound third-party energy services providers to perform all of the electric supply operations for the BCE Program. These requirements include the procurement of energy, capacity and ancillary services, scheduling coordinator services, short-term load forecasting and day-ahead and real-time electricity trading.

### **Local Energy Programs**

A key focus of the BCE Program will be the development and implementation of local energy programs, including energy efficiency programs, distributed generation programs (i.e. behind the meter solar or community projects), and other energy programs responsive to community interests. These programs are likely to be phased in during the first several years of operations. The implementation of such programs will follow the identification of requisite funding sources.

BCE will eventually administer energy efficiency, demand response and distributed generation programs that can be used as cost-effective alternatives to procurement of supply-resources. BCE will attempt to consolidate existing demand side programs into this organization and leverage the structure to expand energy efficiency offerings to customers throughout its service territory, including the CPUC application process for third party administration of energy efficiency programs and use of funds collected through the existing public benefits surcharges paid by BCE customers.

### **Governmental Affairs & General Counsel**

The BCE Program will require ongoing regulatory and legislative representation to manage various regulatory compliance filings related to resource plans, resource adequacy, compliance with California's Renewables Portfolio Standard ("RPS"), and overall representation on issues that will impact BCE, its Members and customers. BCE will maintain an active role at the CPUC, the California Energy Commission, the California Independent System Operator, the California legislature and, as necessary, the Federal Energy Regulatory Commission.

Under the direction of its General Counsel, BCE may retain outside legal services, as necessary, to administer BCE, review contracts and provide overall legal support related to activities of the BCE Program.

## Chapter 4 – Startup Plan & Funding

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This Chapter presents BCE's plans for the start-up period, including necessary expenses and capital outlays. The start-up period is defined as the period of time where BCE requires financing for implementation. The start-up period is split into pre-launch and post-launch expenses. The pre-launch period is estimated to start January 1, 2020 and end on March 31, 2021 when BCE plans to begin service to customers. Pre-launch expenses include overhead and notification for program implementation. Post launch financing includes working capital and annual debt repayment. As described in the previous Chapter, BCE may utilize a mix of staff and contractors in its CCA Program implementation.

### Startup Activities

The initial program startup activities include the following:

- Hire staff and/or contractors to manage implementation
- Identify qualified suppliers (of requisite energy products and related services) and negotiate supplier contracts
  - Electric supplier and scheduling coordinator
  - Data management provider (if separate from energy supply)
- Define and execute communications plan
  - Customer research/information gathering
  - Media campaign
  - Key customer/stakeholder outreach
  - Informational materials and customer notices
  - Customer call center
- Post CCA bond and complete requisite registration requirements
- Pay utility service initiation, notification and switching fees
- Perform customer notification, opt-out and transfers
- Conduct load forecasting
- Establish rates
- Legal and regulatory support
- Financial management and reporting

Other costs related to starting up the BCE Program will be the responsibility of the BCE Program's contractors (and are assumed to be covered by any fees/charges imposed by such contractors). These may include capital requirements needed for collateral/credit support for electric supply expenses, customer information system costs, electronic data exchange system costs, call center costs, and billing administration/settlements systems costs.

### **Staffing and Contract Services**

Personnel in the form of BCE staff or contractors will be added incrementally to match workloads involved in forming the new organization, managing contracts, and initiating customer outreach/marketing during the pre-operations period. During the startup period, minimal personnel requirements would include an Executive Director, a General Counsel, and other personnel needed to support regulatory, procurement, finance and communications activities.

For budgetary purposes, it is assumed that 5 to 10 full-time equivalents (staff or contracted professional services) supporting the above listed activities would be engaged during the initial start-up period. Following this period, additional staff and/or contractors may be retained, as needed, to support the roll-out of additional value-added services (e.g., efficiency projects) and local generation projects and programs.

### **Capital Requirements**

The start-up of the CCA Program will require capital for three major functions: (1) staffing and contractor costs; (2) deposits and reserves; and (3) working capital. Based on BCE's anticipated start-up activities and phase-in schedule, a total need of \$3 million has been identified to support the aforementioned functions. The finance plan in Chapter 7 provides some additional detail regarding BCE's expected capital requirements and general Program finances.

Related to BCE's initial capital requirement, this amount is expected to cover staffing and contractor costs during startup and pre-startup activities, including direct costs related to public relations support, technical support, and customer communications. Requisite deposits and operating reserves of \$2.5 million are reflected in the initial capital requirement, including the following items: 1) operating reserves to address anticipated cash flow variations (as well as operating reserve deposits that will likely be required by BCE's power supplier(s)); 2) requisite deposit with the California Independent System Operator prior to commencing market operations; and 3) PG&E financial security requirement. In addition, the CCA bond posted to the CPUC (\$100,000) is included in the total capital requirements of \$3 million.

Operating revenues from sales of electricity will be remitted to BCE beginning approximately sixty days after the initial customer enrollments. This lag is due to the distribution utility's standard meter reading cycle of 30 days and a 30-day payment/collections cycle. BCE will need working capital to support electricity procurement and costs related to program management, which is included in BCE's initial capital requirements.

### **Financing Plan**

BCE's initial capital requirement will be provided via a combination of cash contributions from the Member Agencies and loans from conventional financial institutes. These loans will be repaid

by BCE no later than June 30, 2025. BCE will recover the principal and interest costs associated with the start-up funding via retail generation rates charged to BCE customers.

## Chapter 5 – Program Phase-In

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BCE will roll out its service offering to customers over the course of three phases:

Phase 1. All Non-Residential Accounts (April 1, 2021)

Phase 2. Residential Accounts (October 1, 2021)

Phase 3. Net Energy Metering Accounts (Various)

This approach provides BCE with the ability to initiate its program with sufficient economic scale before building to full program integration for an expected customer base of approximately 106,000 accounts, post customer opt-out. BCE will offer service to all customers on a phased basis, which is expected to be completed within 24 months of initial service to Phase 1 customers.

The Program is targeted to begin on or about April 1, 2021, subject to a decision to proceed by BCE. At start-up, BCE anticipates serving approximately 14,000 larger customer accounts, comprised of all non-residential accounts within Unincorporated Butte County and the City of Chico. Depending on final wholesale power prices, the balance of the BCE customers will be launched in October 2021. Net energy metering accounts will be phased into BCE at the time of their annual true-up.



## Chapter 6 – Load Forecast & Resource Plan

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### Butte County Background

The Camp Fire of 2018 devastated the community within the unincorporated area of the County and the town of Paradise both located in Butte County. Nearly 20,000 structures were damaged or destroyed. Many of the displaced residents relocated to the City of Chico. The population of Chico has increased 20% from an estimated 92,000 before the fire to 112,000 today.<sup>3</sup> At the same time, the population in the unincorporated area of Butte County is estimated to have decreased by 3.7% or 3,000 people. The change in population is expected to be directly correlated to changes in electric accounts. An assumption of 2.5 persons per household is used to convert the changes in in population to changes in residential electric accounts.

### Introduction

This chapter describes the planned mix of electric resources that will meet the energy demands of BCE customers using a diversified portfolio of electricity supplies. Several overarching policies govern the resource plan and the ensuing resource procurement activities that will be conducted in accordance with the plan. These key policies are as follows:

- BCE will manage a diverse resource portfolio to increase control over energy costs and maintain competitive and stable electric rates.
- BCE will likely seek to increase use of renewable energy resources and distributed energy resources in order to reduce reliance on fossil-fueled electric generation for purposes of reducing electric sector GHG emissions.
- BCE will likely apply for the administration of energy efficiency program funding to help customers reduce energy costs through administration of enhanced customer energy efficiency, distributed generation, and other demand reducing programs.
- BCE will benefit the area's economy through lower electric bills and investment in local infrastructure, energy projects and energy programs.

BCE's initial resource mix will include a proportion of renewable energy meeting California's prevailing RPS procurement mandate. As the BCE Program moves forward, incremental renewable supply additions will be made based on resource availability as well as economic goals of the BCE Program to achieve increased renewable energy content over time.

BCE's commitment to renewable generation adoption may involve both direct investment in new renewable generating resources, partnerships with experienced public power developers/operators and purchases of renewable energy from third party suppliers.

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<sup>3</sup> State of California Department of Finance. Population Estimates for Cities, Counties, and the State – January 1, 2018 and 2019. <http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-1/>

The plan described in this section would accomplish the following:

- Procure energy through one or more contracts with experienced, financially stable energy suppliers sufficient to offer three distinct generation rate tariffs: 1) 100 percent renewable energy; 2) 50 percent renewable energy; and 3) a program service option that includes a proportion of renewable energy meeting California’s prevailing renewable energy procurement mandate.
- Member agencies will choose the default option into which their customers will be enrolled when service begins. After enrollment, customers will be allowed to participate in any of the three available energy supply options.
- Continue increasing renewable energy supplies over time to meet or exceed state mandates, subject to resource availability and economic viability.
- Actively pursue energy efficiency projects and programs using program revenues, in collaboration with the other efficiency program administrators in the region. Additionally, if BCE is successful in applying for administration of public funding to support locally administered efficiency programs, it will even more robustly work to reduce net electricity purchases within the region.
- Encourage distributed renewable generation in the local area through the offering of a net energy metering tariff, a possible standardized power purchase agreement or “Feed -In Tariff”, and other creative, customer-focused programs targeting increased access to local renewable energy sources.

BCE will comply with regulatory rules applicable to California load serving entities. BCE will arrange for the scheduling of sufficient electric supplies to meet the demands of its customers. BCE will adhere to capacity reserve requirements established by the CPUC and the CAISO designed to address uncertainty in load forecasts and potential supply disruptions caused by generator outages and/or transmission contingencies. These rules also ensure that physical generation capacity is in place to serve BCE’s customers, even if there were a need for the BCE Program to cease operations and return customers to PG&E. In addition, BCE will be responsible for ensuring that its resource mix contains sufficient production from renewable energy resources needed to comply with the statewide RPS (33 percent renewable energy by 2020, increasing to 60 percent by 2030). The BCE resource plan will meet or exceed all of the applicable regulatory requirements related to resource adequacy and the RPS.

## **Resource Plan Overview**

To meet the aforementioned objectives and satisfy the applicable regulatory requirements pertaining to BCE’s status as a California load serving entity, BCE’s resource plan includes a diverse mix of power purchases, renewable energy, distributed energy, new energy efficiency programs, demand response and distributed generation. A diversified resource plan minimizes risk and volatility that can occur from overreliance on a single resource type or fuel source, and thus increases the likelihood of rate stability. The ultimate goal of BCE’s resource plan is to

reduce electric sector GHG emissions while offering competitive generation rates to participating customers. The planned power supply is initially comprised of power purchases from third party electric suppliers and, in the longer-term, may also include renewable generation assets owned or controlled by BCE.

Once the BCE Program demonstrates it can operate successfully, BCE may begin evaluating opportunities for investment in renewable generating assets, subject to then-current market conditions, statutory requirements, financial constraints and regulatory considerations. Any renewable generation owned by BCE, or controlled under long-term power purchase agreement with a power developer, could provide a portion of BCE's electricity requirements on a cost-of-service basis. A cost-of-service basis means that the cost of power is based on the variable cost to operate the generation asset. Depending upon market conditions and, importantly, the applicability of tax incentives for renewable energy development, electricity purchased under a cost-of-service arrangement can be more cost-effective than purchasing renewable energy from third party developers, which will allow the BCE Program to pass on cost savings to its customers through competitive generation rates. Any investment decisions will be made following thorough environmental reviews and in consultation with qualified financial and legal advisors.

As an alternative to direct investment, BCE may consider partnering with an experienced power developer and could enter into a long-term (20-to-30 year) power purchase agreement that would support the development of new renewable generating capacity. Such an arrangement could be structured to reduce the BCE Program's operational risk associated with capacity ownership while providing its customers with all renewable energy generated by the facility under contract. This option may be attractive to BCE as it works to achieve increasing levels of renewable energy supply and competitive rate levels for its customers.

BCE's resource plan will integrate supply-side resources (solar, natural gas etc.) with programs that will help customers reduce their energy costs through improved energy efficiency and other demand-side measures. As part of its integrated resource plan, BCE will actively pursue, promote and ultimately administer a variety of customer energy efficiency programs that can cost-effectively displace supply-side resources.

BCE's indicative resource plan for the years 2021 through 2030 is summarized in the following table. Note that BCE's projections reflect a portfolio mix of 35% renewable resources and 65% conventional resources. Subject to the availability of funds, a sizable percentage of the conventional resources reflected in the following table will be replaced with GHG-free resources.

**Table 1**  
**Butte Choice Energy**  
**Proposed Resource Plan (GWh)**  
**2021 to 2030**

	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
<b>BCE Demand (GWh)</b>										
Retail Demand	448	922	928	1,150	1,158	1,165	1,206	1,214	1,222	1,230
Distributed Generation	0	0	0	0	0	0	0	0	0	0
Energy Efficiency	0	0	0	0	0	0	0	0	0	0
Losses and UFE	31	65	65	80	81	82	84	85	86	86
<b>TOTAL DEMAND</b>	<b>479</b>	<b>986</b>	<b>993</b>	<b>1,230</b>	<b>1,239</b>	<b>1,247</b>	<b>1,291</b>	<b>1,299</b>	<b>1,308</b>	<b>1,317</b>
<b>BCE Supply (GWh)</b>										
Total Renewable Resources	157	350	371	563	509	583	639	680	709	738
Total Conventional Resources	322	636	622	667	729	664	651	619	599	578
<b>TOTAL SUPPLY</b>	<b>479</b>	<b>986</b>	<b>993</b>	<b>1,230</b>	<b>1,239</b>	<b>1,247</b>	<b>1,291</b>	<b>1,299</b>	<b>1,308</b>	<b>1,317</b>
Energy Open Position	0	0	0	0	0	0	0	0	0	0

## Supply Requirements

BCE power supply requirements are developed based on the customer and consumption data provided by PG&E for the city of Chico and the unincorporated areas of the County. Adjustments to the data were made based on the population changes described above. Finally, program participation rates are applied such that 95% of residential and 90% of non-residential customers are included in the load forecast. Hourly load profiles, developed by PG&E, are applied to customer rate classes and summed up to develop BCE system loads by month and hour. The electric sales forecast and load profile will be affected by BCE's plan to introduce the BCE Program to customers in phases, and the degree to which customers choose to remain with PG&E during the customer enrollment and opt-out periods. BCE's phased roll-out plan and assumptions regarding customer participation rates are discussed below.

## Customer Participation Rates

Customers will be automatically enrolled in the BCE Program unless they opt-out during the customer notification process conducted during the 60-day period prior to enrollment and continuing through the 60-day period following commencement of service. For all phases, BCE anticipates a 90-95% participation of PG&E bundled service customers, based on reported opt-out rates for the Clean Power Alliance, Sonoma Clean Power and Lancaster Choice Energy CCA programs plus the increase in the cap on Direct Access service. It is assumed that new and

existing Direct Access (DA) customers will continue to remain with their current electricity supplier.

The participation rate is not expected to vary significantly among customer classes, in part due to the fact that BCE will offer three distinct rate tariffs that will address the needs of cost-sensitive customers as well as the needs of both residential and business customers that prefer a highly renewable energy product. The assumed participation rates will be refined as BCE's public outreach and market research efforts continue to develop.

## Customer Forecast

Once customers enroll in each phase, they will be switched over to service by BCE on their regularly scheduled meter read date over an approximately thirty-day period. Approximately 460 service accounts per day will be switched over during the first month of service. The estimated number of accounts by rate class is shown in Table 2 below.

<b>BCE Customers</b>	<b>Phase 1 Eligible Accounts</b>	<b>Phase 2 Eligible Accounts</b>
Residential	--	92,000
Small Commercial	10,000	10,000
Medium Commercial	1,000	1,000
Large Commercial	300	300
Industrial	100	100
Street Lighting & Traffic	1,000	1,000
Agricultural & Pumping	2,000	2,000
<b>Total</b>	<b>14,000</b>	<b>106,310</b>

BCE assumes that customer growth will generally offset customer attrition (opt-outs) over time, resulting in a relatively stable customer base (0.7% annual growth) over the noted planning horizon. BCE believes that its assumptions regarding the offsetting effects of growth and attrition are reasonable in consideration of the historical customer growth within Butte County and the potential for continuing customer opt-outs following mandatory customer notification periods. The forecast of service accounts (customers) served by BCE for each of the next ten years is shown in the following table:

**Table 3**  
**Butte Choice Energy**  
**Retail Service Accounts (End of Year)**  
**2021 to 2030**

<b>BCE Customers</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>	<b>2028</b>	<b>2029</b>	<b>2030</b>
Residential	92,000	92,607	93,218	93,834	94,453	95,076	95,704	96,335	96,971	97,611
Small Commercial	10,000	10,066	10,132	10,199	10,267	10,334	10,403	10,471	10,540	10,610
Medium Commercial	1,000	1,007	1,013	1,020	1,027	1,033	1,040	1,047	1,054	1,061
Large Commercial	303	305	307	309	311	313	315	318	320	322
Industrial	10	10	10	10	11	11	11	11	11	11
Street Lighting & Traffic	1,000	1,007	1,013	1,020	1,027	1,033	1,040	1,047	1,054	1,061
Agricultural & Pumping	2,000	2,013	2,026	2,040	2,053	2,067	2,081	2,094	2,108	2,122
<b>Total</b>	<b>106,314</b>	<b>107,015</b>	<b>107,721</b>	<b>108,432</b>	<b>109,148</b>	<b>109,868</b>	<b>110,594</b>	<b>111,324</b>	<b>112,058</b>	<b>112,798</b>

## Sales Forecast

BCE's forecast of GWh sales reflects the roll-out and customer enrollment schedule shown above. Annual energy requirements are shown below in GWh.

**Table 4**  
**Butte Choice Energy**  
**Annual Energy Requirements (GWh)**  
**2021 to 2030**

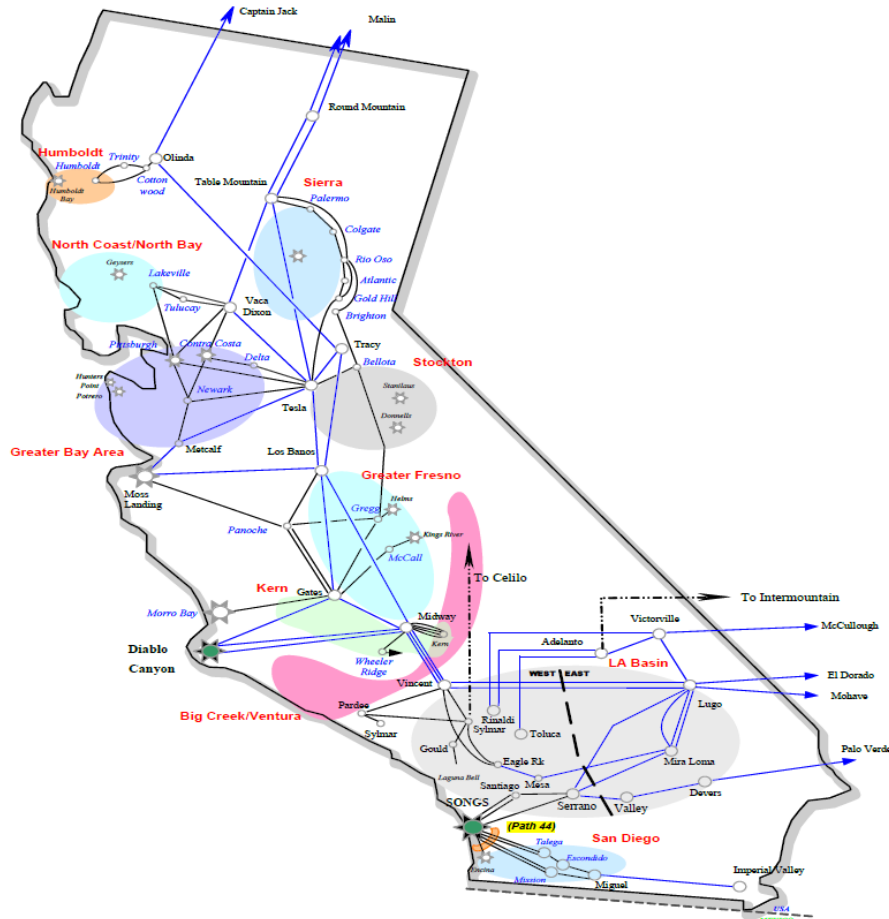
<b>BCE Energy Requirement (GWh)</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>	<b>2028</b>	<b>2029</b>	<b>2030</b>
Retail Energy	448	922	928	1,150	1,158	1,165	1,203	1,211	1,219	1,227
Losses and UFE	31	65	65	80	81	82	84	85	85	86
<b>Total Load Requirement</b>	<b>479</b>	<b>986</b>	<b>993</b>	<b>1,230</b>	<b>1,239</b>	<b>1,247</b>	<b>1,287</b>	<b>1,296</b>	<b>1,304</b>	<b>1,313</b>

## Capacity Requirements

The CPUC's resource adequacy standards applicable to the BCE Program require a demonstration one year in advance that BCE has secured physical capacity for 90 percent of its projected peak loads for each of the five months May through September, plus a minimum 15 percent reserve margin. On a month-ahead basis, BCE must demonstrate 100 percent of the peak load plus a minimum 15 percent reserve margin.

A portion of BCE's capacity requirements must be procured locally, from the PG&E area as defined by the CAISO. Local area resource needs will be defined by the CPUC annually based on the capacity study. A local resource for BCE is likely to be located within the Sierra area on the Figure below. The CPUC may also define local resource needs in the Greater Bay Area or Stockton as well. Local resources ensure system reliability within areas that are not constrained by transmission capacity.

Figure 1 CAISO Local Capacity Area Map<sup>4</sup>



The local capacity requirement is a percentage of the total (PG&E service area) local capacity requirements adopted by the CPUC based on BCE's forecasted peak load. BCE must demonstrate compliance or request a waiver from the CPUC requirement as provided for in cases where local capacity is not available.

BCE is also required to demonstrate that a specified portion of its capacity meets certain operational flexibility requirements under the CPUC and CAISO's flexible resource adequacy framework. The estimated forward resource adequacy requirements for 2021 through 2023 are

<sup>4</sup> CAISO. 2021 Local Capacity Area Technical Study Draft. October 24, 2019.

shown in the following tables.<sup>5</sup>

**Table 5**  
**Butte Choice Energy**  
**Forward Capacity and Reserve Requirements (MW)**  
**2021 to 2023**

Month	2021	2022	2023
January		181	182
February		172	173
March		163	163
April	75	179	185
May	96	223	224
June	112	287	287
July	125	328	328
August	125	319	318
September	122	275	275
October	198	193	193
November	183	182	183
December	192	191	192

BCE's plan ensures that sufficient reserves will be procured to meet its peak load at all times. BCE's projected annual capacity requirements are shown in the following table:

**Table 6**  
**Butte Choice Energy**  
**Capacity Requirements (MW)**  
**2021 to 2030**

Demand (MW)	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Retail Demand	186	320	322	325	327	329	331	333	335	337
Losses and UFE	14	24	24	24	25	25	25	25	25	25
Total Net Peak Demand	200	344	347	349	351	354	356	358	360	362
Reserve Requirement (%)	15%	15%	15%	15%	15%	15%	15%	15%	15%	15%
Capacity Reserve Requirement	30	52	52	52	53	53	53	54	54	54
Capacity Requirement Including Reserve	230	396	399	401	404	407	409	411	414	416

<sup>5</sup> The figures shown are estimates. The BCE's resource adequacy requirements will be subject to modification due to application of certain coincidence adjustments and resource allocations relating to utility demand response and energy efficiency programs, as well as generation capacity allocated through the Cost Allocation Mechanism. These adjustments are addressed through the CPUC's resource adequacy compliance process.



Local capacity requirements are a function of the PG&E area resource adequacy requirements and BCE's projected peak demand. BCE will need to work with the CPUC's Energy Division and staff at the California Energy Commission to obtain the data necessary to calculate its monthly local capacity requirement. A preliminary estimate of BCE's annual local capacity requirement for the ten-year planning period ranges from approximately 200 MW to 362 MW as shown in the following table:

Table 7										
Butte Choice Energy										
Local Capacity Requirements (MW)										
2021 to 2030										
	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
BCE Peak	200	344	347	349	351	354	356	358	360	362
Local Capacity Req. (% of Peak)	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%
BCE Local Capacity Req., Total	100	172	173	174	176	177	178	179	180	181

The CPUC assigns local capacity requirements during the year prior to the compliance period; thereafter, the CPUC provides local capacity requirement true-ups for the second half of each compliance year.

BCE will coordinate with PG&E and appropriate state agencies to manage the transition of responsibility for resource adequacy from PG&E to BCE during CCA program phase-in. For system resource adequacy requirements, BCE will make month-ahead showings for each month that BCE plans to serve load, and load migration issues would be addressed through the CPUC's approved procedures. BCE will work with the California Energy Commission and CPUC prior to commencing service to customers to ensure it meets its local and system resource adequacy obligations through its agreement(s) with its chosen electric supplier(s).

## Renewables Portfolio Standards Energy Requirements

### Basic RPS Requirements

As a CCA, BCE will be required by law and ensuing CPUC regulations to procure a certain minimum percentage of its retail electricity sales from qualified renewable energy resources. For purposes of determining BCE's renewable energy requirements, the same standards for RPS compliance that are applicable to the distribution utilities are assumed to apply to BCE.

California's RPS requires BCE purchase a minimum of 60% renewable energy by 2030. BCE will also adopt an integrated resource plan in compliance with SB 350. BCE understands that various details related to this planning requirement are continuing to be developed, and BCE intends to

monitor and participate, as appropriate, in pertinent proceedings to promote the preparation and submittal of a responsive planning document. Furthermore, BCE will ensure that all long-term renewable energy contracting requirements, as imposed by SB 350, will be satisfied through appropriate transactions with qualified suppliers and will also reflect this intent in ongoing resource planning and procurement efforts.

### **BCE's Renewables Portfolio Standards Requirement**

BCE's annual RPS procurement requirements, as specified under California's RPS program, are shown in the table below. When reviewing this table, it is important to note that BCE projects increases in energy efficiency savings as well as increases in locally situated distributed generation capacity, resulting in only a slight upward trend in projected retail electricity sales.

<b>Table 8</b> <b>Butte Choice Energy</b> <b>RPS Requirements (GWh)</b> <b>2021 to 2030</b>										
	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>	<b>2028</b>	<b>2029</b>	<b>2030</b>
Retail Sales	448	967	977	984	990	997	1,037	1,044	1,051	1,058
Renewable Energy Purchase	157	368	391	482	436	498	550	584	609	635
% of Current Year Retail Sales	35%	38%	40%	49%	44%	50%	53%	56%	58%	60%
65% Long-Term Contracts	102	239	254	313	283	324	357	380	396	412

Table 9 illustrates additional details for renewable procurement and long-term procurement. The table does not include an estimate for the minimum margin of procurement (MMOP) at this time. The MMOP is the amount by which BCE will over-acquire renewable resources to hedge against the risk of underperformance. BCE plans to revise and adopt an MMOP through the IRP process and to include an estimate in its RPS procurement plan. BCE notes that existing CCAs vary in their assessment of MMOP. Some CCAs do not adopt a specific MMOP since their base power portfolio exceeds the RPS requirement. Others assess an MMOP varying from 2% to 10%. MMOP will be established through BCE power procurement and risk policies.

# Butte Choice Energy Implementation Plan

<b>Table 9</b> <b>BCE Renewable Procurement</b> <b>2021-2030</b>										
	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>	<b>2028</b>	<b>2029</b>	<b>2030</b>
Net Retail Sales (MWh)	447,854	967,474	977,294	983,744	990,237	996,773	1,036,843	1,043,687	1,050,575	1,057,509
Annual Procurement Target (MWh)	156,749	367,640	390,918	482,035	435,704	498,386	549,527	584,464	609,333	634,505
Minimum Margin of Procurement* (MWh)										
Annual L/T Procurement Target (MWh)	101,887	238,966	254,096	313,323	283,208	323,951	357,193	379,902	396,067	412,428
% of L-T Procurement Target	65%	65%	65%	65%	65%	65%	65%	65%	65%	65%
Forecasted L-T Procurement (MWh)	101,887	238,966	254,096	313,323	283,208	323,951	357,193	379,902	396,067	412,428
% of L/T Procurement Forecasted	65%	65%	65%	65%	65%	65%	65%	65%	65%	65%
Surplus of L-T Procurement (MWh)	0	0	0	0	0	0	0	0	0	0

\*At this time BCE has not yet evaluated a minimum margin of procurement for renewable energy.

### **Purchased Power**

Power purchased from power marketers, public agencies, generators, or utilities will be a significant source of supply during the first several years of BCE Program operation. BCE will initially contract to obtain all of its electricity from one or more third party electric providers under one or more power supply agreements, and the supplier(s) will be responsible for procuring the specified resource mix, including BCE's desired quantities of renewable energy, to provide a stable and cost-effective resource portfolio for the Program.

### **Renewable Resources**

BCE will initially secure necessary renewable power supply from its third party electric supplier(s). BCE may supplement the renewable energy provided under the initial power supply contract(s) with direct purchases of renewable energy from renewable energy facilities or from renewable generation developed and owned by BCE. At this point in time, it is not possible to predict what projects might be proposed in response to future renewable energy solicitations administered by BCE, unsolicited proposals or discussions with other agencies. Renewable projects that are located virtually anywhere in the Western Interconnection can be considered as long as the electricity is deliverable to the CAISO control area, as required to meet the Commission's RPS rules and any additional guidelines ultimately adopted by BCE. The costs of transmission access and the risk of transmission congestion costs would need to be considered in the bid evaluation process if the delivery point is outside of BCE's load zone, as defined by the CAISO.

### **Energy Efficiency**

BCE's energy efficiency goals will reflect a commitment to increasing energy efficiency within the County, expanding beyond the savings achieved by PG&E's programs. To promote the achievement of this goal, BCE will likely complete the CPUC application process for third party administration of energy efficiency programs and use of funds collected through the existing public benefits surcharges paid by BCE customers. To the extent that BCE is successful in this application process, it will seek to maximize end-use customer energy efficiency by facilitating customer participation in existing utility programs as well as by forming new programs that will displace BCE's need for traditional electric procurement activities. Additional details related to BCE's energy efficiency plan will be developed once BCE Program phase-in is underway.

### **Demand Response**

Demand response programs provide incentives to customers to reduce demand upon request by the load serving entity (i.e., BCE), reducing the amount of generation capacity that must be maintained as infrequently used reserves. Demand response programs can be cost effective alternatives to procured capacity that would otherwise be needed to comply with California's

resource adequacy requirements. The programs also provide rate benefits to customers who have the flexibility to reduce or shift consumption for relatively short periods of time when generation capacity is most scarce. Like energy efficiency, demand response can be a win/win proposition, providing economic benefits to the electric supplier as well as customer service benefits.

In its ruling on local resource adequacy, the CPUC found that dispatchable demand response resources as well as distributed generation resources should be counted for local capacity requirements. This resource plan will likely anticipate that BCE's demand response programs would partially offset its local capacity requirements.

PG&E offers several demand response programs to its customers, and BCE intends to recruit those customers that have shown a willingness to participate in utility programs into similar programs offered by BCE. BCE may also adopt a demand response program that enables it to request customer demand reductions during times when capacity is in short supply or spot market energy costs are exceptionally high.

Appropriate limits on customer curtailments, both in terms of the length of individual curtailments and the total number of curtailment hours that can be called should be included in BCE's demand response program design. It will also be important to establish a reasonable measurement protocol for customer performance of its curtailment obligations and deploy technology to automate customer notifications and responses. Performance measurement should include establishing a customer specific baseline of usage prior to the curtailment request from which demand reductions can be measured. BCE may utilize experienced third-party contractors to design, implement and administer its demand response programs.

### **Distributed Generation**

Consistent with BCE's policies and the state's Energy Action Plan, clean distributed generation is a component of the integrated resource plan. BCE will work to promote deployment of photovoltaic (PV) systems within BCE's service territory, with the goal of optimizing the use of the available incentives that are funded through current utility distribution rates and public benefits surcharges. BCE also plans to implement a net energy metering program and possibly a feed-in-tariff to promote local investment in distributed generation.

There are clear environmental benefits and strong customer interest in distributed PV systems. To support such systems, BCE may provide direct financial incentives from revenues funded by customer rates to further support use of solar power or other renewable resources within the local area. With regard to BCE's prospective net energy metering program, it is anticipated that BCE will adopt a program that would allow participating customers to sell excess energy produced by customer-sited renewable generating sources to BCE. Such a program would be generally consistent with principles identified in Assembly Bill 920 ("AB 920"), which directed the CPUC to establish and implement a compensation methodology for surplus renewable generation produced by net energy metered facilities located within the service territories of California's large investor owned utilities, including PG&E. However, BCE may choose to offer enhanced compensation structures, relative to

those implemented as a result of AB 920, as part of the direct incentives that may be established to promote distributed generation development within Butte County. To the extent that incentives offered by BCE improve project economics for its customers, it is reasonable to assume that the penetration of distributed generation within the County would increase.

## Chapter 7 – Financial Plan

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This Chapter examines the monthly cash flows expected during the startup and customer phase-in period of the BCE Program and identifies the anticipated financing requirements. It includes estimates of program startup costs, including necessary expenses and capital outlays. It also describes the requirements for working capital and long-term financing for the potential investment in renewable generation, consistent with the resource plan contained in Chapter 6.

### Description of Cash Flow Analysis

BCE's cash flow analysis estimates the level of capital that will be required during the startup and phase-in period. The analysis focuses on the BCE Program's monthly costs and revenues and specifically accounts for the phased enrollment of BCE Program customers described in Chapter 5.

### Cost of CCA Program Operations

The first category of the cash flow analysis is the Cost of CCA Program Operations. To estimate the overall costs associated with CCA Program Operations, the following components were taken into consideration:

- Electricity Procurement
  - ✓ Ancillary Service Requirements
  - ✓ Grid Management and other CAISO Charges
  - ✓ Scheduling Coordination
- Exit Fees
- Staffing and Professional Services
- Data Management Costs
- Administrative Overhead
- Billing Costs
- CCA Bond and Security Deposit
- Pre-Startup Cost
- Debt Service

### Revenues from CCA Program Operations

The cash flow analysis also provides estimates for revenues generated from CCA operations or from electricity sales to customers. In determining the level of revenues, the analysis assumes the customer phase-in schedule described herein, and assumes that BCE charges a standard, default electricity tariff similar in rate design as the generation rates of PG&E for each customer class, an optional 50% renewable energy tariff, and an optional 100% renewable energy tariff, both at a

premium reflective of incremental renewable power costs. More detail on BCE Program rates can be found in Chapter 8. In general, CCA generation rates are expected to be 20-30% lower than PG&E generation rates to account for the PCIA rate charged to CCA customers.

## Cash Flow Analysis Results

The results of the cash flow analysis provide an estimate of the level of capital required for BCE to move through the CCA startup and phase-in periods. This estimated level of capital is determined by examining the monthly cumulative net cash flows (revenues from CCA operations minus cost of CCA operations) based on assumptions for payment of costs or other cash requirements (e.g., deposits) by BCE, along with estimates for when customer payments will be received. This identifies, on a monthly basis, what level of cash flow is available in terms of a surplus or deficit.

The cash flow analysis identifies funding requirements in recognition of the potential lag between revenues received and payments made during the phase-in period. The estimated financing requirements for the startup and phase-in period, including working capital needs associated with all three phases of customer enrollments, was determined to be \$3 million. This \$3M will be covered via \$600,000 cash outlay by the Member Agencies and roughly \$2.4M from financial institutions.

## CCA Program Implementation Pro Forma

In addition to developing a cash flow analysis which estimates the level of working capital required to move BCE through full CCA phase-in, a summary pro forma analysis that evaluates the financial performance of the CCA program during the phase-in period is shown below. The difference between the cash flow analysis and the CCA pro forma analysis is that the pro forma analysis does not include a lag associated with payment streams. In essence, costs and revenues are reflected in the month in which service is provided. All other items, such as costs associated with CCA Program operations and rates charged to customers remain the same. Cash provided by financing activities are shown in the pro forma analysis as are the payments for debt service.

The results of the pro forma analysis are shown in the following tables. In particular, the summary of CCA program startup and phase-in addresses projected BCE Program operations for the period beginning January 2021 through December 2030.<sup>6</sup> BCE has also included a summary of Program reserves, which are expected to accrue over this same period of time.

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<sup>6</sup> Costs projected for staffing & professional services and other administrative & general relate to energy procurement, administration of energy efficiency and other local programs, generation development, customer service, marketing, accounting, finance, legal and regulatory activities necessary for program operation.



## Butte Choice Energy Implementation Plan

<b>Table 10</b> <b>Butte Choice Energy</b> <b>Summary of CCA Program Start-up and Phase-in</b>											
	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
<b>Revenues from Operations (\$)</b>											
Electric Sales Revenues	\$0	\$39,752,815	\$80,574,409	\$81,192,330	\$81,993,348	\$83,359,849	\$84,135,000	\$84,912,835	\$86,074,086	\$86,734,184	\$88,048,477
Less Uncollected Accounts	\$0	\$144,906	\$312,688	\$324,520	\$329,549	\$340,677	\$353,474	\$325,173	\$330,738	\$337,394	\$344,465
<b>Total Revenues</b>	<b>\$0</b>	<b>\$39,607,909</b>	<b>\$80,261,721</b>	<b>\$80,867,810</b>	<b>\$81,663,798</b>	<b>\$83,019,172</b>	<b>\$83,781,526</b>	<b>\$84,587,662</b>	<b>\$85,743,348</b>	<b>\$86,396,791</b>	<b>\$87,704,012</b>
<b>Cost of Operations (\$)</b>											
Cost of Energy	\$0	\$25,881,011	\$58,661,318	\$60,971,569	\$61,920,217	\$64,274,731	\$67,163,925	\$61,557,640	\$62,608,879	\$63,851,151	\$65,227,209
<i>Operating &amp; Administrative</i>											
Billing & Data Management	\$0	\$442,639	\$1,449,807	\$1,488,562	\$1,788,755	\$1,836,572	\$1,885,667	\$1,936,075	\$1,987,830	\$2,040,969	\$2,095,528
PG&E Fees	\$252,845	\$559,142	\$562,832	\$566,547	\$570,286	\$574,050	\$577,839	\$581,652	\$585,491	\$589,355	\$593,245
Consulting Services	\$0	\$1,037,799	\$1,411,407	\$1,439,635	\$1,468,427	\$1,497,796	\$1,527,752	\$1,558,307	\$1,589,473	\$1,621,263	\$1,653,688
Staffing	\$0	\$792,834	\$1,078,254	\$1,099,819	\$1,121,815	\$1,144,252	\$1,167,137	\$1,190,479	\$1,214,289	\$1,238,575	\$1,263,346
General & Administrative expenses	\$0	\$133,952	\$132,651	\$135,304	\$138,010	\$166,780	\$143,586	\$146,457	\$149,387	\$178,384	\$155,422
Debt Service	\$213,264	\$576,473	\$691,080	\$691,080	\$691,080	\$477,816	\$114,607	\$0	\$0	\$0	\$0
Total O&A Costs	\$466,110	\$3,542,838	\$5,326,031	\$5,420,947	\$5,778,374	\$5,697,265	\$5,416,587	\$5,412,971	\$5,526,470	\$5,668,546	\$5,761,229
<b>Total Cost</b>	<b>\$466,110</b>	<b>\$29,423,849</b>	<b>\$63,987,349</b>	<b>\$66,392,516</b>	<b>\$67,698,591</b>	<b>\$69,971,996</b>	<b>\$72,580,512</b>	<b>\$66,970,611</b>	<b>\$68,135,349</b>	<b>\$69,519,697</b>	<b>\$70,988,438</b>
<b>CCA Program Surplus/(Deficit)</b>	<b>(\$466,110)</b>	<b>\$10,184,060</b>	<b>\$16,274,371</b>	<b>\$14,475,295</b>	<b>\$13,965,208</b>	<b>\$13,047,176</b>	<b>\$11,201,013</b>	<b>\$17,617,051</b>	<b>\$17,607,999</b>	<b>\$16,877,094</b>	<b>\$16,715,574</b>
<b>Reserve Additions</b>											
Net Income	(\$466,110)	\$10,184,060	\$16,274,371	\$14,475,295	\$13,965,208	\$13,047,176	\$11,201,013	\$17,617,051	\$17,607,999	\$16,877,094	\$16,715,574
Cash from Financing	\$1,015,000	\$2,000,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total Additions</b>	<b>\$548,890</b>	<b>\$12,184,060</b>	<b>\$16,274,371</b>	<b>\$14,475,295</b>	<b>\$13,965,208</b>	<b>\$13,047,176</b>	<b>\$11,201,013</b>	<b>\$17,617,051</b>	<b>\$17,607,999</b>	<b>\$16,877,094</b>	<b>\$16,715,574</b>
<b>Reserve Outlays</b>											
Bonds and Financial Requirement	\$148,756	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
New Programs	\$0	\$2,699,992	\$4,948,708	\$13,684,555	\$13,535,813	\$12,229,640	\$10,224,008	\$19,423,723	\$17,225,072	\$16,421,966	\$16,232,700
<b>Total Reserve Outlays</b>	<b>\$148,756</b>	<b>\$2,699,992</b>	<b>\$4,948,708</b>	<b>\$13,684,555</b>	<b>\$13,535,813</b>	<b>\$12,229,640</b>	<b>\$10,224,008</b>	<b>\$19,423,723</b>	<b>\$17,225,072</b>	<b>\$16,421,966</b>	<b>\$16,232,700</b>
<b>Rate Stabilization Reserve Balance</b>	<b>\$400,134</b>	<b>\$9,884,203</b>	<b>\$21,209,867</b>	<b>\$22,000,606</b>	<b>\$22,430,001</b>	<b>\$23,247,536</b>	<b>\$24,224,542</b>	<b>\$22,417,870</b>	<b>\$22,800,797</b>	<b>\$23,255,925</b>	<b>\$23,738,799</b>
CCA Total Bill	\$0	\$89,677,651	\$189,219,736	\$193,439,743	\$197,964,812	\$203,181,539	\$207,937,441	\$212,831,057	\$218,247,782	\$223,307,874	\$229,171,674
PG&E Total Bill	\$0	\$91,487,577	\$192,857,713	\$197,467,435	\$202,205,336	\$207,075,442	\$212,081,917	\$217,229,063	\$222,521,331	\$227,963,324	\$233,559,801
Difference	\$0	\$1,809,926	\$3,637,977	\$4,027,692	\$4,240,524	\$3,893,904	\$4,144,476	\$4,398,006	\$4,273,549	\$4,655,450	\$4,388,127
Savings		2%	2%	2%	2%	2%	2%	2%	2%	2%	2%

**Table 11**  
**Butte Choice Energy**  
**Reserves Summary**  
**2021 to 2030**

	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	Total
<b>Reserve Additions</b>											
Operating Reserve Contr.	\$7,484,069	\$11,325,664	\$790,740	\$429,394	\$817,535	\$977,005	(\$1,806,672)	\$382,928	\$455,128	\$482,874	\$21,338,665
Cash from Financing	\$2,000,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$2,000,000
<b>Total Additions</b>	<b>\$9,484,069</b>	<b>\$11,325,664</b>	<b>\$790,740</b>	<b>\$429,394</b>	<b>\$817,535</b>	<b>\$977,005</b>	<b>(\$1,806,672)</b>	<b>\$382,928</b>	<b>\$455,128</b>	<b>\$482,874</b>	<b>\$23,338,665</b>
<b>Reserves Outlays</b>											
Start-Up Funding Payments	\$232,652	\$232,652	\$232,652	\$232,652	\$232,652	\$0	\$0	\$0	\$0	\$0	\$1,163,261
Working Capital Repayment	\$343,821	\$458,428	\$458,428	\$458,428	\$245,163	\$114,607	\$0	\$0	\$0	\$0	\$2,078,875
New Programs	\$2,699,992	\$4,948,708	\$13,684,555	\$13,535,813	\$12,229,640	\$10,224,008	\$19,423,723	\$17,225,072	\$16,421,966	\$16,232,700	\$126,626,177
<b>Total Reserve Outlays</b>	<b>\$3,276,465</b>	<b>\$5,639,788</b>	<b>\$14,375,635</b>	<b>\$14,226,893</b>	<b>\$12,707,456</b>	<b>\$10,338,615</b>	<b>\$19,423,723</b>	<b>\$17,225,072</b>	<b>\$16,421,966</b>	<b>\$16,232,700</b>	<b>\$129,868,313</b>
<b>Rate Stabilization Reserve Balance</b>	<b>\$9,884,203</b>	<b>\$21,209,867</b>	<b>\$22,000,606</b>	<b>\$22,430,001</b>	<b>\$23,247,536</b>	<b>\$24,224,542</b>	<b>\$22,417,870</b>	<b>\$22,800,797</b>	<b>\$23,255,925</b>	<b>\$23,738,799</b>	<b>\$23,738,799</b>

The surpluses achieved during the phase-in period serve to build BCE's net financial position and credit profile and to provide operating reserves for BCE in the event that operating costs (such as power purchase costs) exceed collected revenues for short periods of time. In addition, financial surpluses could be used to increase renewable and GHG-free resources within BCE's resource mix.

## **BCE Financing**

It is anticipated that one or more rounds of financing, inclusive of prospective direct term loans between BCE and its Member Agencies, will be necessary to support BCE Program implementation. Subsequent capital requirements will be self-funded from BCE's accrued financial reserves. The anticipated financing approach is described below.

## **CCA Program Start-up and Working Capital**

As previously discussed, the anticipated start-up and working capital requirements for the BCE Program are \$3 million. This amount is dependent upon the electric load served by BCE, actual energy prices, payment terms established with the third-party supplier and program rates. This figure would be refined during the startup period as these variables become known. Once the BCE Program is up and running, these costs would be recovered from customers through retail rates.

The Member Agencies will provide \$600,000 in initial funding for start-up costs. BCE currently projects repaying this loan by 2025, subject to change based on final power prices. It is assumed that the remaining financing will be primarily secured via a short-term loan or letter of credit, which would allow BCE to draw cash as required. Requisite financing would need to be arranged no later than the fourth quarter of 2020.

## **Renewable Resource Project Financing**

BCE may consider project financings for renewable resources, likely local wind, solar, biomass or geothermal as well as energy efficiency projects. These financings would only occur after a sustained period of successful BCE Program operation and after appropriate project opportunities are identified and subjected to appropriate environmental review. BCE's ability to directly finance projects will likely require a track record of five to ten years of successful program operations demonstrating strong underlying credit to support the financing.

In the event that such financing occurs, funds would include any short-term financing for the renewable resource project development costs, and financing would likely extend over a 20- to 30-year term. The security for such bonds would be the revenue from sales to the retail customers of BCE.

## **Chapter 8 – Rate Setting, Program Terms and Conditions**

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### **Introduction**

This chapter describes the initial policies proposed for BCE in setting its rates for electric aggregation services. These include policies regarding rate design, rate objectives and provision for due process in setting Program rates. Program rates are ultimately approved by BCE's Board. BCE would retain authority to modify program policies from time to time at its discretion.

### **Rate Policies**

BCE will establish rates sufficient to recover all costs related to operation of the BCE Program, including any reserves that may be required as a condition of financing and other discretionary reserve funds that may be approved by BCE. As a general policy, rates will be uniform for all similarly situated customers enrolled in the BCE Program throughout the service area of BCE.

The primary objectives of the rate setting plan are to set rates that achieve the following:

- Rate competitive tariff option including a proportionate quantity of renewable energy meeting California's prevailing renewable energy procurement mandate
- 50 percent renewable energy supply option
- 100 percent renewable energy supply option
- Allow individual member agencies to choose the default energy supply option into which their customers will be enrolled
- Allow customers to participate in any of the three energy supply options after enrollment
- Rate stability
- Equity among customers in each tariff
- Customer understanding
- Revenue sufficiency

Each of these objectives is described below.

### **Rate Competitiveness**

BCE's primary goal is to offer its customers competitive rates for electric services relative to the incumbent utility PG&E. As planned, the value provided by the BCE Program will also include options for a higher proportion of renewable energy and reduced GHG emissions relative to the incumbent utility, enhanced energy efficiency and customer programs, community focus, local investment and control. BCE currently plans to offer customers rates that are lower than PG&E's bundled rates. Final rates for the launch phase will be subject to final power price bids.

As previously discussed, the BCE Program will offer increased renewable energy supply to program customers, relative to the incumbent utility, by offering three distinct rate tariffs. The initial renewable energy content provided under BCE's base Tariff will meet California's prevailing renewable energy procurement mandate, and BCE will endeavor to increase this percentage on a going forward basis, subject to operational and economic constraints. BCE will also offer its customers a 50% and 100% renewable energy Tariff, which will supply participating customers with reflective renewable energy supply at rates equal to the procurement cost for those portfolios.

Participating qualified low- or fixed-income households, such as those currently enrolled in the California Alternate Rates for Energy (CARE) program, will be automatically enrolled in the standard Tariff and will continue to receive related discounts on monthly electricity bills through PG&E.

### **Rate Stability**

BCE will offer stable rates by hedging its supply costs over multiple time horizons and by including longer-term renewable energy supplies that exhibit stable costs. BCE will attempt to maintain general rate design parity with PG&E to ensure that BCE Program rates are not drastically different from the competitive alternative.

### **Equity Among Customer Classes**

BCE's initial rates will be set at a discount to the rates offered by PG&E, subject to final power price bids. The level of the discount will depend upon the default product chosen by the Member Agency. Rate differences among customer classes will reflect the rates charged by the local distribution utility as well as differences in the costs of providing service to each class. Rate benefits may also vary among customers within the major customer class categories, depending upon the specific rate designs adopted by BCE.

### **Customer Understanding**

The goal of customer understanding involves rate designs that are relatively straightforward so that customers can readily understand how their bills are calculated. This not only minimizes customer confusion and dissatisfaction but will also result in fewer billing inquiries to the BCE Program's customer service call center. Customer understanding also requires rate structures to reflect rational rate design principles (i.e., there should not be differences in rates that are not justified by costs or by other policies such as providing incentives for conservation).

### **Revenue Sufficiency**

BCE Program rates must collect sufficient revenue from participating customers to fully fund BCE's annual budget. Rates will be set to collect the adopted budget based on a forecast of electric sales for the budget year. Rates will be adjusted as necessary to maintain the ability to fully recover all of costs of the BCE Program, subject to the disclosure and due process policies described later in this chapter. To ensure rate stability, funds available in BCE's rate stabilization fund may be used from time to time to augment operating revenues.

### **Rate Design**

BCE will generally match the rate structures from the utilities' standard rates to avoid the possibility that customers would see significantly different bill impacts as a result of changes in rate structures that would take effect following enrollment in the BCE Program. Currently PG&E is scheduled to move toward time-of-use rates by October 2020. BCE anticipates that rates implemented at launch may be based on the current SCE rate design and moved to TOU once BCE is fully operational. BCE will review SCE rate structure changes and finalize the BCE rate structures closer to the proposed launch date.

### **Custom Pricing Options**

BCE may work to develop specially-tailored rate and electric service products that meet the specific load characteristics or power market risk profiles of larger commercial and industrial customers. This will allow such customers to have access to a wider range of products than is currently available under the incumbent utility and potentially reduce the cost of power for these customers. BCE may provide large energy users with custom pricing options to help these customers gain greater control over their energy costs. Some examples of potential custom pricing options are rates that are based on an observable market index (e.g., CAISO prices) or fixed priced contracts of various terms.

### **Net Energy Metering**

As planned, customers with on-site generation eligible for net metering from PG&E will be offered a net energy metering rate from BCE. Net energy metering allows for customers with certain qualified solar or wind distributed generation to be billed on the basis of their net energy consumption. The objective is that BCE's net energy metering tariff will apply to the generation component of the bill, and the PG&E net energy metering tariff will apply to the utility's portion of the bill. BCE plans to pay customers for excess power produced from net energy metered generation systems in accordance with the rate designs adopted by BCE.

### **Disclosure and Due Process in Setting Rates and Allocating Costs among Participants**

Initial program rates will be adopted by BCE following the establishment of the first year's operating budget prior to initiating the customer notification process. Subsequently, BCE will

prepare an annual budget and corresponding customer rates. Any proposed rate adjustment will be made to the Board of Directors and ample time will be given to affected customers to provide comment on the proposed rate changes.

After proposing a rate adjustment, BCE will furnish affected customers with a notice of its intent to adjust rates. The notices may be issued via separate mail to affected customers, as part of the regular billing and/or placed on the various social media options. The notice will provide a summary of the proposed rate adjustment and will include a link to the BCE Program website where information will be posted regarding the amount of the proposed adjustment, a brief statement of the reasons for the adjustment and the mailing address of BCE to which any customer inquiries relative to the proposed adjustment, including a request by the customer to receive notice of the date, time and place of any hearing on the proposed adjustment, may be directed.

## **Chapter 9 – Customer Rights and Responsibilities**

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This chapter discusses customer rights, including the right to opt-out of the BCE Program and the right to privacy of customer usage information, as well as obligations customers undertake upon agreement to enroll in the CCA Program. All customers that do not opt out within 30 days of the fourth enrollment notice will have agreed to become full status program participants and must adhere to the obligations set forth below, as may be modified and expanded by the BCE Board from time to time.

By adopting this Implementation Plan, BCE will have approved the customer rights and responsibilities policies contained herein to be effective at Program initiation. BCE retains authority to modify program policies from time to time at its discretion.

### **Customer Notices**

At the initiation of the customer enrollment process, a total of four notices will be provided to customers describing the Program, informing them of their opt-out rights to remain with utility bundled generation service and containing a simple mechanism for exercising their opt-out rights. The first notice will be mailed to customers approximately sixty days prior to the date of automatic enrollment. A second notice will be sent approximately thirty days later. BCE will likely use its own mailing service for requisite enrollment notices rather than including the notices in PG&E's monthly bills. This is intended to increase the likelihood that customers will read the enrollment notices, which may otherwise be ignored if included as a bill insert. Customers may opt out by notifying BCE using the BCE Program's designated telephone-based or internet opt-out processing service. Should customers choose to initiate an opt-out request by contacting PG&E, they would be transferred to the BCE Program's call center to complete the opt-out request. Consistent with CPUC regulations, notices returned as undelivered mail would be treated as a failure to opt out, and the customer would be automatically enrolled.

Following automatic enrollment, at least two notices will be mailed to customers within the first two billing cycles (approximately sixty days) after BCE service commences. Opt-out requests made on or before the sixtieth day following start of BCE Program service will result in customer transfer to bundled utility service with no penalty. Such customers will be obligated to pay charges associated with the electric services provided by BCE during the time the customer took service from the BCE Program, but will otherwise not be subject to any penalty or transfer fee from BCE.

Customers who establish new electric service accounts within the Program's service area will be automatically enrolled in the BCE Program and will have sixty days from the start of service to opt out if they so desire. Such customers will be provided with two enrollment notices within this sixty-day post enrollment period. Such customers will also receive a notice detailing BCE's privacy policy regarding customer usage information. BCE will have the authority to implement entry fees for customers that initially opt out of the Program, but later decide to participate.



## **Termination Fee**

Customers that are automatically enrolled in the BCE Program can elect to transfer back to the incumbent utility without penalty within the first two months of service. After this free opt-out period, customers will be allowed to terminate their participation but may be subject to payment of a Termination Fee. Customers that relocate within BCE's service territory would have BCE service continued at their new address. If a customer relocating to an address within BCE's service territory elected to cancel BCE service, the Termination Fee could be applied. Program customers that move out of BCE's service territory would not be subject to the Termination Fee. If deemed applicable by BCE, PG&E would collect the Termination Fee from returning customers as part of BCE's final bill to the customer.

For illustrative purposes, BCE Termination Fees could be set at \$5 per residential account and \$25 per non-residential account. Actual fee amounts and requirements to impose Termination Fees are subject to a final determination by BCE.

If adopted, the Termination Fee would be clearly disclosed in the four enrollment notices sent to customers during the sixty-day period before automatic enrollment and following commencement of service. The fee could also be changed prospectively by BCE subject to applicable customer noticing requirements.

Customers electing to terminate service after the initial notification period would be transferred to PG&E on their next regularly scheduled meter read date if the termination notice is received a minimum of fifteen days prior to that date. Such customers would also be liable for the nominal reentry fees imposed by PG&E and would be required to remain on bundled utility service for a period of one year, as described in the utility CCA tariffs.

## **Customer Confidentiality**

BCE will establish policies covering confidentiality of customer data that are fully compliant with the required privacy protection rules for CCA customer energy usage information, as detailed within Decision 12-08-045. BCE will maintain the confidentiality of individual customer data including service addresses, billing addresses, telephone numbers, account numbers and electricity consumption, except where reasonably necessary to conduct business of BCE or to provide services to customers, including but not limited to where such disclosure is necessary to (a) comply with the law or regulations; (b) enable BCE to provide service to its customers; (c) collect unpaid bills; (d) obtain and provide credit reporting information; or (e) resolve customer disputes or inquiries. BCE will not disclose customer information for telemarketing, e-mail or direct mail solicitation. Aggregate data may be released at BCE's discretion.

## **Responsibility for Payment**

Customers will be obligated to pay BCE Program charges for service provided through the date of transfer including any applicable Termination Fees. Pursuant to current CPUC regulations, BCE will not be able to direct that electricity service be shut off for failure to pay BCE bills. However, PG&E has the right to shut off electricity to customers for failure to pay electricity bills, and PG&E Electric Rule 23 mandates that partial payments are to be allocated pro rata between PG&E and the CCA. In most circumstances, customers would be returned to utility service for failure to pay bills in full and customer deposits (if any) would be withheld in the case of unpaid bills. PG&E would attempt to collect any outstanding balance from customers in accordance with Rule 23 and the related CCA Service Agreement. The proposed process is for two late payment notices to be provided to the customer within 30 days of the original bill due date. If payment is not received within 45 days from the original due date, service would be transferred to the utility on the next regular meter read date, unless alternative payment arrangements have been made. Consistent with the CCA tariffs, Rule 23, service cannot be discontinued to a residential customer for a disputed amount if that customer has filed a complaint with the CPUC and that customer has paid the disputed amount into an escrow account.

## **Customer Deposits**

Under certain circumstances, BCE customers may be required to post a deposit equal to the estimated charges for two months of CCA service prior to obtaining service from the BCE Program. A deposit would be required for an applicant who previously had been a customer of PG&E or BCE and whose electric service has been discontinued by PG&E or BCE during the last twelve months of that prior service arrangement as a result of bill nonpayment. Such customers may be required to reestablish credit by depositing the prescribed amount. Additionally, a customer who fails to pay bills before they become past due as defined in PG&E Electric Rule 11 (Discontinuance and Restoration of Service), and who further fails to pay such bills within five days after presentation of a discontinuance of service notice for nonpayment of bills, may be required to pay said bills and reestablish credit by depositing the prescribed amount. This rule will apply regardless of whether or not service has been discontinued for such nonpayment<sup>7</sup>. Failure to post deposit as required would cause the account service transfer request to be rejected, and the account would remain with PG&E.

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<sup>7</sup> A customer whose service is discontinued by BCE is returned to PG&E generation service.

## Chapter 10 - Procurement Process

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### Introduction

This chapter describes BCE's initial procurement policies and the key third party service agreements by which BCE will obtain operational services for the BCE Program. By adopting this Implementation Plan, BCE will have approved the general procurement policies contained herein to be effective at Program initiation. BCE retains Authority to modify Program policies from time to time at its discretion.

### Procurement Methods

BCE will enter into agreements for a variety of services needed to support program development, operation and management. It is anticipated that BCE will generally utilize Competitive Procurement methods for services but may also utilize Direct Procurement or Sole Source Procurement, depending on the nature of the services to be procured. Direct Procurement is the purchase of goods or services without competition when multiple sources of supply are available. Sole Source Procurement is generally to be performed only in the case of emergency or when a competitive process would be an idle act.

BCE will utilize a competitive solicitation process to enter into agreements with entities providing electrical services for the program. Agreements with entities that provide professional legal or consulting services, and agreements pertaining to unique or time sensitive opportunities, may be entered into on a direct procurement or sole source basis at BCE's discretion. Authority for terminating agreements will generally mirror the Authority for entering into such agreements.

### Key Contracts

#### Electric Supply Contract

BCE will initiate service using supply contracts with one or more qualified providers to supply sufficient electric energy resources to meet BCE customer demand as well as applicable resource adequacy requirements, ancillary and other necessary services. BCE may complete additional solicitations to supplement its energy supply and/or to replace contract volumes provided under the original contract. BCE would begin such procurement sufficiently in advance of contract expiration so that the transition from the initial supply contract occurs smoothly, avoiding dependence on market conditions existing at any single point in time.

BCE will solicit the services of a certified Scheduling Coordinator to schedule loads and resources to meet BCE customer demand. BCE may designate the primary supplier to be responsible for day-to-day energy supply operations of the BCE Program and for managing the predominant supply risks for the term of the contract. The primary supplier will ensure BCE meets renewable energy

mandates as well as resource-specific mandates such as the storage requirement.<sup>8</sup> Finally, the primary supplier may be responsible for ensuring BCE's compliance with all applicable resource adequacy and regulatory requirements imposed by the CPUC or FERC.

BCE will be commencing the requisite competitive solicitation process to identify its initial energy supplier(s). BCE anticipates executing the electric supply contract for Phase 1 loads in late 2020. The contracts for Phase 2 loads will be executed shortly thereafter. Resource adequacy may be acquired prior to the rest of power supply in order to meet CPUC requirements.

### **Data Management Contract**

A data manager will provide the retail customer services of billing and other customer account services (electronic data interchange or EDI with PG&E, billing, remittance processing and account management). Recognizing that some qualified wholesale energy suppliers do not typically conduct retail customer services whereas others (i.e., direct access providers) do, the data management contract may be separate from the electric supply contract. It is anticipated that a single contractor will be selected to perform all of the data management functions.<sup>9</sup>

The data manager is responsible for the following services:

- Data exchange with PG&E
- Technical testing
- Customer information system
- Customer call center;
- Billing administration/retail settlements
- Settlement quality meter data reporting
- Reporting and audits of utility billing

Utilizing a third party for account services eliminates a significant expense associated with implementing a customer information system. Such systems can impose significant information technology costs and take significant time to deploy. Separation of the data management contract from the energy supply contract gives BCE greater flexibility to change energy suppliers, if desired, without facing an expensive data migration issue.

BCE will be commencing the requisite competitive solicitation process to identify its data management services provider. It is anticipated that BCE will execute a contract for data management services by September 2020.

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<sup>8</sup> Assembly Bill 2514 requires LSEs to procure energy storage targets by 2020

<sup>9</sup> The contractor providing data management may also be the same entity as the contractor supplying electricity for the program.

## **Electric Supply Procurement Process**

Late in 2020, BCE plans to solicit proposals for shaped energy, renewable energy, carbon free energy and resource adequacy capacity from a highly-qualified pool of suppliers. BCE will also solicit proposals for scheduling coordinator services from a separate bidder. Contract negotiations will commence immediately following proposal evaluation. It is anticipated that selection of the final suppliers will be made by BCE in early 2021.

## Chapter 11 – Contingency Plan for Program Termination

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### Introduction

This chapter describes the process to be followed in the case of BCE Program termination. By adopting the original Implementation Plan, BCE will have approved the general termination process contained herein to be effective at Program initiation. In the unexpected event that BCE would terminate the BCE Program and return its customers to PG&E service, the proposed process is designed to minimize the impacts on its customers and on PG&E. The proposed termination plan follows the requirements set forth in PG&E's tariff Rule 23 governing service to CCAs. BCE retains authority to modify program policies from time to time at its discretion.

### Termination by BCE

BCE will offer services for the long term with no planned Program termination date. In the unanticipated event that BCE decides to terminate the Program, each of its Member Agencies would be required to adopt a termination ordinance or resolution and provide adequate notice to BCE consistent with the terms set forth in the JPA Agreement. Following such notice, BCE's Board would vote on Program termination subject to voting provisions as described in the JPA Agreement. In the event that BCE affirmatively votes to proceed with JPA termination, BCE would disband under the provisions identified in its JPA Agreement.

After any applicable restrictions on such termination have been satisfied, notice would be provided to customers six months in advance that they will be transferred back to PG&E. A second notice would be provided during the final sixty-days in advance of the transfer. The notice would describe the applicable distribution utility bundled service requirements for returning customers then in effect, such as any transitional or bundled portfolio service rules.

At least one year advance of notice would be provided to PG&E and the CPUC before transferring customers, and BCE would coordinate the customer transfer process to minimize impacts on customers and ensure no disruption in service. Once the customer notice period is complete, customers would be transferred *en masse* on the date of their regularly scheduled meter read date.

BCE will post a bond or maintain funds held in reserve to pay for potential transaction fees charged to the Program for switching customers back to distribution utility service. Reserves would be maintained against the fees imposed for processing customer transfers (CCASRs). The Public Utilities Code requires demonstration of insurance or posting of a bond sufficient to cover reentry fees imposed on customers that are involuntarily returned to distribution utility service under certain circumstances. The cost of re-entry fees is the responsibility of the energy services provider or the community choice aggregator, except in the case of a customer returned for default or because its contract has expired. BCE will post financial security in the appropriate amount as part

of its registration materials and will maintain the financial security in the required amount, as necessary.

### **Termination by Members**

The JPA Agreement defines the terms and conditions under which Members may terminate their participation in the program.

## **Appendix A – BCE Resolution to Adopt the Implementation Plan**

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**Resolution No.**

**RESOLUTION OF THE BOARD OF DIRECTORS OF BUTTE CHOICE ENERGY AUTHORITY  
ADOPTING THE COMMUNITY CHOICE AGGREGATION IMPLEMENTATION PLAN  
AND STATEMENT OF INTENT REQUIRED BY  
CALIFORNIA PUBLIC UTILITIES CODE SECTION 366.2**

**WHEREAS**, Butte Choice Energy ("BCE") is a joint powers agency formed pursuant to the Joint Exercise of Powers Act, Cal. Gov. Code § 6500 et seq., on November 5, 2019, to establish an independent public agency to study, promote, develop, conduct, operate, and manage energy, energy efficiency and conservation, and other energy-related and climate change programs under authority granted to it pursuant to California Public Utilities Code § 366.2; and

**WHEREAS**, the member agencies of BCE are the City of Chico and Unincorporated Butte County; and

**WHEREAS**, California Public Utilities Code § 366.2 requires that prior to commencing a community choice aggregation program, BCE must first prepare and adopt an Implementation Plan and Statement of Intent to be filed with and certified by the California Public Utilities Commission; AND

**WHEREAS**, BCE's Implementation Plan and Statement of Intent were presented to the Board of Directors at a duly noticed public hearing for consideration and adoption on December 16, 2019.

**NOW, BE IT RESOLVED** by the board of Directors of Butte Choice Energy as follows:

Section 1. In accordance with California Public Utilities Code § 366.2, the Board of Directors hereby considers and adopts the Implementation Plan and Statement of Intent at a duly noticed public hearing held on December 16, 2019, at 5:30 p.m. at 326 Huss Lane, Suite 100 Chico, CA, after allowing interested persons the opportunity to provide public comment on the Implementation Plan and Statement of Intent.

Section 2. The Board of Directors hereby directs the Executive Director to file the Implementation Plan and Statement of Intent with the Energy Division of the California Public Utilities Commission no later than December 31, 2019.

Section 3. Effective Date of Resolution: this resolution shall take effect immediately upon its adoption.

**PASSED AND ADOPTED** by the Butte Choice Energy Authority Board of Directors this 16<sup>th</sup> day of December, 2019, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**NOT VOTING:**

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**Debra Lucero, Chair**

Approved as to form:

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Bruce Alpert

General Counsel

## **Appendix B – BCE Joint Powers Agreement**

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1       **WHEREAS**, the City also wishes to be a community choice aggregator and adopted on  
2 10/1/19 Ordinance 2537 as required by Public Utilities Code Section 366.2; and

3       **WHEREAS**, the City Council has considered the proposed Joint Powers Agreement,  
4 attached hereto, under which Butte County and the City will form the Butte Choice Energy  
5 Authority ("BCEA") and both agencies will become the initial members of the BCEA; and

6       **WHEREAS**, the Joint Powers Agreement will create and establish BCEA, and Butte  
7 County, the City of Chico, and other cities or counties that later choose to participate in BCEA  
8 and the CCA program will have membership on the Board of Directors of BCEA as provided in  
9 the Joint Powers Agreement if they execute the agreement and adopt the ordinance required by  
10 the Public Utilities Code; and

11       **WHEREAS**, BCEA will enter into agreements with electric power suppliers and other  
12 service providers, and based upon those agreements, BCEA will be able to provide power to  
13 residents and business. Once the California Public Utilities Commission approves the  
14 implementation plan created by BCEA, BCEA will provide service to customers within Butte  
15 County and within the jurisdiction of the City of Chico and those other cities and counties that  
16 choose to join BCEA and to participate in the CCA program; and

17       **WHEREAS**, under Public Utilities Code section 366.2, customers have the right to opt-  
18 out of the CCA program and continue to receive service from the incumbent utility. Customers  
19 who wish to continue to receive service from the incumbent utility will be able to do so.

20       **NOW, THEREFORE, BE IT RESOLVED** that the Council of the City of Chico  
21 hereby

22 1. Approves the Joint Powers Agreement with the County of Butte to form the Butte Choice  
23 Energy Authority.

24 //

2. Authorizes and directs the Mayor to execute the Joint Powers Agreement and any and all other necessary documents to form the BCEA.

3. Shall appoint two (2) Councilmembers and two (2) alternates to sit on the Board of Directors of the BCEA.

**THE FOREGOING RESOLUTION WAS ADOPTED** by the Council of the City of Chico at its meeting held on November 5, 2019, by the following vote:

AYES: Huber, Ory, Schwab, Brown, Stone

NOES: Morgan, Reynolds


ABSENT: None


ABSTAINED: None

DISQUALIFIED: None

ATTEST:

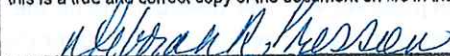
APPROVED AS TO FORM

  
Deborah R. Presson  
City Clerk

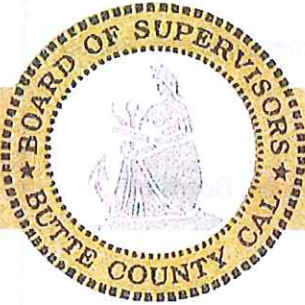
  
Vincent C. Ewing  
City Attorney\*

\*Approved pursuant to The Charter of the City of Chico § 906(E)

I DEBORAH R. PRESSON, City Clerk of the City of Chico, hereby certify that this is a true and correct copy of the document on file in the City Clerk's Office.

  
Deborah R. Presson, MMC, City Clerk





## **BOARD OF SUPERVISORS**

### **COUNTY OF BUTTE, STATE OF CALIFORNIA**

**Resolution No. 19-282**

#### **RESOLUTION APPROVING THE JOINT POWERS AGREEMENT ESTABLISHING THE BUTTE CHOICE ENERGY AUTHORITY AND RELATED AUTHORIZATIONS**

**WHEREAS**, the Board of Supervisors of Butte County has investigated options to provide electric services to customers within the incorporated and unincorporated areas of the County; and

**WHEREAS**, the County of Butte has prepared, in consultation with the City of Chico, a Feasibility Study for a community choice aggregation ("CCA"), also known as Community Choice Energy program in Butte County and in the City of Chico under the provisions of the Public Utilities Code Section 366.2. The Feasibility Study shows that implementing a CCA program has the potential to provide multiple benefits, including:

- a) Rate savings on participant's electrical bills;
- b) Local control over power supply choice;
- c) Local control over programs that further increase economic development;
- d) Local control over energy related projects; and

**WHEREAS**, the County wishes to be a community choice aggregator and has adopted Ordinance 4166 as required by Public Utilities Code Section 366.2 in order to do so; and

**WHEREAS**, the City of Chico also wishes to be a community choice aggregator and has adopted Ordinance 2537 as required by Public Utilities Code Section 366.2 in order to do so; and

**WHEREAS**, pursuant to Section 366.2, two or more entities authorized to be a community choice aggregator, may participate as a group in a community choice aggregation program through a joint powers agency established pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title I of the Government Code, if each entity adopts the aforementioned ordinance; and

**WHEREAS**, the Board of Supervisors have considered the proposed Joint Powers Agreement, attached hereto, under which Butte County and the City of Chico will form the Butte Choice Energy Authority ("BCEA") and both agencies will become the initial members of BCEA; and

**WHEREAS**, the Joint Powers Agreement will create and establish BCEA, and Butte County, the City of Chico, and other cities or counties that later choose to participate in BCEA and the CCA program will have membership on the Board of Directors of BCEA as provided in the Joint Powers Agreement if they execute the agreement and adopt the ordinance required by the Public Utilities Code; and

**WHEREAS**, BCEA will enter into agreements with electric power suppliers and other service providers, and based upon those agreements, BCEA will be able to provide power to residents and business. Once the California Public Utilities Commission approves the implementation plan created by BCEA, BCEA will provide service to customers within Butte County and within the jurisdiction of the City of Chico and those other cities and counties that choose to join BCEA and to participate in the CCA program; and

**WHEREAS**, under Public Utilities Code section 366.2, customers have the right to opt-out of the CCA program and continue to receive service from the incumbent utility. Customers who wish to continue to receive service from the incumbent utility will be able to do so.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Butte County hereby approves the Joint Powers Agreement with the City of Chico to form the Butte Choice Energy Authority; and

**BE IT FURTHER RESOLVED** that the Chairman of the Board of Supervisors is hereby authorized and directed to execute the Joint Powers Agreement on behalf of Butte County, which will establish BCEA with Butte County as an initial member; and

**BE IT FURTHER RESOLVED** that the Board of Supervisors shall, at a future meeting, appoint two (2) Directors to sit on the Board of Directors of BCEA; and

**BE IT FURTHER RESOLVED** that the Board of Supervisors shall, at a future meeting, appoint up to two (2) alternates to serve as Directors of BCEA; and

**BE IT FURTHER RESOLVED** that the Chairman of the Board of Supervisors is hereby authorized to execute any and all other necessary documents to enter into the Joint Powers Agreement to form BCEA.

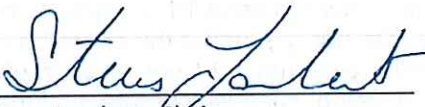
**PASSED AND ADOPTED** by the Butte County Board of Supervisors this 22<sup>nd</sup> day of October, 2019, by the following vote:

**AYES:** Supervisors Lucero, Ritter, Teeter, and Chair Lambert

**NOES:**

**ABSENT:** Supervisor Connelly

**NOT VOTING:**

  
Steve Lambert, Chair  
Butte County Board of Supervisors

**ATTEST:**

Shari McCracken, Chief Administrative Officer  
and Clerk of the Board of Supervisors

By: 

Deputy



## **BUTTE CHOICE ENERGY JOINT POWERS AGREEMENT**

This Joint Powers Agreement (the "Agreement"), effective as of November 5, 2019, is made and entered into pursuant to the provisions of Title 1, Division 7, Chapter 5, Article 1 (Section 6500 et seq.) of the California Government Code relating to the joint exercise of powers among the public agencies set forth in Exhibit A.

### **RECITALS**

1. The Parties are public agencies sharing various powers under California laws, including but not limited to the power to purchase, supply, and aggregate electricity for themselves and their inhabitants.

In 2006, the State Legislature adopted AB 32, the Global Warming Solutions Act, which mandates a reduction in greenhouse gas emissions in 2020 to 1990 levels. The California Air Resources Board is promulgating regulations to implement AB 32, which will require local government to develop programs to reduce greenhouse emissions.

2. The purposes for the Initial Participants (as such term is defined in Section 2.3 below) entering into this Agreement include local economic benefits such as jobs creation, community energy programs and local power development; securing energy supply and price stability, addressing climate change by reducing energy related greenhouse gas emissions; energy efficiencies. It is the intent of this Agreement to promote the development and use of a wide range of renewable energy sources and energy efficiency programs, including but not limited to solar, wind and hydro energy production.
3. The Parties desire to establish a separate public agency, known as the Butte Choice Energy Authority ("Authority"), under the provisions of the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.) ("Act") in order to collectively study, promote, develop, conduct, operate, and manage energy programs.

Authority may change its name at any time through adoption of a resolution of the Board.

4. The Initial Participants have each adopted an ordinance electing to implement through the Authority a Community Choice Aggregation program pursuant to California Public Utilities Code Section 366.2 ("CCA Program"). The first priority of the Authority will be the consideration of those actions necessary to implement the CCA Program.
5. By establishing the Authority, the Parties seek to:
  - a. Provide electricity rates that are lower or equal to those offered by Pacific Gas and Electric ("PG&E") for similar products;
  - b. Achieve quantifiable economic benefits to the region;
  - c. Develop an electric supply portfolio with overall lower greenhouse gas intensity and lower greenhouse gas (GHG) emissions than PG&E, and one that supports the achievement of the parties' greenhouse gas reduction goals and the comparable goals of all participating jurisdictions;

- d. Establish an energy portfolio that encourages the use and development of cost-effective local renewable and distributed energy resources and that discourages the use unbundled renewable energy credits;
- e. Promote an energy portfolio that incorporates energy efficiency and demand response programs and pursues ambitious energy consumption reduction goals;
- f. Offer differentiated energy options (e.g. 33% or 50% qualified renewable) for default service, and a 100% renewable content option in which customers may "opt-up" and voluntarily participate;
- g. Recognize the value of current workers in existing jobs that support the energy infrastructure of Butte County;
- h. Promote personal and community ownership of renewable resources, spurring equitable economic development and increased resilience, especially in low income communities;
- i. Provide and manage its energy portfolio and products in a manner that provides cost savings to customers and promotes public health in areas impacted by energy production;
- j. Ensure that low-income households and communities are provided with affordable and flexible energy options, including the provision of energy discounted rates to eligible low-income households;
- k. Recognize and address the importance of healthy communities, including those disproportionately affected by air pollution and climate change;
- l. Use program revenues to provide energy-related programs and services; and
- m. Create an administering Authority that is financially sustainable, responsive to regional priorities, well-managed, and a leader in fair and equitable treatment of employees.

## 1. **DEFINITIONS**

- 1.1 "Act" means the Joint Exercise of Powers Act of the State of California (Chapter 5, Division 7, Title 1 of the Government Code commencing with Section 6500).
- 1.2 "Agreement" means this Joint Powers Agreement.
- 1.3 "Authority" means Butte Choice Energy Authority.
- 1.4 "Authority Document(s)" means document(s) duly adopted by the Board by resolution or motion implementing the powers, functions and activities of the Authority, including but not limited to the Operating Policies and Procedures, the annual budget, and plans and policies.
- 1.5 "Board" means the Board of Directors of the Authority.



- 1.6 "Community Choice Aggregation" or "CCA" means an electric service option available to cities, counties, and other public agencies pursuant to Public Utilities Code Section 366.2.
- 1.7 "CCA Program" means the Authority's program relating to CCA that is principally described in Section 2.4 (Purpose) of this Agreement.
- 1.8 "Days" shall mean calendar days unless otherwise specified by this Agreement.
- 1.9 "Director" means a member of the Board representing a Party, including up to two alternate Directors appointed in accordance with Sections 4.1 (Board of Directors) and 4.2 (Appointment and Removal of Directors) of this Agreement.
- 1.10 "Effective Date" means the date on which the Agreement shall become effective and the Authority shall exist as a separate public agency, as further described in Section 2.1 (Effective Date and Term) of this Agreement.
- 1.11 "Initial Costs" means all costs incurred by the Authority relating to the establishment and initial operation of the Authority, such as the hiring of the executive, technical, and any administrative staff, any required accounting, administrative, technical and legal services in support of the Authority's initial formation activities or in support of the negotiation, preparation and approval of power purchase agreements. The Board shall determine the termination date for the Initial Costs.
- 1.12 "Initial Participants" means, for purpose of this Agreement, the County of Butte, City of Chico, (the County of Butte and the City of Chico are required for this agreement to be effective), and any other Parties joining in accordance with Section 2.3 (Initial Participants) of this Agreement.
- 1.13 "Operating Policies and Procedures" means the rules, regulations, policies, bylaws and procedures governing the operation of the Authority.
- 1.14 "Parties" means, collectively, the signatories to this Agreement that have satisfied the conditions in Section 2.3 (Initial Participants) or Section 2.5 (Addition of Parties) of this Agreement, such that they are considered members of the Authority.
- 1.15 "Party" means, singularly, a signatory to this Agreement that has satisfied the conditions in Section 2.3 (Initial Participants) or Section 2.5 (Addition of Parties) of this Agreement, such that it is considered a member of the Authority.
- 1.16 "Public Agency" as defined in the Act includes, but is not limited to, the federal government or any federal department or agency, this state, another state or any state department or agency, a county, a county board of education, county superintendent of schools, city, public corporation, public district, regional transportation commission of this state or another state, a federally recognized Indian tribe, or any joint powers authority formed pursuant to the Act.

## **2. FORMATION OF BUTTE CHOICE ENERGY AUTHORITY**

- 2.1 **Effective Date and Term.** This Agreement shall become effective and the Authority shall exist as a separate public agency on the date this Agreement is executed by the County of Butte and at least one other public agency after the adoption of the ordinances required by Public Utilities Code Section 366.2(c)(12). The Authority shall provide notice to the Parties of the Effective Date. The Authority shall continue to exist, and this Agreement shall be effective, until the Agreement is terminated in accordance with Section 8.3 (Mutual Termination) of this Agreement, subject to the rights of the Parties to withdraw from the Authority.
- 2.2 **Formation of the Authority.** Under the Act, the Parties hereby create a separate joint exercise of power agency which is named Butte Choice Energy Authority. Pursuant to Sections 6506 and 6507 of the Act, the Authority is a public agency separate from the Parties. The debts, liabilities or obligations of the Authority shall not be debts, liabilities or obligations of the individual Parties unless the governing body of a Party agrees in writing to assume any of the debts, liabilities or obligations of the Authority. The jurisdiction of the Authority shall be all territory within the geographic boundaries of the Parties; however the Authority may, as authorized under applicable law, undertake any action outside such geographic boundaries as is necessary and incidental to the accomplishment of its purpose.
- 2.3 **Initial Participants.** In addition to Parties executing this Agreement on or prior to the Effective Date, any incorporated municipality, county, or other eligible public agency may become a Party and recognized as an Initial Participant provided during the first 180 days after the Effective Date it executes this Agreement and delivers an executed copy of this Agreement and a copy of the adopted ordinance required by Public Utilities Code Section 366.2(c)(12) to the Authority. All Initial Participants to this Agreement shall be required to commence electric service as soon as practicable, as determined by the Board.
- 2.4 **Purpose.** The purpose and objectives of this Agreement are to establish the Authority, to provide for its governance and administration, and to define the rights and obligations of the Parties. This Agreement authorizes the Authority to provide a means by which the Parties can more effectively develop and implement sustainable energy initiatives that reduce energy demand, increase energy efficiency, and advance the use of clean, efficient, and renewable resources in the region for the benefit of the Parties and their constituents, including, but not limited to, establishing and operating a Community Choice Aggregation program.
- 2.5 **Addition of Parties.** After 180 days from the Effective Date any incorporated municipality, county, or other public agency may become a Party to this Agreement if all of the following conditions are met:
- 2.5.1 The adoption of a resolution of the Board admitting the public agency to the Authority;



2.5.2 The adoption by an affirmative vote of the Board satisfying the requirements described in Section 4.10 (Board Voting) of this Agreement, of a resolution authorizing membership into the Authority and establishing its pro rata share of organizational, planning and other pre-existing expenditures, and describing additional conditions, if any, associated with membership;

2.5.3 The adoption by the public agency of an ordinance required by Public Utilities Code Section 366.2(c)(12) and approval and execution of this Agreement and other necessary program agreements by the public agency;

2.5.4 Payment of the membership payment, if any; and

2.5.5 Satisfaction of any reasonable conditions established by the Board.

Pursuant to this Section 2.5 (Addition of Parties), all parties shall be required to commence electric service as soon as is practicable, as determined by the Board, as a condition to becoming a Party to this Agreement.

2.6 **Continuing Participation.** The Parties acknowledge that membership in the Authority may change by the addition, withdrawal and/or termination of Parties. The Parties agree to participate with such other Parties as may later be added, as described in Section 2.5 (Addition of Parties) of this Agreement. The Parties also agree that the withdrawal or termination of a Party shall not affect this Agreement or the remaining Parties' continuing obligations under this Agreement.

### 3. **POWERS**

3.1 **General Powers.** The Authority shall have the powers common to the Parties and which are necessary or convenient to the accomplishment of the purposes of this Agreement, subject to the restrictions set forth in Section 3.4 (Limitation on Powers) of this Agreement. As provided in the Act, the Authority shall be a public agency separate and apart from the Parties.

3.2 **Specific Powers.** The Authority shall have all powers common to the Parties and such additional powers accorded to it by law. The Authority is authorized, in its own name, to exercise all powers and do all acts necessary and proper to carry out the provisions of this Agreement and fulfill its purposes, including, but not limited to, each of the following:

3.2.1 make and enter into contracts;

3.2.2 employ agents and employees, including but not limited to an Executive Director;

3.2.3 acquire, contract, manage, maintain, and operate any buildings, works or improvements;

3.2.4 acquire property by eminent domain, or otherwise, except as limited under Section 6508 of the Act, and to hold or dispose of any property;

- 3.2.5 lease any property;
  - 3.2.6 sue and be sued in its own name;
  - 3.2.7 incur debts, liabilities, and obligations, including but not limited to loans from private lending sources pursuant to its temporary borrowing powers authorized by law pursuant to Government Code Section 53850 et seq. and authority under the Act;
  - 3.2.8 issue revenue bonds and other forms of indebtedness;
  - 3.2.9 apply for, accept, and receive all licenses, permits, grants, loans or other aids from any federal, state or local public agency;
  - 3.2.10 form independent corporations or entities, if necessary to carry out energy supply and energy conservation programs at the lowest possible cost or to take advantage of legislative or regulatory changes;
  - 3.2.11 submit documentation and notices, register, and comply with orders, tariffs and agreements for the establishment and implementation of the CCA Program and other energy programs;
  - 3.2.12 adopt rules, regulations, policies, bylaws and procedures governing the operation of the Authority ("Operating Policies and Procedures"); and
  - 3.2.13 make and enter into service agreements relating to the provision of services necessary to plan, implement, operate and administer the CCA Program and other energy programs, including the acquisition of electric power supply and the provision of retail and regulatory support services.
- 3.3 **Additional Powers to be Exercised.** In addition to those powers common to each of the Parties, the Authority shall have those powers that may be conferred upon it as a matter of law and by subsequently enacted legislation.
- 3.4 **Limitation on Powers.** As required by Section 6509 of the Act, the powers of the Authority are subject to the restrictions upon the manner of exercising power possessed by the County of Butte. In addition, the Authority shall not have the power to sponsor or become a party to any defined-benefit retirement plan for its employees. Any retirement benefits for Authority employees must be approved by unanimous consent of the Board.
- 3.5 **Obligations of the Authority.** The debts, liabilities, and obligations of the Authority shall not be the debts, liabilities, and obligations of the Parties unless the governing body of a Party agrees in writing to assume any of the debts, liabilities, and obligations of the Authority. In addition, pursuant to the Act, no Director shall be personally liable on the bonds or subject to any personal liability or accountability by reason of the issuance of bonds.



- 3.6 **Compliance with the Political Reform Act and Government Code Section 1090.** The Authority and its officers and employees shall comply with the Political Reform Act (Government Code Section 81000 et seq.) and Government Code Section 1090 et seq. The Board shall adopt a Conflict of Interest Code pursuant to Government Code Section 87300. The Board may adopt additional conflict of interest regulations in the Operating Policies and Procedures.

#### 4. **GOVERNANCE**

- 4.1 **Board of Directors.** The governing body of the Authority shall be a Board of Directors ("Board") consisting of two directors for each Party appointed in accordance with Section 4.2 (Appointment and Removal of Directors) of this Agreement. The Board, in consultation with the Executive Director, may determine at any time to consider options to reduce the size of the Board if it determines that the efficient functioning and operation of the Board would be improved by having a smaller number of Directors. Any such change to the size of the Board would require amendment of this Joint Powers Agreement in accordance with Section 4.11 (Special Voting).
- 4.2 **Appointment and Removal of Directors.** The Directors shall be appointed and may be removed as follows:
- 4.2.1 The governing body of each Party shall appoint and designate in writing two regular Directors who shall be authorized to act for and on behalf of the Party on matters within the powers of the Authority. The governing body of each Party shall appoint and designate in writing up to two alternate Directors who may vote on matters when the regular Directors are absent from a Board meeting. The persons appointed and designated as the regular Directors shall be an elected members of the governing body of the Party. The persons appointed and designated as the alternate Directors shall be elected members of the governing body of the Party. All Directors and alternates shall be subject to the Board's adopted Conflict of Interest Code.
- 4.2.2 The Operating Policies and Procedures, to be developed and approved by the Board in accordance with Section 3.2.12 (Specific Powers), shall specify the reasons for and process associated with the removal of an individual Director for cause. Notwithstanding the foregoing, no Party shall be deprived of its right to seat a Director on the Board and any such Party for which its Director and/or alternate Directors have been removed may appoint a replacement.
- 4.3 **Terms of Office.** Each regular and alternate Director shall serve at the pleasure of the governing body of the Party that the Director represents, and may be removed as Director by such governing body at any time. If at any time a vacancy occurs on the Board, the affected Party shall appoint to fill the position of the previous Director within 90 days of the date that such position becomes vacant.

**4.4 Purpose of Board.** The general purpose of the Board is to:

- 4.4.1 Provide structure for administrative and fiscal oversight;
- 4.4.2 Retain an Executive Director to oversee day-to-day operations;
- 4.4.3 Retain legal counsel;
- 4.4.4 Identify and pursue funding sources;
- 4.4.5 Set policy;
- 4.4.6 Maximize the utilization of available resources; and
- 4.4.7 Oversee all Committee activities.

**4.5 Specific Responsibilities of the Board.** The specific responsibilities of the Board shall be as follows:

- 4.5.1 Identify Authority needs and requirements;
- 4.5.2 Formulate and adopt the budget prior to the commencement of the fiscal year;
- 4.5.3 Develop and implement a financing and/or funding plan for ongoing Authority operations;
- 4.5.4 Retain necessary and sufficient staff and adopt personnel and compensation policies, rules and regulations subject to the limitations of Section 3.4; Adopt rules for procuring supplies, equipment, and services;
- 4.5.5 Adopt rules for the disposal of surplus property;
- 4.5.6 Establish standing and ad hoc committees as necessary to ensure that the interests and concerns of each Party are represented and to ensure operational, technical, and financial issues are thoroughly researched and analyzed;
- 4.5.7 The setting of retail rates for power sold by the Authority and the setting of charges for any other category of retail service provided by the Authority;
- 4.5.8 Termination of the CCA Program;
- 4.5.9 Address any concerns of consumers and customers;
- 4.5.10 Conduct and oversee Authority audits at intervals not to exceed three years;
- 4.5.11 Arrange for an annual independent fiscal audit;



- 4.5.12 Adopt such bylaws, rules and regulations as are necessary or desirable for the purposes hereof; provided that nothing in the bylaws, rules and regulations shall be inconsistent with this Agreement;
- 4.5.13 Exercise the Specific Powers identified in Sections 3.2 and 4.6 except as the Board may elect to delegate to the Executive Director; and
- 4.5.14 Discharge other duties as appropriate or required by statute.
- 4.6 **Startup Responsibilities.** The Authority shall have the duty to do the following within one year of the Effective Date of the Agreement:
- 4.6.1 To adopt an implementation plan prepared by EES Consulting, pursuant to Public Utilities Code Section 366.2(c)(3), for electrical load aggregation;
- 4.6.2 To prepare a statement of intent, pursuant to Public Utilities Code Section 366.2(c)(4), for electrical load aggregation;
- 4.6.3 To encourage other qualified public agencies to participate in the Authority;
- 4.6.4 To obtain financing and/or funding as is necessary or desirable;
- 4.6.5 To evaluate the need for, acquire, and maintain adequate levels of insurance coverage protection for potential liabilities.
- 4.7 **Meetings and Special Meetings of the Board.** The Board shall hold at least one regular meeting per year, but the Board may provide for the holding of regular meetings at more frequent intervals. The date, hour and place of each regular meeting shall be fixed by resolution or ordinance of the Board. Regular meetings may be adjourned to another meeting time. Special meetings of the Board may be called in accordance with the provisions of Government Code Section 54956. Directors may participate in meetings telephonically, with full voting rights, only to the extent permitted by law.
- 4.8 **Brown Act Applicable.** All meetings of the Board shall be conducted in accordance with the provisions of the Ralph M. Brown Act (Government Code Section 54950, et seq.).
- 4.9 **Quorum; Approvals.** A majority of the Directors shall constitute a quorum, except that less than a quorum may adjourn from time to time in accordance with law. The affirmative votes of a majority of the Directors who are present at the subject meeting shall be required to take any action by the Board.
- 4.10 **Board Voting.**
- 4.10.1 **Percentage Vote.** Each Director shall have one vote. Action of the Board on all matters shall require an affirmative vote of a majority of all Directors who are present at the subject meeting, provided, however, that notwithstanding anything herein to the contrary, so long as Authority consists of three or less members, all actions of the Board shall require the affirmative vote of at least one director appointed by each Party. In some cases expressed in this Agreement, a supermajority vote is expressly

required. When a supermajority vote is required under Section 4.11 (Special Voting), action of the Board shall require an affirmative vote of the specified supermajority of all Directors who are present at the subject meeting. All votes taken pursuant to this Section 4.10.1 shall be referred to as a percentage vote. Notwithstanding the foregoing, in the event of a tie in a percentage vote, the Board can break the tie and act upon an affirmative voting shares vote as described in section 4.10.2 (Voting Shares Vote).

**4.10.2 Voting Shares Vote.** In addition to and immediately after an affirmative percentage vote, two or more Directors, each appointed by a different Party, may request that a vote of the voting shares shall be held. In such event, the corresponding voting shares, as described in section 4.10.3, of all Directors voting in order to take an action shall exceed 50%, or such other higher voting shares percentage expressly required by this Agreement or the Operating Policies and Procedures of all Directors who are present at the subject meeting. All votes taken pursuant to this Section 4.10.2 shall be referred to as a voting shares vote. In the event that any one Director has a voting share that equals or exceeds that which is necessary to disapprove the matter being voted on by the Board, at least one other Director shall be required to vote in the negative in order to disapprove such matter. When a voting shares vote is held, action by the Board requires both an affirmative percentage vote and an affirmative voting shares vote.

**4.10.3 Voting Shares Formula.** When a voting shares vote is requested by two or more Directors appointed by different Parties, voting shares of the Directors shall be determined by the following formula:

(Annual Energy Use/Total Annual Energy) multiplied by 100, where (a) "Annual Energy Use" means (i) with respect to the first two years following the Effective Date, the annual electricity usage, expressed in kilowatt hours ("kWh"), within the Party's respective jurisdiction and (ii) with respect to the period after the second anniversary of the Effective Date, the annual electricity usage, expressed in kWh, of accounts within a Party's respective jurisdiction that are served by the Authority and (b) "Total Annual Energy" means the sum of all Parties' Annual Energy Use.

#### **4.11 Special Voting.**

**4.11.1** Except as provided below, matters that require Special Voting as described in this Section shall require 72 hours prior notice to any Brown Act meeting or special meeting. Two-thirds vote (or such greater vote as required by state law) of the appointed Directors shall be required to take any action on the following:

- (a) Change the designation of Treasurer or Auditor of the Authority;
- (b) Issue bonds or other forms of debt;



- (c) Exercise the power of eminent domain, subject to prior approval by the passage of an authorizing ordinance or other legally sufficient action by the affected Party; and
- (d) Amend this Agreement or adopt or amend the bylaws of the Authority. At least 30 days advance notice shall be provided for such actions. The Authority shall also provide prompt written notice to all Parties of the action taken and enclose the adopted or modified documents.

## **5. INTERNAL ORGANIZATION**

- 5.1 **Chair and Vice Chair.** For each fiscal year, the Board shall elect a Chair and Vice Chair from among the Directors. The term of office of the Chair and Vice Chair shall continue for one year, but there shall be no limit on the number of terms held by either the Chair or Vice Chair. The Chair shall be the presiding officer of all Board meetings, and the Vice Chair shall serve in the absence of the Chair. The Chair shall sign all contracts on behalf of the Authority, and shall perform such other duties as may be imposed by the Board. In the absence of the Chair, the Vice-Chair shall sign contracts and perform all of the Chair's duties. The office of the Chair or Vice Chair shall be declared vacant and a new selection shall be made if: (a) the person serving dies, resigns, or the Party that the person represents removes the person as its representative on the Board, or (b) the Party that he or she represents withdraws from the Authority pursuant to the provisions of this Agreement. Upon a vacancy, the position shall be filled at the next regular meeting of the Board held after such vacancy occurs or as soon as practicable thereafter. Succeeding officers shall perform the duties normal to said offices.
- 5.2 **Secretary.** The Board shall appoint a Secretary, who need not be a member of the Board, who shall be responsible for keeping the minutes of all meetings of the Board and all other office records of the Authority.
- 5.3 **Treasurer.** The Board shall appoint a qualified person to act as the Treasurer, who need not be a member of the Board. Unless otherwise exempted from such requirement, the Authority shall cause an independent audit to be made by a certified public accountant, or public accountant, in compliance with Section 6506 of the Act. The Treasurer shall act as the depositary of the Authority and have custody of all the money of the Authority, from whatever source, and as such, shall have all of the duties and responsibilities specified in Section 6505.5 of the Act. The Board may require the Treasurer to file with the Authority an official bond in an amount to be fixed by the Board, and if so requested the Authority shall pay the cost of premiums associated with the bond. The Treasurer shall report directly to the Board and shall comply with the requirements of treasurers of incorporated municipalities. The Board may transfer the responsibilities of Treasurer to any person or entity as the law may provide at the time.
- 5.4 **Auditor.** The Board shall appoint a qualified person to act as the Auditor, who shall not be a member of the Board. The Board may require the Auditor to file with the Authority an official bond in an amount to be fixed by the Board, and if so requested the Authority shall pay the cost of premiums associated with the bond.

- 5.5 **Executive Director.** The Board shall appoint or contract with an Executive Director for the Authority, who shall be responsible for the day-to-day operation and management of the Authority and the CCA Program. The Executive Director may exercise all powers of the Authority, except those powers specifically reserved to the Board including but not limited to those set forth in Section 4.5 (Specific Responsibilities of the Board) of this Agreement or the Operating Policies and Procedures, or those powers which by law must be exercised by the Board. The Executive Director may enter into and execute any Energy Contract, in accordance with criteria and policies established by the Board. The Board, at its option, may choose to contract with a separate entity for the services of an Executive Director.
- 5.6 **Bonding of Persons Having Access to Property.** Pursuant to the Act, the Board shall designate the public officer or officers or person or persons who have charge of, handle, or have access to any property of the Authority exceeding a value as established by the Board, and shall require such public officer or officers or person or persons to file an official bond in an amount to be fixed by the Board.
- 5.7 **Other Employees/Agents.** The Board shall have the power by resolution to hire employees or appoint or retain such other agents, including officers, loan-out employees, or independent contractors, as may be necessary or desirable to carry-out the purpose of this Agreement.
- 5.8 **Privileges and Immunities from Liability.** All of the privileges and immunities from liability, exemption from laws, ordinances and rules, all pension, relief, disability, workers' compensation and other benefits which apply to the activities of officers, agents or employees of a public agency when performing their respective functions shall apply to the officers, agents or employees of the Authority to the same degree and extent while engaged in the performance of any of the functions and other duties of such officers, agents or employees under this Agreement. None of the officers, agents or employees directly employed by the Board shall be deemed, by reason of their employment by the Authority to be employed by the Parties or by reason of their employment by the Authority, to be subject to any of the requirements of the Parties.
- 5.9 **Commissions, Boards and Committees.** The Board may establish any advisory commissions, boards and committees as the Board deems appropriate to assist the Board in carrying out its functions and implementing the CCA Program, other energy programs and the provisions of this Agreement. The Board may establish rules, regulations, policies, bylaws or procedures to govern any such commissions, boards, or committees and shall determine whether members shall be compensated or entitled to reimbursement for expenses.



5.9.1 The Board may also establish the following Advisory Committees:

- (a) **Executive Committee.** The Board may establish an executive committee consisting of a smaller number of Directors. The Board may delegate to the Executive Committee's such authority as the Board might otherwise exercise, except that the Board may not delegate authority regarding certain essential functions, including but not limited to, approving the fiscal year budget or hiring or firing the Executive Director, and other functions as provided in the Operating Policies and Procedures. The Board may not delegate to the Executive Committee or any other committee its authority under Section 3.2.12 to adopt and amend the Operating Policies and Procedures.
- (b) **Finance Committee.** The Board may establish a finance committee consisting of a smaller number of Directors. The primary purpose of the Finance Committee is to review and recommend to the Board:
  - (1) A funding plan;
  - (2) A fiscal year budget;
  - (3) Financial policies and procedures to ensure equitable contributions by Parties;
  - (4) Such other responsibilities as provided in the Operating Policies and Procedures, including but not limited to policies, rules and regulations governing investment of surplus funds, and selection and designation of financial institutions for deposit of Authority funds.
- (c) **Community Advisory Committee.** The Board may establish a community advisory committee comprised of members of the public representing key stakeholder communities. The primary purpose of the Community Advisory Committee shall be to provide a venue for ongoing citizen support and engagement in the operations of the Authority.
- (d) **Meetings of the Advisory Committees.** All meetings of the Advisory Committees shall be held in accordance with the Ralph M. Brown Act. For the purposes of convening meetings and conducting business, unless otherwise provided in the bylaws, a majority of the members of the Advisory Committee shall constitute a quorum for the transaction of business, except that less than a quorum or the secretary of each Advisory Committee may adjourn meetings from time-to-time. As soon as practicable, but no later than the time of posting, the Secretary of the Advisory Committee shall provide notice and the agenda to each Party, Director and Alternate Directors.

- (e) **Officers of Advisory Committees.** Unless otherwise determined by the Board, each Advisory Committee shall choose its officers, comprised of a Chairperson, a Vice-Chairperson and a Secretary.

## 6. IMPLEMENTATION ACTION AND AUTHORITY DOCUMENTS

### 6.1 **Preliminary Implementation of the CCA Program.**

- 6.1.1 **Enabling Ordinance.** In addition to the execution of this Agreement, each Party shall adopt an ordinance in accordance with Public Utilities Code Section 366.2(c)(12) for the purpose of specifying that the Party intends to implement a CCA Program by and through its participation in the Authority.
- 6.1.2 **Implementation Plan.** The Authority shall cause to be prepared and secure Board approval of an Implementation Plan meeting the requirements of Public Utilities Code Section 366.2 and any applicable Public Utilities Commission regulations as soon after the Effective Date as reasonably practicable.
- 6.1.3 **Termination of CCA Program.** Nothing contained in this Section 6 or this Agreement shall be construed to limit the discretion of the Authority to terminate the implementation or operation of the CCA Program at any time in accordance with any applicable requirements of state law.

- 6.2 **Authority Documents.** The Parties acknowledge and agree that the affairs of the Authority will be implemented through various documents duly adopted by the Board through Board resolution or minute action, including but not necessarily limited to the Operating Policies and Procedures, the annual budget, and specified plans and policies defined as the Authority Documents by this Agreement. The Parties agree to abide by and comply with the terms and conditions of all such Authority Documents that may be adopted by the Board, subject to the Parties' right to withdraw from the Authority as described in Section 8 (Withdrawal and Termination) of this Agreement.

## 7. FINANCIAL PROVISIONS

- 7.1 **Fiscal Year.** The Authority's fiscal year shall be 12 months commencing July 1 and ending June 30. The fiscal year may be changed by Board resolution.
- 7.2 **Depository.**
  - 7.2.1 All funds of the Authority shall be held in separate accounts in the name of the Authority and not commingled with funds of any Party or any other person or entity.
  - 7.2.2 All funds of the Authority shall be strictly and separately accounted for, and regular reports shall be rendered of all receipts and disbursements, at least quarterly during the fiscal year. The books and records of the Authority shall be open to inspection and duplication by the Parties at all reasonable times. The Board shall contract with a certified public accountant or public



accountant to make an annual audit of the accounts and records of the Authority, which shall be conducted in accordance with the requirements of Section 6506 of the Act.

- 7.2.3 All expenditures shall be made in accordance with the approved budget and upon the approval of any officer so authorized by the Board in accordance with its Operating Policies and Procedures. The Treasurer shall draw checks or warrants or make payments by other means for claims or disbursements not within an applicable budget only upon the prior approval of the Board.

### 7.3 **Budget and Recovery Costs.**

- 7.3.1 **Budget.** The initial budget shall be approved by the Board. The Board may revise the budget from time to time as may be reasonably necessary to address contingencies and unexpected expenses. All subsequent budgets of the Authority shall be prepared and approved by the Board in accordance with the Operating Policies and Procedures.

- 7.3.2 **Funding of Initial Costs.** The County of Butte has funded certain activities necessary to implement the CCA Program. Further, it is anticipated that additional costs will be incurred by other Parties. If the CCA Program becomes operational, these initial costs paid by the Parties shall be included in the customer charges for electric services as provided by Section 7.3.3 (to the extent recovery of such costs is permitted by law), and the Parties shall be reimbursed from the payment of such charges by customers of Authority. Prior to such reimbursement, the Parties shall provide such documentation of costs paid as the Board may request. Authority may establish a reasonable time period over which such costs are to be recovered. In the event that the CCA program does not become operational, the Parties shall not be entitled to any reimbursement of the initial costs that have been paid.

- 7.3.3 **Program Costs.** The Parties desire that, to the extent reasonably practicable, all costs incurred by the Authority that are directly or indirectly attributable to the provision of electric services under the CCA Program, including the establishment and maintenance of various reserve and performance funds, shall be recovered through charges to CCA customers receiving such electric services.

- 7.4 **Contributions.** Parties are not required under this Agreement to make any financial contributions. Consumers may subscribe as customers of the Authority pursuant to the Act and outside of this Agreement and through their on-bill selections.

- 7.4.1 A Party may, in the appropriate circumstance, and when agreed-to:

- (a) Make contributions from its treasury for the purposes set forth in this Agreement;

- (b) Make payments of public funds to defray the cost of the purposes of the Agreement and Authority;
- (c) Make advances of public funds for such purposes, such advances to be repaid as provided by written agreement; or
- (d) Use its personnel, equipment or property in lieu of other contributions or advances.
- (e) No Party shall be required to adopt any tax, assessment, fee or charge under any circumstances.

7.5 **Accounts and Reports.** The Treasurer shall establish and maintain such funds and accounts as may be required by good accounting practice or by any provision of any trust agreement entered into with respect to the proceeds of any bonds issued by the Authority. The books and records of the Authority in the hands of the Treasurer shall be open to inspection and duplication at all reasonable times by duly appointed representatives of the Parties. The Treasurer, within 180 days after the close of each fiscal year, shall give a complete written report of all financial activities for such fiscal year to the Parties.

7.6 **Funds.** The Treasurer shall receive, have custody of and/or disburse Authority funds in accordance with the laws applicable to public agencies and generally accepted accounting practices, and shall make the disbursements required by this Agreement in order to carry out any of the purposes of this Agreement.

## 8. WITHDRAWAL AND TERMINATION

### 8.1 **Withdrawal**

8.1.1 **Withdrawal by Parties.** Any Party may withdraw its membership in the Authority, effective as of the beginning of the Authority's fiscal year, by giving no less than 180 days advance written notice of its election to do so, which notice shall be given to the Authority and each Party. Withdrawal of a Party shall require an affirmative vote of the Party's governing board.

8.1.2 **Amendment.** Notwithstanding Section 8.1.1 (Withdrawal by Parties) of this Agreement, a Party may withdraw its membership in the Authority upon approval and execution of an amendment to this Agreement provided that the requirements of this Section 8.1.2 are strictly followed. A Party shall be deemed to have withdrawn its membership in the Authority effective 180 days after the Board approves an amendment to this Agreement if the Director representing such Party has provided notice to the other Directors immediately preceding the Board's vote of the Party's intention to withdraw its membership in the Authority should the amendment be approved by the Board.

8.1.3 **The Right to Withdraw Prior to Program Launch.** After receiving bids from power suppliers, Authority shall provide to the Parties the report from the



electrical utility consultant retained by Authority that compares the total estimated electrical rates that Authority will be charging to customers as well as the estimated greenhouse gas emissions rate and the amount of estimated renewable energy used with that of the incumbent utility. If the report provides that Authority is unable to provide total electrical rates, as part of its baseline offering, to the customers that are equal to or lower than PG&E or to provide power in a manner that has a lower greenhouse gas emission rate or uses less renewable energy than the incumbent utility, a Party may immediately withdraw its membership in Authority without any financial obligation, as long as the Party provides written notice of its intent to withdraw to Authority Board no more than fifteen (15) days after receiving the report. Any withdrawing participant shall not be entitled to any return of funds provided to Authority, provided, however, that if, after program is launched there are unobligated and unused funds, the withdrawing participant shall be refunded its pro rata share of the unobligated and unused funds.

**8.1.4 Continuing Liability; Further Assurances.** A Party that withdraws its membership in the Authority may be subject to certain continuing liabilities, as described in Section 8.4 (Continuing Liability; Refund) of this Agreement, including, but not limited to, Power Purchase Agreements. The withdrawing Party and the Authority shall execute and deliver all further instruments and documents, and take any further action that may be reasonably necessary, as determined by the Board, to effectuate the orderly withdrawal of such Party from membership in the Authority. The Operating Policies and Procedures shall prescribe the rights if any of a withdrawn Party to continue to participate in those Board discussions and decisions affecting customers of the CCA Program that reside or do business within the jurisdiction of the Party.

**8.2 Involuntary Termination.** This Agreement may be terminated with respect to a Party for material non-compliance with provisions of this Agreement or the Authority Documents upon an affirmative vote of the Board in which the minimum percentage vote and percentage voting shares, as described in Section 4.10 (Board Voting) of this Agreement, shall be no less than 67% (excluding the vote and voting shares of the Party subject to possible termination). Prior to any vote to terminate this Agreement with respect to a Party, written notice of the proposed termination and the reason(s) for such termination shall be delivered to the Party whose termination is proposed at least 30 days prior to the regular Board meeting at which such matter shall first be discussed as an agenda item. The written notice of proposed termination shall specify the particular provisions of this Agreement or the Authority Documents that the Party has allegedly violated.

The Party subject to possible termination shall have the opportunity at the next regular Board meeting to respond to any reasons and allegations that may be cited as a basis for termination prior to a vote regarding termination. A Party that has had its membership in the Authority terminated may be subject to certain continuing liabilities, as described in Section 8.4 (Continuing Liability; Refund) of this Agreement. In the event that the Authority decides to not implement the CCA Program, the minimum percentage vote of 67% shall be conducted in accordance with Section 4.10 (Board Voting) of this Agreement.

8.3 **Mutual Termination.** This Agreement may be terminated by mutual agreement of all the Parties; provided, however, the foregoing shall not be construed as limiting the rights of a Party to withdraw its membership in the Authority, and thus terminate this Agreement with respect to such withdrawing Party, as described in Section 8.1 (Withdrawal) of this Agreement.

8.4 **Continuing Liability; Refund.** Upon a withdrawal or involuntary termination of a Party, the Party shall remain responsible for any claims, demands, damages, or liabilities arising from the Party's membership in the Authority through the date of its withdrawal or involuntary termination, it being agreed that the Party shall not be responsible for any claims, demands, damages, or liabilities arising after the date of the Party's withdrawal or involuntary termination. In addition, such Party also shall be responsible for any costs or obligations associated with the Party's participation in any program in accordance with the provisions of any agreements relating to such program provided such costs or obligations were incurred prior to the withdrawal of the Party. The Authority may withhold funds otherwise owing to the Party or may require the Party to deposit sufficient funds with the Authority, as reasonably determined by the Authority, to cover the Party's liability for the costs described above. Any amount of the Party's funds held on deposit with the Authority above that which is required to pay any liabilities or obligations shall be returned to the Party.

8.5 **Disposition of Authority Assets.** Upon termination of this Agreement and dissolution of the Authority by all Parties, and after payment of all obligations of the Authority, the Board:

8.5.1 May sell or liquidate Authority property; and

8.5.2 Shall distribute assets to Parties in proportion to the contributions made by the existing Parties.

Any assets provided by a Party to the Authority shall remain the asset of that Party and shall not be subject to distribution under this section.

## 9. **MISCELLANEOUS PROVISIONS**

9.1 **Dispute Resolution.** The Parties and the Authority shall make reasonable efforts to settle all disputes arising out of or in connection with this Agreement. Before exercising any remedy provided by law, a Party or the Parties and the Authority may engage in nonbinding mediation in the manner agreed upon by the Party or Parties and the Authority. In the event that nonbinding mediation is not initiated or does not result in the settlement of a dispute within 60 days after the demand for mediation is made, any Party and the Authority may pursue any remedies provided by law.

9.2 **Liability of Directors, Officers, and Employees.** The Directors, officers, and employees of the Authority shall use ordinary care and reasonable diligence in the exercise of their powers and in the performance of their duties pursuant to this Agreement. No current or former Director, officer, or employee will be responsible for any act or omission by another Director, officer, or employee. The Authority shall defend, indemnify and hold harmless the individual current and former Directors, officers, and employees for any acts or omissions in the scope of their employment



or duties in the manner provided by Government Code Section 995 et seq. Nothing in this section shall be construed to limit the defenses available under the law, to the Parties, the Authority, or its Directors, officers, or employees.

9.3 **Indemnification of Parties.** The Authority shall acquire such insurance coverage as is necessary to protect the interests of the Authority, the Parties and the public. The Authority shall defend, indemnify and hold harmless the Parties and each of their respective governing board members, officers, agents and employees, from any and all claims, losses, damages, costs, injuries and liabilities of every kind arising directly or indirectly from the conduct, activities, operations, acts and omissions of the Authority under this Agreement.

9.4 **Notices.** Any notice required or permitted to be made hereunder shall be in writing and shall be delivered in the manner prescribed herein at the principal place of business of each Party. The Parties may give notice by (1) personal delivery; (2) e-mail; (3) U.S. Mail, first class postage prepaid, or a faster delivery method; or (4) by any other reasonable method deemed appropriate by the Board.

Upon providing written notice to all Parties, any Party may change the designated address or e-mail for receiving notice.

All written notices or correspondence sent in the described manner will be deemed given to a party on whichever date occurs earliest: (1) the date of personal delivery; (2) the third business day following deposit in the U.S. mail, when sent by "first class" mail; or (3) the date of transmission, when sent by e-mail or facsimile.

9.5 **Successors.** This Agreement shall be binding upon and shall inure to the benefit of the successors of each Party.

9.6 **Assignment.** Except as otherwise expressly provided in this Agreement, the rights and duties of the Parties may not be assigned or delegated without the advance written consent of all of the other Parties, and any attempt to assign or delegate such rights or duties in contravention of this Section 9.6 shall be null and void. This Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of the Parties. This Section 9.6 does not prohibit a Party from entering into an independent agreement with another agency, person, or entity regarding the financing of that Party's contributions to the Authority, or the disposition of the proceeds which that Party receives under this Agreement, so long as such independent agreement does not affect, or purport to affect, the rights and duties of the Authority or the Parties under this Agreement.

9.7 **Severability.** If any one or more of the terms, provisions, promises, covenants, or conditions of this Agreement were adjudged invalid or void by a court of competent jurisdiction, each and all of the remaining terms, provisions, promises, covenants, and conditions of this Agreement shall not be affected thereby and shall remain in full force and effect to the maximum extent permitted by law.

9.8 **Governing Law.** This Agreement is made and to be performed in the State of California, and as such California substantive and procedural law shall apply.

9.9 **Headings.** The section headings herein are for convenience only and are not to be construed as modifying or governing the language of this Agreement.

- 9.10 **Counterparts.** This Agreement may be executed in any number of counterparts, and upon execution by all Parties, each executed counterpart shall have the same force and effect as an original instrument and as if all Parties had signed the same instrument. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon, and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more signature pages.
- 9.11 **No Third Party Beneficiaries.** This Agreement and the obligations hereunder are not intended to benefit any party other than the Authority and its Parties, except as expressly provided otherwise herein. No entity that is not a signatory to this Agreement shall have any rights or causes of action against any party to this Agreement as a result of that party's performance or non-performance under this Agreement, except as expressly provided otherwise herein.
- 9.12 **Filing of Notice of Agreement.** Within 30 days after the Effective Date, or amendment thereto, the Secretary shall cause to be filed with the Secretary of State the notice of Agreement required by the Act.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, each Party has caused this Agreement to be executed and attested by its proper officers thereunto duly authorized, its official seals to be hereto affixed, as follows:

**COUNTY OF BUTTE**

By: \_\_\_\_\_  
Steve Lambert  
Chairperson of the Board of Supervisors

Dated: \_\_\_\_\_

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
BRUCE S. ALPERT  
Butte County Counsel

**ATTEST:**

By: \_\_\_\_\_  
Clerk of the Board of Supervisors

**CITY OF CHICO**

By: \_\_\_\_\_  
Randall Stone  
Mayor

Dated: 11/18/2009

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Vincent C. Ewing  
City Attorney\*

\*Approved pursuant to The Charter of the City of Chico § 906(D)

**ATTEST:**

By: \_\_\_\_\_  
Debbie Presson  
City Clerk



IN WITNESS WHEREOF, each Party has caused this Agreement to be executed and attested by its proper officers thereunto duly authorized, its official seals to be hereto affixed, as follows:

COUNTY OF BUTTE

By: Steve Lambert  
Steve Lambert  
Chairperson of the Board of Supervisors

Dated: 10/22/19

APPROVED AS TO FORM:

By: Bruce S. Alpert  
BRUCE S. ALPERT  
Butte County Counsel

ATTEST:

By: [Signature]  
Clerk of the Board of Supervisors

CITY OF CHICO

By: \_\_\_\_\_  
Randall Stone, Mayor

Dated: \_\_\_\_\_

APPROVED AS TO FORM:

By: \_\_\_\_\_  
City Attorney

ATTEST:

By: \_\_\_\_\_  
City Clerk

**Exhibit A - Members**

The following entities are Parties of the Butte Choice Energy Authority:

1. County of Butte
2. City of Chico

## **Appendix C – Chico and Butte County Ordinances for Joining JPA**

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AN ORDINANCE OF THE BUTTE COUNTY BOARD OF SUPERVISORS AUTHORIZING  
THE IMPLEMENTATION OF A COMMUNITY CHOICE AGGREGATION PROGRAM AND  
ADDING ARTICLE XXIII ENTITLED, "COMMUNITY CHOICE AGGREGATION" TO  
CHAPTER 2 ENTITLED, "ADMINISTRATION" OF THE BUTTE COUNTY CODE

The Board of Supervisors of the County of Butte ordains as  
follows:

Section 1. Purpose.

The purpose of this Ordinance is to authorize the implementation of  
a community choice aggregation program through Butte Choice Energy,  
as required by California Public Utilities Code section 366.2(c)(12).

Section 2. Article XXIII is added to Chapter 2 of the Butte County  
Code as follows:

ARTICLE XXIII - COMMUNITY CHOICE AGGREGATION

2-183 - Authorization to Implement Community Choice Aggregation  
Program.

In order to provide businesses and residents within  
unincorporated Butte County with a choice of power providers, the  
County of Butte hereby elects to implement a community choice  
aggregation program within the jurisdictions of unincorporated Butte  
County by participating in the Community Choice Aggregation Program  
of Butte Choice Energy. To implement a community choice aggregation  
program, all participating jurisdictions shall enter into a Joint  
Powers Agreement.

1 Section 3. Severability.

2 If any section, sub-section, sentence, clause, or phrase of this  
3 Ordinance is held by a court of competent jurisdiction to be invalid,  
4 such decision shall not affect the remaining portions of this  
5 Ordinance. The Board of Supervisors hereby declares that it would  
6 have passed this Ordinance, and each section, sub-section, sentence,  
7 clause, and phrase hereof, irrespective of the fact that one or more  
8 sections, sub-sections, sentences, clauses, and phrased be declared  
9 invalid.

10  
11 Section 4. Effective Date and Publication.

12 The Clerk of the Board will publish the Ordinance codified in this  
13 Chapter as required by law. The Ordinance codified in this Chapter  
14 shall take effect thirty (30) days after final passage.


15  
16 **PASSED AND ADOPTED** by the Board of Supervisors of the County of Butte,  
17 State of California, on the 10<sup>th</sup> day of September, 2019, by the  
18 following vote:

19  
20 **AYES:** Supervisors Connelly, Lucero, Ritter, Teeter, and Chair Lambert

21 **NOES:**

22 **ABSENT:**

23 **NOT VOTING:**

24   
25 **STEVE LAMBERT**, Chair  
Butte County Board of Supervisors

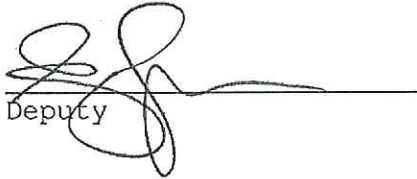
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**ATTEST:**

**SHARI MCCRACKEN**, Chief Administrative Officer  
and Clerk of the Board

By: \_\_\_\_\_

Deputy

A handwritten signature in black ink, consisting of a large, stylized 'S' followed by a horizontal line and a loop.

ORDINANCE NO. 2537

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
CHICO AUTHORIZING THE IMPLEMENTATION OF A  
COMMUNITY CHOICE AGGREGATION PROGRAM, AMENDING  
TITLE 15 "WATER AND SEWERS" AND ADDING CHAPTER 15.60  
TITLED "COMMUNITY CHOICE AGGREGATION" TO TITLE 15  
OF THE CHICO MUNICIPAL CODE**

**WHEREAS**, Assembly Bill 117 passed in 2002 established the Community Choice Aggregation (CCA) program as an option to create greater competition, reliable power, power portfolio options, and transparency in the energy wholesale market; and

**WHEREAS**, a CCA allows cities and counties to aggregate the electricity buying power (electrical load) of residential, commercial, and municipal customers within their jurisdiction to purchase power on the whole sale market to meet their community electricity needs; and

**WHEREAS**, the County of Butte and the City of Chico (Agencies) have been working together to establish a CCA for Butte County; and

**WHEREAS**, the Agencies are in the process of entering into an Agreement to form the Butte Choice Energy Joint Powers Authority pursuant to the provisions of Title 1, Division 7, Chapter 5, Article 1 (Section 6500 et seq.) of the California Government Code related to the joint exercise of powers among public agencies; and

**WHEREAS**, the California Public Utilities Code section 366.2 (c) (12) requires an ordinance from each member agency authorizing the implementation of a CCA for their respective jurisdiction.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE  
CITY OF CHICO AS FOLLOWS:**

**SECTION 1. Purpose.**

The purpose of this ordinance is to authorize the implementation of a Community Choice Aggregation program called "Butte Choice Energy", as required by California Public Utilities Code section 366.2 (c) (12).



1 **SECTION 2.** That the title of Title 15 of the Chico Municipal Code is hereby amended  
2 to read as follows:

3 **"Title 15 ~~WATER AND SEWERS~~ UTILITY SERVICES"**

4 **SECTION 3.** That Chapter 15.60 entitled "COMMUNITY CHOICE AGGREGATION"  
5 is added to Title 15 of the Chico Municipal Code as follows:

6  
7 **"Chapter 15.60 - COMMUNITY CHOICE AGGREGATION"**

8 **15.60.010 - Authorization to Implement Community Choice Aggregation Program**

9 In order to provide businesses and residents within City of Chico city limits with a choice  
10 of power providers, the City of Chico hereby elects to implement a community choice  
11 aggregation program within the jurisdiction of the City of Chico city limits by participating  
12 in the Community Choice Aggregation Program of Butte Choice Energy."

13 **SECTION 4.** Severability. If any section, subsection, sentence, clause, phrase or word of  
14 this Ordinance is for any reason held to be invalid and/or unconstitutional by a court of  
15 competent jurisdiction, such decision shall not affect the validity of the remaining portions  
16 of this Ordinance.

17  
18 **SECTION 5.** Effective Date. This Ordinance shall be effective 30 days after adoption by the  
19 City Council.

20  
21 **SECTION 6.** Certification. The City Clerk shall certify to the passage and adoption of this  
22 Ordinance and shall cause the same to be published or posted in the manner required by law.

23 //

24 //

25 //

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27 //

28 //

1           **THE FOREGOING ORDINANCE** was adopted by the City Council of the City of  
2 Chico, California at its City Council meeting held on October 1, 2019, by the  
3 following votes:

4 AYES :           Huber, Morgan, Ory, Reynolds, Schwab, Brown, Stone

5 NOES :           None

6 ABSENT:         None

7 ABSTAIN:       None

8 DISQUALIFIED: None

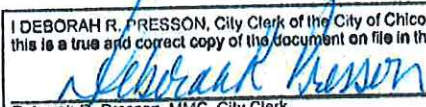
9 ATTEST:

10   
11 \_\_\_\_\_  
12 Deborah R. Presson, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Vincent C. Ewing, City Attorney\*

\*Pursuant to The Charter of the City of Chico,  
Section 906(E)

13  
14  
15  
16 I, DEBORAH R. PRESSON, City Clerk of the City of Chico, hereby certify that  
17 this is a true and correct copy of the document on file in the City Clerk's Office.  
18   
19 \_\_\_\_\_  
20 Deborah R. Presson, MMC, City Clerk  
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