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PUBLIC UTILITIES - CALIFORNIA

California Community Choice Association v. Public Utilities Commission

Court of Appeal, First District, Division 4, California - July 15, 2024 - 323 Cal.Rptr.3d 322

Organization that represented interests of community choice electricity aggregation programs filed petition for judicial review that sought reversal of Public Utilities Commission's (PUC) resolution setting effective dates for programs' expansions and its decision denying rehearing of the resolution.

The Court of Appeal held that:

- Organization had associational standing;
- PUC's resolution and decision were subject to limited scope of review;
- PUC had jurisdiction to set effective date to expand programs; and
- PUC did not abuse its discretion in setting effective date for programs' expansion based on concerns regarding future cost shifting.

Organization that represented interests of community choice electricity aggregation programs had standing under associational standing doctrine to file on programs' behalf a writ petition for judicial review of Public Utilities Commission's (PUC) resolution setting effective dates for programs' expansions and decision denying rehearing of the resolution, where there was no reason to question whether programs would otherwise have standing on their own, organization was seeking to protect interests that were germane to its purpose, and programs' participation was required.

Public Utilities Commission's (PUC) resolution setting delayed effective dates for community choice electricity aggregation programs' expansions and its decision denying rehearing of the resolution were quasi-legislative, rather than quasi-adjudicative, and thus, it was subject to limited scope of review under statute applicable to any proceeding other than the enumerated proceedings that were subject to full review standard; PUC determined, as a matter of policy or discretion, that expansions for the two programs should be delayed in order to ensure that expansion did not result in specific type of cost shifting, and decision did not specifically involve a complaint or enforcement proceeding or ratemaking or licensing decision of specific application that was addressed to particular parties.

Public Utilities Act section pertaining to aggregation of customer electric loads with community choice aggregators provided the Public Utilities Commission (PUC) jurisdiction to delay expansion dates of community choice aggregation programs upon conclusion that such expansion would result in impermissible cost shifting; statute prohibited a community choice aggregation program from furnishing electricity to customers until PUC had determined cost recovery that must be paid by customers of that program and that PUC must designate earliest possible effective date for implementation of a community choice aggregation program, taking into consideration impact on any annual procurement plan of the electrical corporation that has been approved by PUC.

Public Utilities Commission (PUC) did not act arbitrarily, capriciously, or entirely without evidentiary support in setting an effective date for expansion of two community choice electricity

aggregation programs that was one year after date proposed by programs in their implementation plans, based on concerns that expansion would result in future cost shifting; given programs' history of resource deficiencies, which purportedly resulted in cost-shifting to non-customers, and programs' failure to present any evidence demonstrating that they had adequately addressed resource adequacy going forward, it was not unreasonable to conclude that programs' failure to procure adequate resources would result in greater cost shifting if they were permitted to expand to serve more customers.

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