

## WMA Red Alert

### Master Metered MHP Submeter Rates

WMA issues this alert to Master Metered Mobilehome Parkowners (MM MHPs) to warn that you may unknowingly risk civil and criminal liability if you charge your submetered tenants a different electric generation rate than the one you pay to your provider. **If you are a Community Choice Aggregation (CCA) customer, you must pass through the CCA generation rate.** This may seem obvious given the mandates of Public Utilities Code 739.5 which says: ““...whenever ...electric service...is provided by a master-meter customer to users who are tenants of a mobilehome park... the master-meter customer shall charge each user of the service at the same rate that would be applicable if the user were receiving electricity...directly from the electrical corporation.” So what is the problem? When you receive electricity from a CCA, the generation rate is the CCA rate. However, because this law was written prior to 2001 when CCA’s were authorized by statute, 739.5 only addresses direct service from “electrical corporations”. What is a CCA? CCAs are local government energy enterprises operating in California in over 20 locations, now serving nearly forty percent of PG&E and SCE’s electric service demand. A CCA is scheduled to launch this year and is positioned to serve nearly 40% of SDG&E’s electric service demand as well. PG&E, SCE and SDG&E continue to supply the transmission, distribution and customer service (including metering and billing) while CCAs supply the electric generation. You have the choice whether to continue service with the incumbent utility (PG&E, SCE and SDG&E) or switch to the CCA in your area, if one has started up. For a map of

CCAs in California and contact information, see: [www.cal-cca.org](http://www.cal-cca.org) and click on “CCA contact information and locations”. For more information on CCAs, go to [www.cal-cca.org](http://www.cal-cca.org) .

Note: when a CCA first starts operation, all electric customers are transferred to CCA service and if you do not want to stay with the CCA (you have that choice), you must affirmatively opt-out. You may do this in the first three months of service without incurring any costs.

CCAs are not electrical corporations under the Public Utilities Code. Does this mean that even though you are served directly by the CCA and not the electrical corporation for generation, that you should charge the submetered tenants the electrical corporation rate? No, you cannot charge a rate different than the rate you pay to the CCA, you cannot invoice a different rate than the rate you pay to the CCA, and you cannot post a different rate than the rate you pay to the CCA.

Why? Because other California laws require you to charge ONLY the rate you pay to the CCA.

Key among them are Business and Profession Code Section 12024.2 which makes it unlawful to charge an amount greater than the price for that commodity and is potentially punishable as a misdemeanor by a fine from \$25-\$1000 or imprisonment in county jail up to a year or both “when the charge is more than one dollar(\$1).”<sup>1</sup> Also, Civil Code Section 798.40 requires you to post the specific current residential utility rate **as published by the serving utility or Internet**

---

<sup>1</sup> **12024.2.**

(a) It is unlawful for any person, at the time of sale of a commodity, to do any of the following:

(1) Charge an amount greater than the price, or to compute an amount greater than a true extension of a price per unit, that is then advertised, posted, marked, displayed, or quoted for that commodity.

(2) Charge an amount greater than the lowest price posted on the commodity itself or on a shelf tag that corresponds to the commodity, notwithstanding any limitation of the time period for which the posted price is in effect.

(b) A violation of this section is a misdemeanor punishable by a fine of not less than twenty-five dollars (\$25) nor more than one thousand dollars (\$1,000), by imprisonment in the county jail for a period not exceeding one year, or by both, if the violation is willful or grossly negligent, or when the overcharge is more than one dollar (\$1).

**Website address of the specific current residential utility rate schedule.<sup>2</sup> All of the CCA's rates are posted on the investor owned utilities' websites under CCAs**

Doesn't the language "shall charge the same rate that would be applicable if the user were receiving electricity directly from the electrical corporation" mean that the MM MHP owner must charge the PG&E, SCE or SDG&E rate because they are the electrical corporations? No. To do so would violate the law against B&P Code Section 12024.2 above which requires billing the submetered tenants at the commodity price paid. When the commodity (electricity) is purchased from a CCA, the price is the CCA price.

Aren't these laws in conflict? Maybe. Public Utilities Code 739.5 refers to electrical corporations and CCAs are not electrical corporations. It was written at a time when electrical corporations had a complete monopoly to serve all the customers in their service territory. That is no longer true and has not been true since 2001. CCAs were authorized by statute after the passage of 739.5 and the language was not changed to explicitly recognize the existence of more than one electric provider in any one area. It is important to note, however, the intent of that law is "ratepayer indifference." In other words, it was intended to protect the submetered tenants by requiring the master meter service to be charged at the same, posted rate as the MM MHP pays

---

<sup>2</sup> **798.40.**

(a) Where the management provides both master-meter and submeter service of utilities to a homeowner, for each billing period the cost of the charges for the period shall be separately stated along with the opening and closing readings for his or her meter. The management shall post, in a conspicuous place, the specific current residential utility rate schedule as published by the serving utility or the Internet Web site address of the specific current residential utility rate schedule. If the management elects to post the Internet Web site address where the schedule may be accessed, the management shall also: (1) provide a copy of the specific current residential utility rate schedule, upon request, at no cost; and (2) state in the posting that a homeowner may request a copy of the rate schedule from management.

(b) If a third-party billing agent or company prepares utility billing for the park, the management shall disclose on each resident's billing, the name, address, and telephone number of the billing agent or company.

*(Amended by Stats. 2013, Ch. 201, Sec. 1. (SB 196) Effective January 1, 2014.)*

and that same rate be posted as well. When 739.5 is read together with the other relevant laws governing master-metered mobilehome park billing practices discussed above, it is clear that there are no circumstances where the MM MHP owner is excused from charging the same rate that the MM MHP actually pays.

**BEST PRACTICE:**

1) If you are a CCA Customer:

- A. Use the CCA generation rates on your master meter bill for your submetering billing.
- B. Monitor the rates closely and continuously with your billing provider to see if the rates are different than the local IOU's rates.

2) If you are not a CCA Customer:

- A. Continue to be aware of any developing or potential CCAs in your area.
- B. Discuss with your billing provider how your rates will be affected by a developing CCA.

What happens if you do not pass through the CCA rate to your submetered tenants? As stated above, you may be at risk for criminal and/or civil penalties. There may be additional consequences as well. A complaint [Complaint 20-01-006](#) has been filed by Pioneer Community Energy (a CCA in Placer County) at the California Public Utilities Commission against **Park Billing a billing company** and as yet unnamed Mobilehome Parks raising alleging violations of Public Utilities Code Section 739.5, Business and Professions Code Section 12024.2 and Civil Code Section 798.40. The complaint alleges that **Park Billing a billing company** systematically overbilled submetered residents of MM MHPs that receive generation service from Pioneer by

billing PG&E's higher rate despite the fact that the MM MHPs actually paid Pioneer's lower generation rate. ~~WMA will be intervening in this case to protect the interests of our membership.~~

Note that the CCA rate may also be higher than the PG&E, SCE or SDG&E rate. In either case, the MM MHP rate to the submetered tenant must be the same as the MM MHP owner paid.