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**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on the Commission's  
Proposed Policies Governing Restructuring  
California's Electric Services Industry and Reforming  
Regulation.

Rulemaking 94-04-031  
(Filed April 20, 1994)

**ORIGINAL**

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## **OPINION REGARDING THE CUSTOMER INFORMATION DATABASE WORKSHOP REPORT**

### **I. Summary**

In Decision (D.) 97-05-040, we addressed the issue of access to customer information during the implementation of direct access. The decision ordered that a workshop be held to address the operational details of the customer information database. That workshop was held on July 21, 1997, and a "Customer Information Database Workshop Report" (Workshop Report) was filed with the Commission on August 14, 1997.

This decision addresses the proposals contained in the Workshop Report and the comments to those proposals. The decision sets forth the process for releasing and the format for the customer-specific information that may be requested by the end-use customer, and the process for releasing and format for non-identifiable customer usage information. The decision also adopts a procedure whereby interested consumers may sign up to receive information about direct access directly from the electric service providers (ESPs).

### **II. Background**

In D.97-05-040, we adopted the requirement that basic customer information will be made available to the ESP designated by a customer if the customer provides a written authorization for release of the information. This information is to be provided by the utility distribution companies (UDCs) up to two times per year to the requesting customer without charge. D.97-05-040 also adopted the requirement that the UDCs offer all ESPs a database containing "customer-specific usage information and locational and Standard Industrial Code [Classification] information, with the customer's identity removed." (D.97-05-040, p. 96.) The decision ordered that a workshop be held to address the specifics of the customer information database, the cost of providing such information, and the timing for providing such information.

A pre-workshop meeting was held on June 20, 1997, and the workshop was held on July 21, 1997.<sup>1</sup> Four proposals for dealing with various customer information database issues were submitted for consideration at the workshop.<sup>2</sup> As ordered by Ordering Paragraph 7.d. of D.97-05-040, the Workshop Report was filed with the Commission on August 14, 1997. Interested parties were given the opportunity to file comments on the Workshop Report. Comments to the Workshop Report were filed by Applied Econometrics, Inc. (AEI); the California Energy Commission (CEC); Calpine Corporation et al.;<sup>3</sup> Green Mountain Energy Resources LLC (Green Mountain); the Office of Ratepayer Advocates (ORA); Pacific Gas and Electric Company (PG&E); San Diego Gas & Electric Company (SDG&E); and Southern California Edison Company (Edison).

### **III. Customer Information Database Workshop Report**

#### **A. Introduction**

D.97-05-040 directed the utilities to make customer information available by two methods. The first method is to release customer information with the identity of the customers removed. The Workshop Report refers to this as the non-confidential database (NCDB). The decision also directed the UDCs to conduct a workshop to develop the specifics of how the NCDB information could be provided. The second method is to release information about a customer's specific usage. This information can be requested by the customer up to two times a year without charge.

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<sup>1</sup> A list of the participants at the pre-workshop meeting and at the workshop appears in Attachment A of the Workshop Report.

<sup>2</sup> As noted in the Workshop Report, those proposals were posted on the Commission's staff Internet site.

<sup>3</sup> Joint comments were filed by Calpine Corporation, Cinergy Services, Mock Energy Services, NorAm Energy Management, Inc., and Stone & Webster Management Consultants. They are referred to herein as Calpine et al.

PG&E, SDG&E, and Edison have their own databases which contain customer identity and usage information. For each customer, each database contains information such as the customer's name, service address, mailing address, meter reading, usage, bill amounts, city taxes, meter number, and account number. Edison's customer database contains a rolling 12 months of historical billing data, while PG&E's customer information database stores a rolling 14 months of historical billing data. SDG&E's customer information database stores a rolling 36 months of historical billing data.

After the conclusion of the workshop, PacifiCorp contacted the UDCs with its position on a number of the issues raised in the workshop. According to the Workshop Report, PacifiCorp expressed its willingness to participate in the NCDB release. According to the Workshop Report, PacifiCorp can provide total monthly usage data for all customer classes, and peak flow data for larger customers. Time-of-use data is only available at the load level. PacifiCorp has a 24-month customer billing and usage history available in its database, and proposes to make available 12 months of customer billing transactions for 1996 in ASCII format.

PG&E, SDG&E, and Edison identified other kinds of information that they have about their customers. The UDCs have surveys and load data that they provide to the CEC annually. The actual surveys can vary by utility and are outlined in a three-year Data Collection and Analysis Plan that is submitted annually to the CEC. The UDCs also perform measurement and evaluation studies to support Demand-Side Management (DSM) programs. The Workshop Report states that the UDCs oppose the release of the survey data.

**B. *Non-Confidential Database Information***

The Workshop Report proposes that NCDB information be made available to anyone requesting the information. For SDG&E and Edison, the Workshop Report states that the data would include 12 months of customer billing transactions for 1996. For PG&E, the NCDB information would include data for the last 12 customer

billing transactions. For customers on time-of-use rate options, the Workshop Report states that the information would include time-differentiated usage.

The Workshop Report proposes that the information to be released would include residential and commercial accounts below 500 kW. In some cases, the value of the information may be limited due to the need for aggregation of location and Standard Industrial Classification (SIC) identifiers. The NCDB information that would be released consists of the customer's zip code, the SIC identifier, the rate category, and the monthly usage. Some of the parties believe that in addition to that information, there is a need for information about the meter reading date, the number of days in the billing cycle, and a code for an estimated or adjusted bill. The Workshop Report states that the UDCs are agreeable to adding the meter reading date or number of days in the billing cycle, but are unable to provide a code for estimated usage or adjusted bills.

The UDCs propose that the process for making NCDB information available should adhere to the principle that a customer's identity should not be able to be determined by the zip code, SIC, the customer's usage pattern, other identifiers, or any combination of these factors. For that reason, the Workshop Report states that the UDCs propose to aggregate the data into higher level identifiers to mask information that could identify a particular customer. For example, for non-residential customers, the display of location would be limited to the first three digits of a zip code, and the display of usage type would be limited to a two digit SIC identifier. If necessary, the UDCs propose to perform additional aggregation to maintain at least 10 customers in each aggregation category. And, if in the UDC's judgment, the customer's identity could still be determined from a usage pattern, the information would not be included in the NCDB information.

The Workshop Report states that the representative from the California Manufacturers Association (CMA) expressed concern about competitors being able to identify specific customers by examining the NCDB information using a regression analysis. CMA supports excluding customers with a load greater than 500 kW from the NCDB. CMA also recommends that the screening criteria adopt the "15/15 rule" to preserve the confidentiality of customers. The 15/15 rule is that the NCDB information

should be made up of at least 15 customers, and a customer's load must be less than 15 % of an aggregation category. If the number of customers in the data is below 15, or if a single customer's load is more than 15% of the total data, further aggregation is required.

The workshop discussed what should occur if the 15/15 rule is triggered. One option is to aggregate the data into a wider geographical area by removing an additional zip code digit. One possible disadvantage is that this could be a signal that the data contains unique information which might reveal the customer's identity through usage patterns or quantity. Another option is to drop those customers from the database, which would prevent identification of the customer. The Workshop Report states that the ESP representatives support aggregating the data into a higher group, while the customer representative from CMA and the UDCs support dropping the customers from the database.

The Workshop Report states that all the participants agreed to the following with respect to NCDB information: (1) the scope of the data to be provided is limited to residential and non-residential customers below 500 kW; (2) geographical information is restricted to a five digit zip code for residential customers and three digit zip code and two digit SIC identifier for non-residential customers; and (3) the 15/15 rule will be added to the screening criteria. There is disagreement among the parties on whether customers should be dropped from the database or aggregated into a higher group when the 15/15 rule is triggered after the data has undergone further screening.

The Workshop Report states that the UDCs request that the Commission issue a decision which orders the UDCs to solicit interest in a NCDB, and to prepare and provide the NCDB to interested parties willing to pay the cost of preparing the NCDB. The Workshop Report states that such a decision should also indicate that the UDCs are not liable for accidental release of confidential data. For example, someone might be able to determine a customer's identity from a usage pattern, or by cross-referencing the NCDB to other kinds of information. The decision should also make clear that the Commission intends to exercise adequate supervision of the UDCs' development of their respective NCDBs to ensure that the need to maintain adequate

confidentiality is balanced with the public interest in making the NCDB available to interested parties.

The UDCs propose that the NCDB information be provided two months following a Commission decision, to allow time for the screening process. The Workshop Report indicates that other parties would like to receive the data as soon as possible.

The UDCs propose that the data be put onto a CD-ROM disk in ASCII file format. The Workshop Report states that the participants support this proposal. ORA recommends that the information also be put on a secure server so that the information can be accessed from the Internet.

The UDCs propose that they compile the customer information and offer it to parties at cost. The UDCs have developed preliminary cost estimates, but these are subject to change if the data includes information not specified in the UDCs' proposal. A firm cost estimate would be developed once the Commission issues a decision. The total cost of developing the database would be passed on to those entities who order the CD-ROMs. The database information would have a license agreement which would prohibit the selling or copying of the data.

#### **1. Position Of The Parties**

AEI contends that residential customer information should be aggregated to a census block level instead of by zip code. AEI contends that this kind of information is important for load planning and the more detailed the information, the more helpful the information will be.

The CEC is concerned that the proposed safeguards for concealing the identity of customers in the NCDB may reduce the usefulness of such information. The CEC fears that the usefulness of NCDB information may be reduced by excessive aggregation of zip code and SIC identifiers. The CEC contends that there are established techniques for decreasing the visibility of such records without unnecessarily decreasing the information value, such as top and bottom coding variables, adding noise and blurring, and other techniques. The CEC recommends that the Commission



order a one-day workshop to be led by a federal Census Bureau expert, or other expert on statistical disclosure techniques. The objectives of the workshop would be to: (1) arrive at the most appropriate non-disclosure rules for the NCDB information; and (2) raise the level of knowledge of disclosure limitation techniques for all parties. From this workshop, the Commission could select appropriate techniques to decrease the risk of disclosure for affected records.

Calpine et al. point out that the Workshop Report states that the NCDB information for SDG&E and Edison would include 12 months of customer billing transactions for 1996, and that for PG&E it would include the last 12 customer billing transactions. Calpine et al. prefer the approach of PG&E because it will provide more recent and timely data, instead of data from 1996. If this cannot be done, Calpine et al. state that SDG&E and Edison should be required to specify a date by which information for the preceding year will become available.

Green Mountain recommends that the charges be capped at the levels suggested in the Workshop Report. If the data is priced at a higher level, it may deter the ESPs from using the data.

ORA asserts that the confidentiality concerns can be addressed with minimal effort. ORA believes that the methods and rules discussed at the workshop may be too restrictive, and could unnecessarily hamper the release of a non-confidential database. ORA asserts that other kinds of less restrictive disclosure techniques can be used. For example, one option is to aggregate the data into a wider geographical area by removing an additional zip code digit or a digit from the SIC. ORA agrees with the CEC that a one-day workshop should be held to discuss statistical disclosure limitation techniques, and to arrive at the most appropriate non-disclosure rules for NCDB information.

ORA believes that NCDB information should be released within one month of a Commission decision, instead of the two month timetable contained in the Workshop Report.

PG&E states that the UDCs will need two months after a Commission decision on customer information has been issued to prepare the NCDB.

This time is needed to enable the UDCs to screen confidential customer data. If a more labor-intensive screening mechanism is adopted, it may take the UDCs more than two months to prepare the NCDB.

Edison states that it is prepared to develop the NCDB information as described in the UDCs' workshop proposal, and that it would include the 15/15 rule. Edison recommends that if the 15/15 rule cannot be met, the customer should be dropped from the database.

## **2. Discussion**

We adopted in D.97-05-040 the requirement that NCDB information be made available to the public by the UDCs. This information is to consist of customer-specific usage information with the identity of the customer removed. The information is to include location information about the customer, and if it is a non-residential customer, the customer's SIC identifier. Such information may be useful to the marketing strategy of the ESPs because it allows the ESPs to determine where electric use is occurring, and the type of entity that is using the electricity.

We first address the type of NCDB information that is to be released. We stated in D.97-05-040 that the database shall contain "customer-specific usage information and locational and Standard Industrial Code information, with the customer's identity removed." (D.97-05-040, p. 96.) The UDCs propose that the information available in the NCDB will consist of: the zip code, the SIC identifier, the rate category, and the monthly usage. For residential customers, this means a five digit zip code for residential customers. For non-residential customers, a three digit zip code and a two digit SIC identifier would be used. The UDCs would also apply the 15/15 rule. The UDCs are also agreeable to including in the NCDB the meter reading date or the number of days in the billing cycle. Any customer whose usage is 500 kW or above would not be included in the NCDB. Under the UDCs' proposals the NCDB information for PacifiCorp, SDG&E, and Edison would include the 12 months of customer billing transactions for 1996, and for PG&E the data would include the last 12 customer billing transactions.

AEI suggests aggregating the NCDB information for residential customers by census blocks rather than by zip code. We do not adopt AEI's suggestion. Although there is software available to arrange data by census blocks,<sup>4</sup> we are not sure that this should be pursued. No one, except for AEI, has complained about making NCDB information available by zip code. If we were to order the UDCs to make residential NCDB information available by census blocks, it is likely that it would take the UDCs some amount of time and expense to manipulate their existing data to produce the information by census block groups. Given the short time remaining before direct access begins, we believe that it is better to have this kind of information made available in a short period of time, rather than to have a finer level of detail that would not be available in a short period of time. Accordingly, the location information for the NCDB should be arranged by zip code.

We see merit in Calpine et al.'s suggestion that the NCDB information reflect the last 12 months of billing, rather than 12 months of data for 1996. All of the UDCs should be required to supply the last 12 months of data, rather than the data for 1996.

The next issue to address is whether the workshop suggested by the CEC and ORA should be held. Although we believe that such a workshop could be beneficial, there is insufficient time remaining to explore how these statistical disclosure techniques can be used. Direct access is to begin on January 1, 1998. The time needed for a workshop and for resolution of the issues raised in such a workshop is likely to delay the development of the NCDB information. For that reason, no workshop should be held.

Turning now to the 15/15 rule, the workshop participants disagree over what should happen if after the data is subjected to the 15/15 rule, the rule is still triggered. The ESPs support aggregating the data into a wider group by removing an

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<sup>4</sup> See D.95-07-050 at page 51, and D.96-10-066 at page 115.

additional zip code digit, while the UDCs support dropping the customer from the NCDB. Both positions have their drawbacks. Aggregating the customer data further by removing a zip code digit calls attention to the data that someone is using a large amount of electricity. CMA fears that the identity of the customer can be determined in such a case. If the customer is dropped from the NCDB, no information about this customer would be included in the NCDB.

We believe that if the 15/15 rule is triggered for a second time after the data has been screened once using the 15/15 rule, that customer should be dropped from the NCDB. Our reason for doing so is similar to the reason for excluding from the NCDB those customers whose usage is more than or equal to 500 kW. That is, one should not be able to determine who the specific customer is when the NCDB is being used.

The UDCs believe that they can make the NCDB information available within two months of a Commission decision. Some of the other participants feel that the information should be provided sooner. We believe that this information should be made available sooner, rather than later. Since direct access is scheduled to begin on January 1, 1998, the NCDB is needed now so that new market entrants can avail themselves of such information. The UDCs should therefore be required to have the NCDB information available within 45 days from the effective date of this decision.

We will adopt the UDCs' proposal, as amended by the Workshop Report and as discussed above, as to the kind of information that the UDCs shall make available to the public using the NCDB.

The UDCs propose to charge those who want the NCDB information a fee equal to the UDCs' costs of producing this information. We will authorize the UDCs to compile the NCDB, and offer it to parties at cost. Before doing so, the UDCs should develop a firm cost estimate for compiling and producing such information, and determine how many ESPs will purchase such information before proceeding.

Our procedures for the development of the NCDB information balance the need for maintaining customer confidentiality with the need for making

information about electricity usage available to the public. Although we have attempted to mask as much customer-identifying information as we can from the NCDB, someone may still be able to manipulate the NCDB information to uncover a specific customer's identity. The UDCs should be permitted to indicate in their NCDB tariffs that the UDCs are not liable for the release of confidential information that may occur in this manner if they adhere to the following: (1) the utility has taken all the protective steps we have required, and (2) despite those protections, someone has manipulated the data to derive confidential information.

**C. Release Of Specific Customer Data**

In D.97-05-040, the Commission approved the utilities' proposals to provide basic customer information up to two times a year per customer account, at no cost to the requesting party.<sup>5</sup> The utility would have the opportunity to recover those costs by tracking them under the Industry Restructuring Memorandum Account (IRMA) subaccounts. (D.97-05-040, pp. 74-76.)

The basic customer information includes the customer's name, service and billing address, account number, and 12 months of historical metered usage. A detailed listing of the data that the UDCs anticipate including in the standardized report is listed in Appendix B of the Workshop Report.

The UDCs propose that information containing a customer's identity be released only if the customer gives written authorization. Such information would be made available to the designee specified in the written consent. Edison requires that a signed consent form be submitted, while PG&E and SDG&E propose that the customer sign a consent on the customer's letterhead. The UDCs would also treat a direct access service request (DASR) submitted by an ESP as authorization for the UDC to release customer-specific information to the ESP. The UDCs propose that the recipients of

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<sup>5</sup> The workshop report states that if the information is requested more than twice a year, the revenues generated from additional requests will be used to offset the memorandum cost account.

confidential customer information should maintain the level of confidentiality agreed to by the customer, and that further release of such data is prohibited without explicit customer consent.

The Workshop Report states that the participants to the workshop agree with the categories of data that will be made available.

The UDCs propose to provide this information within 10 working days, depending on the complexity of the request. The customer-specific information would be provided in ASCII format via diskette or by access to a secure Internet site.

#### **1. Position Of The Parties**

Calpine et al. suggest that if the customer is a non-residential customer, the information release should include the name of the customer's authorized representative and telephone number. They contend that this will facilitate the implementation of direct access for both customers and the ESPs who hope to serve them.

Calpine et al. also support the statement in the Workshop Report that a DASR can be used as a proxy to release customer information.

Calpine et al. agree that customers and ESPs should have an understanding regarding the confidential customer information that is supplied to the ESPs. However, they do not believe that the Commission should attempt to direct the contractual relations that exist between non-regulated entities, such as ESPs, and their customers.

#### **2. Discussion**

In D.97-05-040, we approved the UDCs' proposal to provide the requesting customer with basic customer information. We defined the basic service information as PG&E and Edison had suggested, namely: the customer's name, service and billing address; telephone number, if available; account number; and historical metered usage. (D.97-05-040, pp. 73-74.) The Workshop Report states that the UDCs will also provide information about the voltage level of service, the UDC tariff, the load

profile category, and basic metering information. The format of the information the UDCs propose to disclose is contained in Appendix B of the Workshop Report.

Calpine et al. suggest that a customer contact be included in the release of information. We decline to do so.<sup>4</sup> Under the procedures we have adopted for the release of information, the customer must consent to the release of information, and will designate which ESP is to receive the customer's information. There is no need to include the contact information because the contact will have already communicated with the ESP.

We will adopt the list of information contained in Appendix B of the Workshop Report as the kind of customer information that must be provided as required by Ordering Paragraph 5.l. of D.97-05-040.

The Workshop Report indicates a slight difference between the procedures that the UDCs plan to follow in order to release information to the customer or to the customer's designee. A consent form to release the information, which is signed by the customer, is acceptable to PG&E, SDG&E, and Edison. A request on a customer's letterhead and facsimile authorizations are acceptable to PG&E and SDG&E. The UDCs would also treat a DASR submitted by an ESP as authorization for the UDC to release customer-specific information to the ESP.

We believe that there should be statewide uniformity in the manner in which requests to release customer information are handled. Such uniformity will avoid the problem of an ESP operating throughout the state having to know the individual rules of each UDC. A consent form, or a letter from the customer on the customer's letterhead, which is signed by the customer, and which contains account information that assures the UDC that the customer signing the letter is indeed the same customer whose information is to be released, should be acceptable to all UDCs. In addition, a facsimile of such an authorization that is received by the UDC should

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<sup>4</sup> We decline to have the UDCs make available the customer contact for NCDB information. One of the purposes of the NCDB information is to mask the identity of the end-use customer.

suffice. In addition, a DASR submitted to the UDC by the ESP should be sufficient for the UDC to release the customer's information to the ESP.

To prevent the unauthorized use of confidential customer information, we shall permit the UDCs to include in their tariffs or to include in the released information a statement that the information contains confidential customer information and that the information is not to be released to anyone else without the customer's explicit consent. Such a provision is consistent with Public Utilities (PU) Code § 394.4(a), which was added recently by Senate Bill 477. (Stats. 1997, ch. 275, § 19, p.23.)

The cost recovery of providing specific customer information was previously addressed in D.97-05-040 at pages 74 to 77.

**D. *Survey And Research Load Data***

In addition to the release of specific customer data, some of the participants would like access to any DSM surveys or specific studies undertaken by the utilities that a customer may have participated in. The utilities, as part of the CEC's Data Collection and Analysis Plan, conduct surveys which pertain to load metering and customer end-use. The load metering survey addresses such topics as hourly system demand, hourly sector load estimates, and air conditioner profiles for both residential and commercial customers. The end-use survey collects information about the types of appliances or uses that the electricity was used for. The utilities have also performed measurement and evaluation studies as part of the DSM programs. These studies include load impact evaluations and market transformation studies.

The Workshop Report states that in most cases, an assurance of confidentiality was necessary to obtain customer participation, and that customers were not notified that detailed data collected about the customers' facilities would be made public. The UDCs point out that this data is not in a single database, nor is it integrated with the billing data. They contend that it would require significant manual labor to compile this data into a single database. The representative from CMA expressed concern that customers may not want some or all of the DSM information released.



Others felt that the release of this kind of survey information was important, and that if customers had paid for this type of survey information through rates, they should have access to this information. In the future, the UDCs suggest that the release of DSM survey information be coordinated with the Energy Efficiency Board (EEB).

The CEC staff and ORA propose that the DSM data could be made available through a non-confidential type of release similar to that of non-confidential data. The Workshop Report states that ORA's proposal is based on the premise that data confidentiality relates primarily to some of the commercial on-site surveys which collected data about specialized end-use equipment. As for residential surveys, most have been used to collect general information that is not detailed enough to raise concerns about customer identification.

Several of the ESPs want access to load research sample data. Load research measures and evaluates the load of the utility within a particular time frame. The UDCs object to providing load research sample data because if there is systematic marketing by the ESPs to the customers being sampled, the sample data may become unreliable and biased.

#### **1. Position Of The Parties**

AEI contends that the survey information is important for market analysis and load planning. AEI points out that historically the survey response was high because of the good relationships between the UDCs and their customers. Under the new market structure, surveys may be conducted by entities other than the UDCs.

AEI suggests that the Commission develop privacy requirements for energy survey data collection. AEI believes that the primary requirement should be that the information collected for use by an energy company should not be transferred to a non-energy company for any other purpose unless that purpose is made known in advance to the survey respondents. Those entities who are willing to abide by such requirements could then be authorized to say that they are collecting data under the

auspices of the Commission. Such an authorization is likely to increase the number of respondents to a survey.

The CEC points out that the UDCs are opposed to the release of survey and load research data that was gathered at ratepayer expense to support DSM, forecasting, and rate design. The CEC acknowledges the UDCs' concerns about confidentiality and processing expenses, but recognizes the value of this information to market participants and to the customers who participated in these surveys. The CEC believes that the survey and load research data is the property of ratepayers, and that it should be made available to the industry for the benefit of the new energy marketplace, with appropriate provisions for confidentiality and recovery of processing costs.

Calpine et al. would like the load research sample data to be released. They contend that the UDCs' objection, that the release of such information will result in the systematic identification of sample points and lead to a bias in the sample, is unlikely to happen. Moreover, if the load research sample customer wants to elect direct access, the customer can make that information known by consenting to its release.

ORA contends that the data to be released should include both all available load research sample data by rate schedule and DSM survey data. ORA contends that if the customer gives written authorization to release DSM survey data, it should be incumbent upon the UDC to release this information. ORA believes that virtually all of the residential survey data, and most of the commercial survey data, can be released without any concern about violating a customer's confidentiality. Such information should be released in a timely manner, and any utility charges should be limited to incremental cost.

The UDCs oppose the release of the survey information because of cost and confidentiality concerns, among other things. PG&E contends that the Commission did not mandate the release of DSM information in D.97-05-040. PG&E also argues that this survey information would not be useful given the small percentage of customers for which PG&E has DSM survey data. PG&E states that in recent years, less than one percent of commercial buildings and less than one-half of one percent of

residential customers have provided detailed appliance characteristics and uses. PG&E points out that there are numerous sources of aggregate DSM data that are publicly available. This information is available from both the CEC and the Department of Energy's Energy Information Administration.

The UDCs argue that the customers who took part in the surveys did not expect that individual survey responses would be made available to the public, and to make such information available now would be unfair to those customers who expected that their responses would remain confidential.

Although some proponents of releasing this survey information contend that portions of the survey data could be masked to prevent the release of a participant's identity, SDG&E asserts that it is impossible in practical terms to mask sufficient fields to assure that a customer's confidentiality can be maintained. One reason for this is because SDG&E's surveys are not connected with the customer's account information.

Edison commented that the release of survey data presents a problem because a customer may want to release usage data, but not divulge information about its production processes. Edison contends that it is more efficient and cost effective for marketers to ask the customer directly for additional information. In addition, there are no linkages between billing system databases and survey information, and significant resources and costs would be required to integrate the data.

PG&E states that if the Commission orders the UDCs to release the DSM survey data as part of the customer-authorized reports, PG&E will not be able to complete the reports within 10 days of the request because of the labor-intensive nature of producing the DSM data. Also, if the Commission orders any other information to be released, PG&E will not be able to produce the information if it is not readily available or if it is labor-intensive to produce.

The UDCs suggest that any future discussions regarding the use of this kind of survey data be coordinated with the EEB since the EEB will be responsible for conducting DSM surveys in the future. The UDCs contend that if the Commission

concludes that there is a public interest in releasing the DSM information to market participants, the Commission should direct the EEB to build information release procedures into the DSM survey design.

SDG&E and Edison also oppose the proposal that the UDCs release load research sample data. They point out that these rate class samples are the basis for the load profiles to be used in place of metering for residential and small commercial customers who choose direct access. These load profiles will also be used as the basis for the calculation of the average Power Exchange prices, which in turn affect residual Competition Transition Charges (CTC). The load research sample also forms the basis for current rate design and cost allocation. SDG&E and Edison contend that the release of this information will introduce systematic bias into the rate class samples which form the basis for the Commission-approved load profiles and may result in higher unaccounted-for energy. The bias is likely to result because the sample points are unlikely to reflect the behavior of the sample as a whole. SDG&E asserts that this bias will create cost-shifting which harms ratepayers.

## **2. Discussion**

We first address whether the DSM surveys, and the other surveys conducted by the utilities, should be disclosed or not. Based on the information before us, it appears that the customers who participated in the surveys for DSM purposes and for the CEC's Data Collection and Analysis Plan did so voluntarily with the understanding that the information would not be disclosed to the public. Had survey participants known that their answers would be made public, they may not have participated in the survey at all. We are concerned that some of these survey results may contain information about the production processes of the survey participants which they may have wanted to keep confidential.

PG&E also raised an important point about the DSM-related surveys. D.97-05-040 did not mandate the release of this kind of survey information. Parties previously had an opportunity to comment on the rules and mechanisms governing access to customer information. (See D.97-050-040, p. 72.) None of the

comments to the August 30, 1996 Direct Access Working Group Report suggested that market participants have access to this kind of survey information. PG&E also points out that similar kinds of aggregated DSM data are publicly available.

For the reasons cited, we decline to require the UDCs to make the DSM surveys or similar kinds of utility surveys available to the public. Whether future survey results should be made available is an issue that the Commission and the EEB should address and coordinate.

We do not believe that the load research sample data should be made available at this time. The load research data forms the basis for allocating costs and designing rates. The UDCs also contend that this data will be used for load profiling in the future. We have balanced the need for this information with the need to keep this information sheltered so that the sampling remains reliable. This is especially important because of our upcoming reliance on load profiles. Therefore, we decline to order the UDCs to make their load research sample data available.

**E. *Opt-In Confidential Database***

The CEC staff presented a proposal at the workshop which would create a database of customers who want to be contacted by ESPs. Customers who want to be contacted by ESPs would check off a release form which provides for a blanket release of their confidential information to all registered ESPs or some subset of ESPs that the customer selects. The CEC staff proposes that the ESPs who obtain this information be required to sign an agreement to use the data solely for the ESP's own marketing purposes, and not to disseminate the information to other parties.

This opt-in procedure would come about through the use of bill inserts and reply cards to inform customers of the purpose of the database and to allow customers the opportunity to have this information released. The bill insert would be coordinated with the Customer Education Program (CEP) and reviewed by the Commission's Energy Division to ensure that this process is unbiased.

The Workshop Report states that if ordered by the Commission, the UDCs would conduct a mailing campaign to all customers to identify those who are interested

in participating in an opt-in database, and would create a confidential database containing the same data elements described earlier. If the opt-in solicitation proposal is adopted, the UDCs recommend that it not be instituted before the second quarter of 1998. This will allow time for customer education to take place, and the opt-in will not interfere with the other aspects of implementing direct access.

The cost and cost recovery of the opt-in proposal were discussed during the workshop, but no agreements were reached.

#### **1. Position Of The Parties**

The CEC recommends that the Commission order the UDCs to work with interested parties to develop a specific proposal for creating an opt-in confidential database. The CEC contends that the opt-in proposal as discussed in the Workshop Report did not adequately convey the rationale for the CEC proposal. The CEC states that the following five points support the adoption of the opt-in proposal:

1. Creating an opt-in database would satisfy the requirement of D.97-05-040 that a customer be able to provide its information to all ESPs.
2. Access by market participants to this information is necessary to mitigate the UDC's marketing advantage.
3. If the opt-in procedure is linked with the CEP, the impact of the opt-in database on PU Code § 376 costs may be substantially reduced.
4. The opportunity for consumers to identify themselves to the market as interested early adopters can stimulate small customer participation, as well as opportunities for emerging ESPs.
5. The opt-in mechanism can easily allow customers to specify marketing preferences, such as an interest in renewables, or no contact by telephone.

The CEC contends that the critics of the opt-in proposal emphasize the cost to carry out such a process. However, those critics ignore the offsetting savings and benefits of having more customers and ESPs participating in direct access.

ORA supports the opt-in confidential database proposed by the CEC. ORA suggests that the opt-in forms be included in the customer education

materials that will be distributed starting in the Fall of 1997, and that a discussion of this process be included in a topic to be covered in the CEP.

PG&E opposes the opt-in confidential database. PG&E asserts that such a database would be very expensive and time consuming to produce. PG&E contends that the Commission should consider an opt-in database only if it appears that there is insufficient direct access activity.

SDG&E opposes the CEC's proposal to create an opt-in confidential database. SDG&E argues that such a proposal will be costly to produce, and that the UDCs would seek recovery for these costs under PU Code § 376. SDG&E also argues that this proposal should not be included in the CEP since the details and funding of the CEP have already been determined.

Edison does not believe that the opt-in proposal should be adopted at this time. Developing such a database will create additional direct access implementation costs which are probably not justified by the limited value of this information.

## **2. Discussion**

We believe that the opt-in proposal of the CEC has merit, and that the opt-in concept should be adopted by the Commission. The opt-in confidential database will allow those consumers who want more information about direct access to obtain that information directly from the ESPs. The proposal will also help lower the barriers to entry in the direct access market by providing the ESPs with the opportunity to market directly to a group of interested consumers.

The opt-in procedure will help to mitigate the marketing advantage of the UDCs. We recognized in D.97-05-040 at page 15 that "the investor-owned electrical corporations might have a distinct advantage in the direct access market in terms of established customer relationships, customer contact, and customer information." Such an advantage could result in an advantage for marketing activities and customer retention programs. Adopting the opt-in procedure will help to level the competitive playing field by providing the ESPs with an opportunity to market directly

to those consumers who are interested in receiving more information.<sup>7</sup> The opt-in procedure is also consistent with the policy behind electric restructuring of offering customers a choice of providers.

We agree with the UDCs that the opt-in procedure need not be implemented immediately. However, we disagree with the UDCs that the establishment of the opt-in confidential database should be delayed until the second quarter of 1998. We believe that the opt-in procedure should be started sometime in the first quarter of 1998 to take advantage of the momentum of the CEP. The opt-in sign up in the first quarter of 1998 will coincide and follow closely on the heels of the media spots from the Customer Education Program, as well as related stories about electric restructuring. Another reason for not implementing the opt-in proposal right away is that it will provide us with an opportunity to decide what procedures should be followed to inform consumers about the opportunity to sign up to receive information from ESPs,<sup>8</sup> how the opt-in procedure can be coordinated with the CEP mailings, who will maintain and release this information, and what safeguards should be instituted to prevent the database from being resold.

We will adopt the concept of the opt-in confidential database proposed by the CEC. Persons interested in proposing how the opt-in confidential database should be set up and operated may file comments within 90 days from today. Interested persons may file responses to those comments within 20 days of the filing of the comments. We shall delegate to the assigned Commissioners the task of evaluating the proposals as to how to operate the opt-in confidential database, and to issue any

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<sup>7</sup> The opt-in procedure finds a parallel with the opt-out procedure that is contained in Senate Bill 477 (Stats. 1997, Ch. 275.) Senate Bill 477 added Public Utilities Code Section 394.7, which directs the Commission to maintain a list of residential and small commercial customers who do not wish to be solicited by telephone by an electric corporation, marketer, broker, or aggregator.

<sup>8</sup> For example, should a bill insert be used, or should the CEP direct mass mailing contain a response card that consumers can check off and return? Or should some other procedure be used?



necessary rulings to carry out the tasks of establishing and operating the opt-in confidential database.

***F. The Independent Clearinghouse Proposal***

The Workshop Report also addressed a proposal by AEI and Decision Sciences Research Associates (DSRA) to create an independent clearinghouse that would be the repository of all UDC customer information. The clearinghouse would process the information to protect confidentiality, and release the information in standardized record formats to interested market participants. The information would include both metering/billing data and survey data. According to this proposal, AEI and DSRA plan to merge and make themselves available as the clearinghouse if such a proposal is adopted by the Commission.

The cost of the clearinghouse would be recovered from market participants, from the prices charged for the information releases, and from fees charged to the UDCs.

The Workshop Report states that one of the objectives of the clearinghouse is to relieve the UDCs of their responsibility to release customer-specific confidential information, or customer information from the NCDB. The ESPs could be required to contribute information to the clearinghouse once the market begins, or the ESPs might find it in their interest to do so.

The Workshop Report states that one of the concerns about the clearinghouse is the requirement that the UDCs would fund a portion of the clearinghouse's costs. The UDCs' recovery of such costs could come from the provisions of PU Code § 376. There were also concerns about how prices for this information would be established since the clearinghouse would be in a monopoly position.

**1. Position Of The Parties**

AEI contends that a central clearinghouse for managing energy information flow would be more efficient than separate data request processing by the UDCs. Under the proposal contained in the Workshop Report, the ESPs have to submit separate customer data request lists to each of the three UDCs to obtain customer

information. AEI contends that this process could be performed more efficiently if all the UDCs transferred their customer information files, including billing information, to a central customer information clearinghouse.

AEI contends that such a process will result in cost efficiencies in data processing, that it will decrease the ESP costs of interacting with separate UDC entities, that it will facilitate the standardization of confidentiality procedures for all UDCs, and that it will make it easier for the Commission to regulate the flow of information from the UDCs. AEI argues that the UDCs have no profit incentive to provide a quick turnaround of the information request.

PG&E opposes the proposal to create an independent energy clearinghouse. PG&E asserts that there are several important unanswered questions about such a proposal, including the following: (1) could a clearinghouse be fully operational by January 1, 1998; (2) what consumer protection mechanisms would be established to ensure that the clearinghouse does not release sensitive customer confidential information; (3) would the Commission have any jurisdiction over this independent clearinghouse to ensure appropriate oversight of customer information maintenance and release; and (4) how much would the clearinghouse charge for releasing that kind of information? PG&E also sees no benefit in introducing a middleman between the UDCs and customers or ESPs who seek customer information.

## 2. Discussion

We do not see the need for a separate clearinghouse for customer information at this time. Another entity to act as a buffer between the UDCs and the parties requesting the information is not needed. By keeping the information in the hands of the UDCs, we are assured that we have continuing regulatory jurisdiction over this customer information. If a non-utility clearinghouse were established, such as the one proposed by AEI and DSRA, the Commission would lose regulatory oversight of this customer information. Given the highly sensitive and confidential nature of this customer information, we decline to adopt the proposal to create a clearinghouse to process and release customer information.

### **Findings of Fact**

1. D.97-05-040 adopted the requirement that basic customer information be made available to the ESPs upon written authorization by the customer.
2. D.97-05-040 also adopted the requirement that the UDCs offer all ESPs a database containing customer-specific usage information with location and SIC identifiers, but with the customer's identity removed.
3. A workshop to address the specifics of the customer information database, the cost of providing such information, and the timing for providing such information was held on July 21, 1997.
4. The Workshop Report was filed on August 14, 1997, and comments on it were filed by various parties.
5. The NCDB is to contain customer information with the identity of the customers removed.
6. The 15/15 rule is that the NCDB information should be made up of at least 15 customers, and a customer's load must be less than 15 percent of an aggregation category.
7. Due to the short time before direct access begins, the NCDB information should be aggregated by zip code rather than by census blocks.
8. The NCDB information should reflect the last 12 months of billing, rather than 12 months of data for 1996.
9. Due to the short time before direct access begins, a workshop on statistical disclosure techniques should not be held.
10. The UDCs should be required to have the NCDB information available within 45 days from the effective date of this decision.
11. The adopted procedures for the development of NCDB information balances the need for maintaining customer confidentiality with the need for making information about electricity usage available to the public.
12. Basic customer information includes the customer's name, service and billing address, account number, and 12 months of historical metered usage.

13. The UDCs propose that the data information format contained in Appendix B of the Workshop Report be released when there is a request for specific customer data.

14. There is no need to include the customer contact as part of the release of customer-specific information, or as part of the NCDB information.

15. The UDCs have surveys and load data that they provide to the CEC, as well as other studies that are used to support DSM programs.

16. It appears that the customers who participated in the surveys for DSM purposes and for CEC data collection did so with the understanding that the information they provided would not be disclosed to the public.

17. Some of the information contained in the surveys may contain confidential information about the production processes of the survey participants.

18. D.97-05-040 did not mandate the release of survey information.

19. Load research data forms the basis for allocating costs and designing rates, as well as for load profiling.

20. The need for public release of load research sample data has been balanced with the need for reliable load samples.

21. The CEC staff has proposed to create a database of customers who want to be contacted by the ESPs.

22. The CEP is designed to educate consumers about the changes taking place in the electric industry and to stimulate interest and participation in direct access.

23. The adoption of the opt-in confidential database proposal will help lower the barriers to entry in the direct access market.

24. The opt-in procedure will help to mitigate the marketing advantage of the UDCs by providing the ESPs with an opportunity to market directly to those consumers who are interested in receiving more information.

25. The functions of an independent clearinghouse are to be the repository of all UDC customer information, to process the information to protect confidentiality, and to release the information in standardized formats to interested market participants.

26. There is no need to create another entity to act as a buffer between the UDCs and the parties requesting customer information.

### **Conclusions of Law**

1. If the 15/15 rule is triggered for a second time after the data has been screened once already using the 15/15 rule, that customer should be dropped from the NCDB.
2. One should not be able to determine who the specific customer is when the NCDB is being used.
3. The UDCs' proposal for the NCDB, as amended by the Workshop Report, and as discussed in this decision, should be adopted.
4. The UDCs should be permitted to indicate in their NCDB tariffs that the UDCs are not liable for the release of confidential information if the utility has taken all the protective steps we have required, and despite these protections, someone is able to manipulate the data to derive confidential information.
5. Appendix B of the Workshop Report should be adopted as the kind of customer information that must be provided when specific customer information is requested.
6. There should be statewide uniformity in the manner in which requests to release customer information are handled.
7. A consent form, or a letter from the customer on the customer's letterhead, which is signed by the customer, and which contains account information that assures the UDC that the customer signing the letter is the same customer whose information is to be released or a facsimile of such an authorization, should be acceptable to all UDCs,.
8. The UDCs should be permitted to include in their tariffs or to include in the released information a statement that the information contains confidential customer information and that the information is not to be released to anyone else without the customer's consent.
9. Such a notation is consistent with PU Code § 394.4.
10. The UDCs shall not be required to make DSM surveys or similar kinds of utility surveys available to the public.
11. The UDCs shall not be required to make load research sample data available to the public at this time.
12. The opt-in confidential database concept should be adopted.

13. By keeping customer information in the hands of the UDCs, we can ensure that the Commission retains continuing regulatory jurisdiction over this customer information.

14. If a non-utility clearinghouse were to be established, the Commission would lose regulatory oversight of the customer information.

15. The proposal to create a clearinghouse shall not be adopted because of the highly sensitive and confidential nature of the customer information.

## O R D E R

### IT IS ORDERED that:

1. In accordance with Ordering Paragraph 5.l. of Decision (D.) 97-05-040, the utility distribution companies (UDCs) shall be required, upon written authorization of the customer, to disclose to the designated electric service provider (ESP) the customer's basic customer information.

- a. For the purposes of disclosing information, the term "basic customer information" shall include all of the information fields that are contained in Appendix B of the Customer Information Database Workshop Report filed on August 14, 1997.
- b. The term "written authorization," as used above, shall mean a consent form, or a letter from the customer on the customer's letterhead, which is signed by the customer, and which contains account information that assures the UDC that the customer signing the letter is indeed the same customer whose information is to be released. A facsimile of a signed consent form or customer letter that is received by the UDC shall also serve as written authorization. In addition, a completed direct access service request submitted by an ESP to the UDC shall serve as written authorization for the UDC to release customer-specific information to the ESP.
- c. The UDCs shall be permitted to include in their tariffs or in the released customer information a notation that the information contains confidential customer information and that the information is not to be released to anyone else without the customer's explicit consent.

2. In accordance with Ordering Paragraph 5.l. (1) of D.97-05-040, the UDCs shall be required to offer to all ESPs information developed on a non-confidential database

(NCDB) which contains non-identifiable customer usage, location, and Standard Industrial Classification (SIC) information.

- a. The information available in the NCDB will consist of the following:
    - 1) For residential customers, the five digit zip code, the rate category, the monthly usage, and the meter reading date or the number of days in the billing cycle.
    - 2) For non-residential customers, the first three digits of the zip code, the first two digits of the SIC, the rate category, the monthly usage, and the meter reading date or the number of days in the billing cycle. The 15/15 rule, as described and discussed in the text of this decision, shall apply to the non-residential accounts that appear in the NCDB.
    - 3) The NCDB information shall reflect the last 12 months of billing data.
    - 4) The NCDB information shall be made available within 45 days from the effective date of this decision.
  - b. No customer whose usage is 500 kW or above shall be included in the NCDB.
  - c. The UDCs are authorized to compile the NCDB, and offer it to parties at cost. Before doing so, the UDCs should develop a firm cost estimate for compiling and producing such information, and determine how many ESPs will purchase such information before proceeding with the development of the NCDB.
  - d. The UDCs shall be permitted to include in their tariffs that the UDCs are not liable for the release of confidential information if the utility has taken all the protective steps we have required, and despite those protections, someone is able to manipulate the data to derive confidential information.
3. An opt-in confidential database shall be created which permits consumers to choose if they want to receive information from ESPs.
- a. Interested persons may file comments with the Docket Office within 90 days from today's date on how the opt-in confidential database should be established and administered.
  - b. Interested persons may file responses to the above comments within 20 days of the filing of such comments.

- c. The assigned Commissioners are delegated with the responsibility to establish the procedural details of how the opt-in procedure should be established and carried out, and may issue whatever rulings are necessary to effectuate the opt-in confidential database.

This order is effective today.

Dated October 9, 1997, at San Francisco, California.

P. GREGORY CONLON

President

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEEPER

RICHARD A. BILAS

Commissioners