

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

**INFORMATION AND  
MANAGEMENT SERVICES DIVISION**

**RESOLUTION M-4797  
NOVEMBER 4, 1999**

**RESOLUTION**

**Alternate Resolution M-4797. An annual fee of \$1,000 for registered electric service providers is adopted pursuant to public utilities code 394.3(b) and ordering paragraph 17 of decision 98-03-072.**

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**SUMMARY**

By this Resolution the Commission approves an annual fee of \$1,000 for registered Electric Service Providers [ESPs] for the year beginning September 1, 1999.

**BACKGROUND**

The Commission, by Public Utilities [PU] Code 394.3, is required to determine annually the costs of administrating the ESP registration program. The Commission is to collect from registered ESPs only those costs that are not already being collected elsewhere.

Ordering Paragraph 17 of Decision [D.] 98-03-072 directs the staff to prepare a resolution annually "setting forth the charge that will be imposed on *all* registered ESPs" [emphasis added] for the year beginning September 1, 1998. In emphasizing the need to limit the costs to those specified by the code, D.98-03-072 states, "Higher fees will discourage new entrants from entering the market, and is contrary to our goal of opening the electricity market to more robust competition." [mimeo, p. 38]. The decision also notes that retroactive fees could discourage market entry.

**NOTICE**

The notice for this Resolution was given by serving the draft of it to all ESPs and the service list of Order Instituting Rulemaking [OIR] 94-04-031, and by publication in the Commission's daily calendar.

**DISCUSSION**

**Costs**

The estimated recoverable costs of the ESP registration program, including the start-up costs, for the 12-month period ending August 31, 1998 amount to about \$977,000. Those costs include overhead and staff salaries for administering and enforcing the registration program as well as analyses to assist consumers. Costs incurred by the Legal Division and Information and Management Services Division staff are not included. To a large extent the costs represent start-up costs. They reflect such things as the impact of the interim standards of D.98-03-072 and the development of enforcement procedures. The developing market, however, continues to change.

The costs are broad estimates based on generalized data. While it would be possible to refine the estimates, it is not warranted because full cost recovery is not a viable option at this time, as the resulting high fee could be a considerable barrier to market entry. Full cost recovery in the future is a possibility for which we will require more accurate accounting of costs. We note that more accurate data are starting to be recorded by the Commission's Fiscal Office since conversion to the CALSTARS accounting system. The latest preliminary figures from CALSTARS suggest a 12-month ESP related expense in July, 1999, of about \$1,268,800. CALSTARS captures ESP costs through program cost allocation codes. Future annual assessments should consider CALSTARS data.

**Number of Registered ESPs**

The status of registered ESPs as of July 31, 1999, were as follows:

Active	32
Inactive	<u>73</u>
	105
Suspended	<u>151</u>
	256
Cancelled	<u>45</u>
Total	<u>301</u>

All registered ESPs are to be assessed an annual fee, including those whose registration is inactive or suspended. Only those ESPs who have voluntarily cancelled their registration or whose registrations were revoked are no longer registered.

### Market Penetration

At June 30, 1999, approximately 127,000 small commercial and residential customers were being served by the ESPs. Those direct access customers represent about one percent of the residential and small commercial customer base.

### Analysis

The Commission in D.98-03-072 directed the staff to "...exercise caution in determining what costs should be included in the calculation of the annual fee." [Mimeo, page 37]. It also noted that administering the registration program could entail activities that could drive annual fees so high as to "discourage new entrants from entering the market [which is] contrary to our goal of opening the electricity market to more robust competition." [Mimeo, page 38].

Considering the high ESP-related program costs, it would be counterproductive to attempt to recover the full cost of the program at this time. For example, it can be seen that distributing the cost equally to all registered ESPs would result in a fee of \$3,816 (i.e., \$977,000/256), or \$4,956 [i.e., \$1,268,800/256] -- depending on whether the mid-1998 or mid-1999 costs are applied -- an amount that may well discourage market entry. The annual fee, therefore, should be limited to partial cost recovery.

As this market is still new, and market penetration is limited, it would be prudent to establish an annual fee of \$1,000, which is below full cost recovery and should not discourage new entrants in the market. At the same time an annual fee of \$1,000 would not be insurmountable and would be more reflective of fees and licenses a firm would pay to participate in a market.

The inactive and suspended classifications are not meant to be permanent. A nominal annual fee would be an inducement to those ESPs either to continue to pursue active status or request cancellation. It would be reasonable to assess those ESPs a \$1,000 annual fee.

### Annual Fee

We recommend an annual fee of \$1,000 for the year beginning September 1, 1999 for active, inactive, and suspended ESPs. We also recommend that the \$1,000 fee be charged to the ESPs on an annual basis until the Commission decides to change the amount through another resolution.

The maximum amount of funds that would be generated by these fees is approximately \$256,000 [= 256 x \$1,000] or about 26 percent of our estimated mid-1998 annual cost of administering the registration program, which includes the start-up costs, or 20 percent of mid-1999 annual ESP-related costs.

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Even though cost recovery would be low, it would be prudent to establish accounting procedures to track the receipt and disbursement of funds. Proper accounting procedures will enable the Commission to disburse funds so as to support the program as the direct access market matures. The Information and Management Services Division together with the Energy Division should jointly establish accounting and administrative procedures for such purpose. The CALSTARS accounting system should be used to track costs.

### COMMENTS

The draft resolution of the Information and Management Services Division in this matter was mailed to the all the registered ESPs in accordance with PU Code 311[g]. No comments were filed with the Commission for this resolution.

### FINDINGS

1. Public Utilities Code Section 394.3[b] authorizes collection of annual fees from the Electric Service Providers [ESPs].
2. Annual fees should not be charged retroactively. They should be based on estimates of CPUC's future ESP-related costs rather than the recovery of past costs.
3. Annual fees shall be imposed on all registered ESPs.
4. ESPs who voluntarily cancelled their registration or whose registration was revoked are not registered.
5. An annual fee should be levied against ESPs whose registration status is active, inactive, or suspended.
6. An annual fee should not be so high as to discourage new entrants or drive currently registered ESPs out of the market.
7. Inactive and suspended status are temporary categories of registration.
8. A nominal annual fee for ESPs with inactive or suspended status is reasonable as an incentive to achieve active status or request cancellation.
9. An annual fee of \$1,000 is a reasonable for the year beginning September 1, 1999 for active, inactive, and suspended ESPs. This fee should continue to be charged to registered ESPs annually on September 1 of following years until modified by another resolution.

10. Standard accounting procedures should be used to track annual fee funds.

**THEREFORE, IT IS ORDERED that:**

1. Pursuant to Ordering Paragraph 17 of Decision 98-03-072, an annual fee of \$1,000 is adopted for the year beginning September 1, 1999 for registered Electric Service Providers [ESPs] of record on that date. This fee shall continue to be charged to the registered ESPs on an annual basis on September 1 of subsequent years until modified by another resolution.

2. Information and Management Services Division [IMSD], assisted by the Energy Division, shall bill the ESPs by U.S. mail by November 30, 1999.

3. The fee is to be paid by check made out to the California Public Utilities Commission and submitted by December 31, 1999 to the following address:

California Public Utilities Commission  
State of California  
P.O. Box 942867  
Sacramento, CA 94267-7081

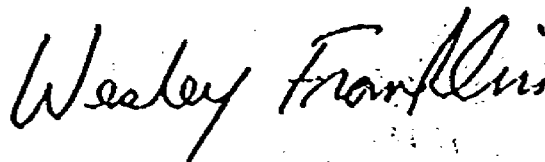
4. An ESP whose fee is not received by December 31, 1999 will be subject to suspension or revocation of its registration.

5. The IMSD shall use standard accounting procedures to track the receipt and disbursement of funds.

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6. This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on November 4, 1999; the following Commissioners voted favorably thereon:



WESLEY M. FRANKLIN  
Executive Director

RICHARD A. BILAS  
President

HENRY M. DUQUE

JOEL Z. HYATT

CARL W. WOOD

Commissioners

I dissent.

/s/ JOSIAH L. NEEPER  
Commissioner