

From: Cherry, Brian K  
Sent: 5/4/2010 5:23:47 PM  
To: 'Clanon, Paul' (paul.clanon@cpuc.ca.gov); Frank Lindh (frank.lindh@cpuc.ca.gov)  
Cc:  
Bcc:  
Subject: RE: Courtesy E-mail Notification in R.03-10-003 -- Comm'r Peevey's Comment Dec. -- CORRECTED NOTIFICATION

Very funny. It's nice to retain ones sense of humor under these circumstances. Today, I got a ACR forcing release of confidential AMI documents publicly, a PD tying our hands on CCA contacts and an ED Report that says we didn't earn \$75 million in incentives but are really on the hook for \$76 million in penalties. Not one of my better days.....

As fir the PD, I haven't gone through it close, but it contains a surprising change and very significant reduction in the minimum opt-out processes required to allow customers to opt-out that I am very worried about. The PD at pp. 9-10 repeals the existing CCA tariff requirement that customers be provided an opt-out process that includes AT LEAST TWO of the following options: (1) Reply letter or postcard enclosed in CCA Customer Notifications; (2) Automated phone service; (3) Internet service; (4) Customer Call Center contact. Instead, the PD replaces these opt-out options with a much more narrow requirement that would allow the CCA to limit the opt-out methods available to customers solely to a reply postcard to the CCA or other "straightforward" means chosen by the CCA: "...the opt out may take the form of a self-addressed return postcard indicating the customer's election to remain with, or return to, electrical energy service provided by the electrical corporation, or another straightforward means by which the customer may elect to derive electrical energy service through the electrical corporation providing service in the area." Thus, under the PD, customers would never have the right or ability to contact PG&E to effectuate their opt-out, even by phone or website; the CCA could control the entire opt-out process by simply limiting the opt-out method to a "reply postcard" or "another straightforward means."

Although the rest of the PD does permit solicitation of opt-outs, including presumably soliciting opt-outs by telemarketing with no "warm" transfer, the ability of the CCA to limit the method by which a customer can opt-out, including prohibiting the customer from effectuating its opt-out by contacting the utility directly, is a very significant, adverse change.

In addition, there is no requirement that a CCA eg CCSF, or Marin in its next phase, provide us with the customer list for their phase. Thus, the Resolution's ban on soliciting customers who have not yet received their initial notifications would effectively preclude us from soliciting any opt outs in a phased CPUC program where the CCA refuses to provide us their customer list.

**From:** Clanon, Paul [mailto:paul.clanon@cpuc.ca.gov]  
**Sent:** Tuesday, May 04, 2010 5:18 PM  
**To:** Cherry, Brian K; Frank Lindh

**Subject:** Re: Courtesy E-mail Notification in R.03-10-003 -- Comm'r Peevey's Comment Dec. -- CORRECTED NOTIFICATION

I know it's disheartening to be Frank, but what did you think of the draft decision?

(Let's keep talking.)

On May 4, 2010, at 5:12 PM, "Cherry, Brian K" <[BKC7@PGE.COM](mailto:BKC7@PGE.COM)> wrote:

Yes. I saw. Disheartening to be frank.

**From:** Clanon, Paul [<mailto:paul.clanon@cpuc.ca.gov>]

**Sent:** Tuesday, May 04, 2010 4:45 PM

**To:** Cherry, Brian K

**Subject:** FW: Courtesy E-mail Notification in R.03-10-003 -- Comm'r Peevey's Comment Dec. -- CORRECTED NOTIFICATION

Brian: Making sure you see this before the discussion with Mike.

As a courtesy, the Commission notifies you that the text of Comm'r Peevey's proposed decision modifying Decision 05-12-041 to clarify the permissible extent of utility marketing with regard to community choice aggregation programs was made available at <http://docs.cpuc.ca.gov/EFILE/PD/117347.htm> on May 4, 2010. A Notice of Availability has been served by mail on all persons on the service list.

In case of problems with this e-mail or the internet link, please contact Jeannie Chang at [jyc@cpuc.ca.gov](mailto:jyc@cpuc.ca.gov), telephone #(415) 703-1220.