BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Rulemaking Regarding Whether, or Subject to What Conditions, the Suspension of Direct Access May Be Lifted Consistent with Assembly Bill 1X and Decision 01-09-060.	Rulemaking 07-05-025 (Filed May 24, 2007)

REPLY OF CALIFORNIA ALLIANCE FOR CHOICE IN ENERGY SOLUTIONS AND THE ALLIANCE FOR RETAIL ENERGY MARKETS TO RESPONSES TO MOTION FOR ORDER DIRECTING THE UTILITIES TO SUBMIT REPORTS ON THE NOTICE OF INTENT PROCESS

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June 18, 2010

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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Pursuant to Rule 11.1(f) of the Commission's Rules of Practice and Procedure, California Alliance for Choice in Energy Solutions ("CACES")[1] and the Alliance for Retail Energy Markets ("AReM") [2] submit this reply to responses to their June 4, 2010, joint motion for an order directing the utilities to submit formal reports on the Notice of Intent ("NOI") process and the recent Open Enrollment Window ("OEW") process.[3] In accordance with the provisions of Rule 11.1(f), CACES/AReM counsel sent an email on June 15, 2010, to ALJ Pulsifer that requested the right to file a brief reply to the June 11 responses to the Motion. By an email response that same day, ALJ Pulsifer granted the request.

Pursuant to the June 7, 2010, Ruling of ALJ Pulsifer,[4] there were two responses to the Motion. The first was filed jointly by the Direct Access Customer Coalition ("DACC"), the School Project for Utility Rate Reduction ("SPURR") and the Energy Users Forum ("EUF").

[1] CACES is the successor organization to the parties who filed and/or supported the original December 6, 2006, Petition asking that the Commission open an investigation into restoring customer access to the competitive retail market.
[2] AReM is a California mutual benefit corporation formed by electric service providers that are active in California's direct access market. The positions taken in this filing represent the views of AReM but not necessarily individual members or the affiliates of its members with respect to the issues addressed herein.
[3] See, June 4, 2010, Motion of California Alliance for Choice in Energy Solutions and the Alliance for Retail Energy Markets for Order Directing the Utilities to Submit Reports on the Notice of Intent Process ("Motion").
[4] Administrative Law Judge's Ruling Granting Motion of California Alliance for Choice in Energy Solutions and the Alliance for Retail Energy Markets to Shorten Time for Responses.

DACC/SPURR/EUF supported the Motion, noting that, "there is a significant need for the Commission, customers, and Electric Service Providers to have access to detailed information related to the conduct and results of the NOI process. The Commission should issue an order directing each of the IOUs to submit a report that contains all of the information contained in the CACES/AReM Motion."[5] DACC/SPURR/EUF also asserted that the list contained in the Motion, while comprehensive, should be further expanded to include several additional items of information relative to each of the utilities' respective service territories. CACES/AReM agrees with and supports the inclusion of these additional items in the proposed OEW reports.

The only other response to the Motion was filed by Pacific Gas and Electric Company ("PG&E"). The utility's very brief response notes that the Energy Division has "already asked PG&E and the other Investor Owned Utilities (IOUs) to provide much of the data requested in the CACES/AReM Motion"[6] and "already requested and received detailed data from PG&E regarding the April 16, 2010 limited reopening of Direct Access (DA)."[7] PG&E goes on to state that the Energy Division "already has this process well in hand and there is no need for additional, duplicative and burdensome reporting by the utilities as proposed by CACES/AReM."[8] PG&E's response concludes that the CACES/AReM Motion creates "a burden with no benefit."[9]

The Commission should reject PG&E's claims that approval of the Motion would be burdensome and provide little benefit. First, many customers and their potential competitive suppliers are genuinely concerned that their NOI submissions were rejected, even though they submitted them at the first possible moment that NOIs were allowed. Addressing those concerns

[5] DACC/SPURR/EUF Response, at p. 2.
[6] PG&E Response, at p. 1.
[7] Id.
[8] Id.
[9] Id at p. 2.

in a transparent way is necessary for the development of customer confidence about Direct Access and the enrollment processes associated with moving away from utility service. PG&E's reluctance to provide such transparency is not surprising, given the recent lengths to which PG&E has been willing to go recently to try and limit retail choice, namely its failed Proposition 16 campaign, and its efforts to impermissibly secure customer opt-outs from the Marin Community Choice Aggregation ("Marin CCA") effort. Just as the preponderance of the states' voters rejected the Proposition 16 effort, and just as the Commission put a stop to PG&E's action with respect to the Marin CCA opt-outs, the Commission should reject PG&E's similar attempts to thwart the dissemination of information that will inform customers about how the new Direct Access enrollment process has been conducted.

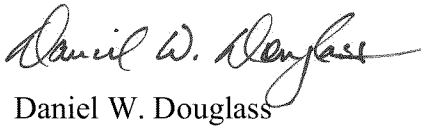
Second, PG&E's attempt to characterize the Motion as a desire to secure "sensitive information" is a misleading allegation, as none of the information requested by the Motion is customer specific. Further, one must wonder if PG&E "doth protest too much" given that PG&E – and PG&E alone – is the only retail supplier in its territory who knows with complete certainty just which customers secured space under the cap. Perhaps the Commission should ask a few questions of its own as to whether PG&E's preferential access to information it regards to be confidential has been appropriately safeguarded from inappropriate dissemination to its internal staff for the purpose of direct customer communications aimed at dissuading customers from exercising their right to choose.

There are other reasons as well why PG&E response should be rejected. For example, PG&E's acknowledgement that it has already provided the answers to the questions posed in the Motion to the Energy Division eliminates the possibility that providing the information is burdensome, since presumably the work associated with compiling the information is already

complete. Finally, it is notable that no other party, including neither of the other investor-owned utilities filed in opposition to the Motion.

In summary, the PG&E response offers no adequate rationale for denial of the Motion. Indeed, its status as the sole party in opposition to the Motion simply acts to single out PG&E's resistance to customer choice in its service territory. CACES/AReM therefore reiterate their original request that the Commission issue an order directing each of the IOUs to submit a report by June 30, 2010, that contains the information contained in the Motion, the supplemental information identified by DACC/SPURR/EUF and any other information it deems necessary to assure itself that PG&E access to customer specific information from the NOI process is not being used in any manner that is inconsistent with Commission policy and rules.

Respectfully submitted,



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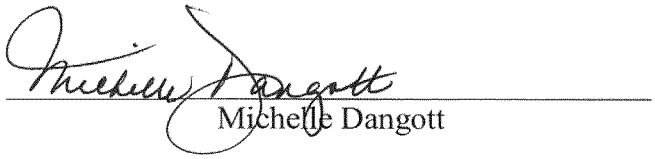
June 18, 2010

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the ***Reply of California Alliance for Choice in Energy Solutions and the Alliance for Retail Energy Markets to Responses to Motion for Order Directing the Utilities to Submit Reports on the Notice of Intent Process*** on all parties of record in ***R.07-05-025,*** by serving an electronic copy on their email addresses of record and by mailing a properly addressed copy by first-class mail with postage prepaid to each party for whom an email address is not available.

Executed on June 18, 2010, at Woodland Hills, California.



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