

**Status Report on the Results of Energy Division’s Review  
of the Utilities’ Senate Bill 695 Implementation for 2010 per D.10-03-022**

**Summary**

On June 4, 2010, of the California Alliance for Choice in Energy Solutions (CACES) and the Alliance for Retail Energy Markets (AReM) submitted a motion for an order directing the utilities to submit reports on the Notice of Intent (NOI) process adopted in Decision (D.)10-03-022.

On June 23, 2010, the Assigned Commissioner issued a ruling that denied the motion. However, in denying the motion, the Ruling directed the Energy Division to produce a status report on its internal review of utility compliance with D.10-03-022. In response to that direction, the Energy Division submits this status report regarding its review of IOU compliance with the adopted procedures in D.10-03-022 with respect to the management of the Open Enrollment Window process.

As explained below, the Energy Division has not found evidence that the utilities administered the NOI process unfairly.

**Background**

In D.10-03-022, the Commission authorized limited additional direct access (DA) transactions within the service territories of California's three largest investor-owned utilities, Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E)—in accordance with the provisions of Senate Bill (SB) 695. The Commission also adopted an enrollment schedule for the increased DA transactions and the NOI enrollment process wherein customers or their designated agents submit NOIs to sign up for DA service during an Open Enrollment Window (OEW). The OEW started at 9:00 a.m. (PDT) on April 16, 2010; both the designated caps and the allowed waiting lists filled within 60 seconds.

Given the rapid manner in which the OEW closed, the Energy Division issued a data request to the IOUs on May 10, 2010. In response, beginning on May 13, 2010, the utilities provided information to the Energy Division about their compliance with the adopted NOI processes to implement the OEW, PG&E and SCE provided this information confidentially. PG&E identified it as “Proprietary and Confidential Protected Material Pursuant to PUC Section 583.” SCE identified it as “CONFIDENTIAL; Protected Materials Pursuant to California Public Utilities Commission Decision and Applicable Law -Public Disclosure Restricted.”

Ordering Paragraph 1 of D.10-03-022 states in pertinent part, “The Energy Division is authorized to post each utility’s monthly baseline amount of direct access load, as reported in their Direct Access Implementation Activities Reports, on the Commission’s public website.” On this authority and per the directive in the June 23 Ruling, the Energy Division releases the included information about the NOI Data for the 2010 Open Enrollment Window.

Table 1 shows the numbers of NOIs and associated load that the utilities accepted, wait-listed, and rejected.

	Accepted Customers	Wait List Customers	Accepted Load	Wait List Load	Rejected Customers	Rejected Load
<b>PG&amp;E</b>	77	32	1,007,714,480	344,309,274	See note 4	See note 4
<b>SCE</b>	130	100	1,489,262,397	292,227,259	1,110	5,313,088,174
<b>SDG&amp;E</b>	27	4	174	41	1,423	1,937

**Notes to Table**

1. PG&E and SCE load in annual KWH; SDG&E Load in annual GWH
2. PG&E's accepted load includes load accepted under the "10% soft cap."
3. PG&E's April 2010 Baseline DA Load was lower than the Existing Baseline DA Load reported in Appendix A of Decision 10-03-022. Consequently PG&E increased the 2010 Annual Limit to fully subscribe the 2010 Load Cap.
4. The data regarding PG&E's rejected customers requires more analysis.
5. SDG&E's rejected NOIs includes duplicates of 959 customers and 345 annual GWH load

The utilities provided to the Energy Division, by ESP or customer or third party, the number of NOIs and associated loads that were accepted or placed on the waiting list. SCE and SDG&E provided the same information for the NOIs that were rejected. PG&E provided, in spreadsheet format, electronic mail (email) records showing the time stamps for accepted, wait-listed, and rejected NOIs. The utilities also provided the length of time to fill the 2010 load cap, including the 10% soft cap, and the wait list. Finally, the utilities provided information about the disposition of NOIs received prior to the 9:00 a.m. start of the OEW on April 16, 2010.

PG&E explains that it "received thousands of NOI submissions, the majority of which were duplicate submissions (one customer submitted a NOI one thousand times)." Energy Division's review of PG&E's email records confirms that entities submitting NOIs sent duplicates, before and after the 9 A.M. start of the OEW, to increase the probability of gaining acceptance under the 2010 cap. PG&E had an address dedicated to receipt of the NOIs. The email records, while they reflect duplication and have no load associated with each submission, provide a verifiable means of assuring compliance. Even with the duplication, the email records illustrate the speed of the process and the volume of interest relative to the annual cap.

The NOI data provided by the utilities demonstrates participation by customers and third parties in addition to ESPs. Between 40% and 55% of the accepted NOIs were associated with customers or third parties rather than ESPs.

CACES/AREM in its response dated June 18, 2010, states that many customers and their potential competitive suppliers are genuinely concerned that their NOI submissions were rejected, even though they were submitted at the first possible moment that NOIs were allowed. These parties argue that addressing those concerns in a transparent way is necessary for the development of customer confidence about DA and the NOI enrollment processes. Customer consternation about NOI rejection, when they or their representative submitted the NOI right at OEW opening, is understandable. Given the

level of interest in DA participation, the limits imposed by SB 695 and the Commission-adopted phase-in schedule, combined with the adopted first-come, first-served electronic process, the results are not surprising. The table below shows that the NOI submission for accepted NOIs was complete in less than a minute. Compared with the speed of the email NOI submissions, the utilities' review process required substantial time.

Table 2 below shows the time required to fill the 2010 cap plus the 10% threshold and the wait list.

<b>Utility</b>	<b>Cap Filled (seconds)</b>	<b>Wait List Filled (additional seconds)</b>
PG&E	30	8
SCE	44	39
SDG&E	8	1

The utilities rejected NOIs submitted prior to 9:00 a.m.

PG&E's e-mail records show entries for return e-mails in response to NOI submissions received.

SCE rejected NOIs received prior to the 9 a.m. start time and sent the sender an automated e-mail, from SCE's dedicated inbox, which stated:

"Your notice of intent was received by SCE at [the Date, time, minutes, seconds]. If the time shown is before 9:00 a.m. PDT, the Notice of Intent was received outside of the designated submission period and has been rejected. If the time shown is 9:00 a.m. PDT or later, the Notice of Intent was received and is being processed."

For those NOIs received before 9 a.m., an SCE DA Support Analyst reviewed the NOI to verify the [Date, time, minutes, seconds] for the NOI's receipt and updated the customers account to indicate that the NOI had been rejected due to the time that it had been received.

SDG&E sent the following rejection notification:

"Notice of Intent - Rejected - NOI Received before 9:00 a.m. April 16, 2010."

## **Conclusion**

In its review of the information submitted by PG&E, SCE and SDG&E, the Energy Division has not found evidence that the utilities administered the NOI process unfairly. The Energy Division will continue to monitor the utilities' compliance with the SB 695 implementation, as adopted in D.10-03-022.