

**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 IX And Decision 01-09-060.

R.07-05-025
(Filed May 24, 2007)

**RESPONSE OF
SAN DIEGO GAS & ELECTRIC COMPANY (U 902 E)
TO THE PETITION OF CALIFORNIA STATE UNIVERSITY FOR
MODIFICATION AND CLARIFICATION OF D.10-03-022**

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July 23, 2010

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I. INTRODUCTION

On March 15, 2010, the Commission authorized the limited reopening of direct access (“DA”) transactions under Senate Bill (SB) 695 in its *Decision Regarding Increased Limits for Direct Access Transactions* in D.10-03-022 (“DA decision”). On June 23, 2010, a *Petition of the California State University for Modification and Clarification of D.10-03-022* (“CSU PFM”) was filed requesting modification and clarification of certain aspects of the Commission’s DA decision. On July 19, 2010, Southern California Edison Company (“SCE”) and The Utility Reform Network (“TURN”) filed a joint response to the CSU PFM urging the Commission to reject CSU’s PFM (“SCE/TURN response”). Similarly, and pursuant to Rule 16.4(f) of the Rules of Practice and Procedure (“Rules”) of the California Public Utilities Commission (“Commission”), San Diego Gas & Electric Company (“SDG&E”) hereby respectfully submits the following response to the CSU PFM supporting Commission rejection of the CSU PFM.

II. RESPONSE

CSU's PFM suggests there were differences in how the utilities and customers interpreted the DA decision and CSU therefore recommends that the Commission modify the decision to give preference to customers that were previously eligible for DA service under AB 1X, essentially claiming that such customers should be "grandfathered" under the switching rules in place prior to the Commission's DA decision.¹ Specifically, CSU's PFM requests the Commission modify the DA decision for both grandfathered DA and new DA-eligible customers to: i) clarify that the DA rules for switching remain in effect for those temporary, one time changes utilized during the initial open enrollment window (OEW), which enrollment has already closed; and, ii) clarify that grandfathered DA customers who are currently fulfilling, or have already fulfilled, their three-year BPS commitment may return to DA service under existing switching rules by giving their six-month advanced notice as long as room exists under the overall cap.²

Without repeating the arguments contained in the SCE/TURN response, SDG&E supports Commission rejection of the CSU PFM for many of the same reasons raised by SCE/TURN.³ Moreover, it is important to note that the modifications and clarifications proposed by CSU's PFM are not limited to SCE. If approved, the requested changes would impact all three of the California electric investor-owned utilities (IOUs) as well as each of those IOUs' DA-eligible customers

¹ CSU PFM, pp. 3-4.

² *Id.* CSU also claims that its requested modifications and clarifications are necessary because one of their campuses, Cal Poly Pomona, was within 6 months of completing its three year BPS commitment and filed its required six-month notice to resume DA service on December 8, 2010 and was rejected by SCE.

³ SCE/TURN response, pp. 3-9.

by artificially creating two distinct classes of DA eligible customers, further exacerbating the potential for undue customer confusion. In addition, such a modification would unnecessarily create additional administrative burdens and costs since SDG&E's back-office computer systems would need to be reprogrammed and it is likely the other utilities' IT systems would be similarly impacted.

Given that the utilities have already fully implemented the processes described in the DA decision, along with the fact that DA-eligible customers have been operating under such processes for over 3 months and the majority of such parties appear to be ready to move on to the next phase of the proceeding, SDG&E believes the need for finality of the Commission's DA decision in this case is imperative. Importantly, CSU does not claim that it was unable to fully participate in the proceeding leading to the Commission's final DA decision, nor has it been able to show that it was unfairly treated under the utilities' implementation of that decision. Accordingly, CSU should not be allowed to substantively modify the decision to the potential detriment of the other utilities or their DA-eligible customers.

Indeed, the record is clear that the Commission's DA decision was reached after workshops were conducted and multiple rounds of comments were received from interested parties. In that regard, numerous parties actively participated in the proceeding representing a diversity of stakeholder interests and their input was carefully considered and addressed in the Commission's DA decision. The Commission's decision also made numerous substantive determinations to contested issues raised by the parties on the methodology to be used during the reopening

process and therefore the final decision was properly based on all of the facts and pleadings submitted in the proceeding.

III. CONCLUSION

Under the circumstances presented in this case, SDG&E firmly believes that the need for finality of the Commission's DA decision is paramount. As more fully discussed herein, and given the utilities' and DA-eligible customers' reasonable reliance on the Commission's decision to implement and act on the processes established therein, SDG&E urges the Commission to reject the CSU PFM request to create a distinct grandfathered customer class with preference over other DA-eligible customers. Moreover, SDG&E supports SCE/TURN's request asking the Commission to expressly "reiterate that D.10-03-022 provides no preference under the switching rules or set-aside under the annual load limits for any DA-eligible customers."⁴

Respectfully submitted,

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July 23, 2010

⁴ SCE/TURN response, p. 9.

CERTIFICATE OF SERVICE

I hereby certify that a copy of **RESPONSE OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902 E) TO THE PETITION OF CALIFORNIA STATE UNIVERSITY FOR MODIFICATION AND CLARIFICATION OF D.10-03-022** has been electronically mailed to each party of record of the service list in R.07-05-025. Any party on the service list who has not provided an electronic mail address was served by placing copies in properly addressed and sealed envelopes and by depositing such envelopes in the United States Mail with first-class postage prepaid.

Copies were also sent via Federal Express to the assigned Administrative Law Judges and Commissioner.

Executed this 23rd day of July, 2010 at San Diego, California.

 /s/ Jenny Norin

Jenny Norin