

**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 DIRECT ACCESS CUSTOMER COALITION, CALIFORNIA STATE
UNIVERSITY, ALLIANCE FOR RETAIL ENERGY MARKETS, CITY AND
COUNTY OF SAN FRANCISCO, MARIN ENERGY AUTHORITY, SAN JOAQUIN
VALLEY POWER AUTHORITY, CALIFORNIA MUNICIPAL UTILITIES
ASSOCIATION, ENERGY PRODUCERS AND USERS COALITION,
CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION AND
CALIFORNIA MANUFACTURERS & TECHNOLOGY ASSOCIATION
TO THE RESPONSE OF THE INVESTOR OWNED UTILITIES**

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MARIN ENERGY AUTHORITY**

AND ON BEHALF OF THE JOINT PARTIES

October 18, 2010

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TO THE RESPONSE OF THE INVESTOR OWNED UTILITIES**

In accordance with Rule 11.1(f) of the Commission’s Rules of Practice and Procedure and the oral ruling of Administrative Law Judge (“ALJ”) Pulsifer granted telephonically on October 14, 2010, the Direct Access Customer Coalition, California State University, Alliance for Retail Energy Markets, the City and County of San Francisco, the Marin Energy Authority, San Joaquin Valley Power Authority, California Municipal Utilities Association, Energy Producers and Users Coalition, California Large Energy Consumers Association and California Manufacturers & Technology Association (the “Joint Parties”)¹ respectfully reply to the October 8, 2010, response of the Investor Owned Utilities (“IOUs”), Pacific Gas and Electric Company, Southern California Edison and San Diego Gas and Electric, to the motion for a new phase in this proceeding to consider non-by-passable charges. The IOUs do not oppose examination of non-by-passable charges in this docket. However, they request that

¹ Attorneys for the City and County of San Francisco have authorized Mr. Douglass to add the City and County of San Francisco to this pleading.

non-bypassable charge issues be examined in conjunction with other Phase III issues that include, among others, direct access switching rules, Transitional Bundled Service rates, and the bond requirement for Energy Service Providers (“ESPs”). The IOUs also request evidentiary hearings.

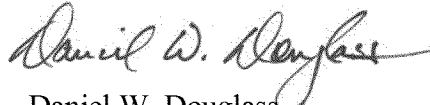
The Joint Parties do not oppose evidentiary hearings if the ALJ determines that there are contested issues of fact. However, the Joint Parties believe that a separate phase to consider non-bypassable charges is warranted. Non-bypassable charges affect a much broader group of stakeholders than just ESPs and direct access customers. In particular, CCAs, publicly-owned utilities and their customers, and customer-generators are affected. These parties have limited resources, and should not be required to monitor myriad issues unrelated to them, and that may be contested, in order to have the Commission address an issue of great importance to them. The calculation of non-bypassable charges is a sufficiently discrete issue to merit its own phase.

It may be that the resolution of non-bypassable charge issues will affect the outcome of some of the Direct Access Phase III issues currently under discussion. However, that does not mean that the broader non-bypassable issues raised by the Joint Parties can only be resolved in tandem with the Phase III issues. If resolution of the non-bypassable issues ultimately impacts specific elements of the Direct Access market rules, such as the TBS rate or the financial security requirements imposed on ESPs, those impacts can be accommodated separately. These are operational issues and have no direct bearing on how the PCIA methodology may or may not change. Certainly, if a separate phase to resolve the non-bypassable issues raised by the Joint Parties is not created, the ALJ should nonetheless schedule a prehearing conference to establish a schedule and process for consideration of non-

by-passable charges that allows parties who are not affected by phase III direct access implementation issues to focus their limited resources on the non-bypassable charge issues.

Accordingly, the Joint Parties respectfully renew their original request that ALJ Pulsifer create a separate phase to address non-bypassable charge issues.

Respectfully submitted,



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AND ON BEHALF OF THE JOINT PARTIES

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of *Reply of Direct Access Customer Coalition, California State University, Alliance for Retail Energy Markets, City and County of San Francisco, Marin Energy Authority, San Joaquin Valley Power Authority, California Municipal Utilities Association, Energy Producers and Users Coalition, California Large Energy Consumers Association, and California Manufacturers & Technology Association to the Response of the Investor Owned Utilities* on all parties of record in proceeding **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 October 18, 2010, at Woodland Hills, California.



Michelle Dangott

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