

**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)

**STATEMENT OF THE CALIFORNIA LARGE ENERGY CONSUMERS
ASSOCIATION AND THE CALIFORNIA MANUFACTURERS AND TECHNOLOGY
ASSOCIATION ON DIRECT ACCESS WORKSHOP TOPICS**

November 30, 2010

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As directed in the *Assigned Commissioner's Ruling Adopting Amended Scoping Memo and Schedule* ("Scoping Memo"), issued on November 22, 2010, as amended by the e-mail ruling issued on November 24, 2010, the California Large Energy Consumers Association ("CLECA") and the California Manufacturers & Technology Association ("CMTA") (collectively, "CLECA and CMTA") submit this statement of proposed topics to be addressed in the scheduled workshops to be held on December 7, 14 and 15 regarding the calculation of power charge indifference adjustment ("PCIA") and the DA switching rules.

I. THE POWER CHARGE INDIFFERENCE ADJUSTMENT

The PCIA is the product of several Commission decisions issued in the wake of the energy crisis of 2000-2001. Its basic purpose is to ensure that bundled utility service customers are held "indifferent", with respect to the per unit utility generation costs they are required to pay, to the movement of customers from bundled to DA service. The original formulation of the indifference charge involved some rather complex, difficult to audit or understand, modeling of the utilities' generation portfolios. It was recast, following numerous calls for clarification and

simplification, to its existing methodology which involves the creation of a benchmark reflecting the cost of one-year strips of power in California plus a small adder for resource adequacy.

While the current method is simple and understandable, it may lack accuracy, i.e., the current PCIA method may not create bundled customer indifference. Instead, by assuming that the measure of indifference can be captured in the difference between the cost of one-year strips of generation purchased on the open market and the average cost of the total utility generation portfolio, including multi-year supply contracts, short-term market purchases, traditional utility-owned generation and renewable generation, whether purchased or utility-owned, the current approach may fail to measure accurately the impact on continuing bundled customers of the loss of some bundled load to DA or to CCA service. In essence, the current method assumes that the utility will react to the loss of bundled load by purchasing fewer kWh of one-year power in the open market - when those kWh are relatively inexpensive, as they are now, the PCIA will be a positive number and perhaps a large positive number, and when those kWh are relatively expensive, as they were in recent years, the PCIA will be negligible or even negative.

The concern is whether this assumption is accurate in the current environment of long-term procurement planning, and particularly given the State's mandates for the utilities (as well as for ESPs) to achieve stated renewable portfolio standard ("RPS") goals. If a utility loses bundled load to DA or CCA service, will it purchase as much RPS power in the next period of time? Will its RPS purchases take it closer to compliance with stated RPS percentage goals or cause it to exceed those goals? Given that RPS power is so much more costly than either the average cost of the utility portfolio or the market benchmark under current conditions, CLECA, CMTA and other parties have raised the question whether there should be some specific acknowledgment of the costs of renewable power in the operation of the PCIA. This might occur either through an adjustment to the utility portfolio cost to remove RPS costs in excess of the average cost of the remaining resources or through a change in the benchmark to include an RPS adder.

It is important to remember that the goal of the PCIA (which, when added to the CTC equals the calculated indifference amount) has been to create bundled customer indifference. This objective should not be forgotten in the context of various proposals to allocate certain costs between bundled, DA, and CCA customers.

CLECA and CMTA also agree with other parties who have asserted that the current PCIA method fails accurately to account for the impact of CAISO grid fees, which are paid both by utilities and by ESPs (or CCAs) in serving load.

CLECA and CMTA request that the workshop agenda include the following specific questions or issues on this topic:

1. What is the effect on utility RPS procurement and planning of the loss of a given quantity of bundled load to DA or to CCA service?
2. Does the loss of utility bundled load to DA or to CCA service cause a given quantity of RPS generation (either purchased or owned) to increase a utility's RPS compliance percentage, thereby relieving or reducing its obligation to make further renewable purchases?
3. Can this effect be adequately measured and addressed by removing the total costs of RPS power from the utility portfolio for purposes of calculating the PCIA? That is, can and should the current market benchmark be compared to a total utility portfolio cost figure excluding renewable power to assess the impact on bundled customers of the loss of load to DA or to CCA service, especially since ESPs also are required to meet RPS goals?
4. Can this effect be adequately measured and addressed by adding a specific dollar/kWh amount, representing the difference between the average cost of the utility portfolio with and without renewable power, to the market benchmark currently in operation?

5. Should the grid charges imposed by the CAISO be removed from the utility portfolio costs prior to comparing that figure to the market benchmark?
6. Conversely, should the market benchmark be adjusted upward to reflect the cost, on a per kWh basis, of the CAISO grid charges?

II. DA SWITCHING RULES

The Scoping Memo indicates that the third day of workshops should focus on Phase III issues other than the Departing Load PCIA methodologies. CLECA and CMTA agree that the parties would be well-served by using the third day of the scheduled workshops for further discussion of the changes, if any, that are appropriate for the current DA switching rules. Some CLECA and CMTA member companies, which were DA-eligible under the September 2001 rules, remain on DA service currently. They are vitally interested in the rules governing their movement to and from bundled service. The re-opening of DA service this year, and the manner of that re-opening, have had a substantive impact on the current switching rules. We, along with other parties interested in DA service, have offered substantive proposals for changes in the switching rules. While we have had good discussions of the issues, progress toward resolution appears to be blocked by the differences between parties on certain legal issues related to ESP security requirements.

We recognize that the Peevey ACR instructs the parties to brief these legal issues, and we agree that they likely will not be resolved without briefing. However, there are factual issues which affect the legal questions, and these have to do with the specific nature of the switching rules. If the switching rules are set up in ways that reduce or eliminate the possibility of a DA customer returning to bundled service having to pay a penalty or surcharge for the right to take utility service, then the concomitant obligation of the ESP to provide security for the payment of such charges goes away. For example, a DA customer who returns to utility service without adequate notice for the utility to change its procurement is obligated to pay transitional bundled

service ("TBS") rates for a reasonable period, and those TBS rates properly capture the utility's anticipated incremental generation costs associated with serving that customer. Thus, there is no rationale for and no need for any further fee or penalty to be paid by that customer. If that is the case, there is no need for an ESP security.

We believe that the legal briefing called for in the Peevey ACR would be far more focused and would be much more helpful to the Commission if the parties were encouraged to further explore the switching rule questions in the workshops and in the evidentiary hearings, if necessary. Therefore, we propose that the Energy Division include a workshop topic as follows:

1. What changes if any should be made in the current DA switching rules in light of the re-opening of DA service and the new cap on the total amount of load which can access DA service?

CLECA and CMTA look forward to working with the parties and with the Energy Division to develop better approaches to both the PCIA and DA switching rule issues presented here.

Dated: November 30, 2010

/s/

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I, the undersigned, declare that I am employed in the County of Contra Costa, California, that I am over the age of eighteen years and not a party to the within action. My business address is 67 Carr Drive, Moraga, California 94556.

On November 30, 2010, I electronically served a true copy of the document described as **STATEMENT OF THE CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION AND THE CALIFORNIA MANUFACTURERS AND TECHNOLOGY ASSOCIATION ON DIRECT ACCESS WORKSHOP TOPICS** attached hereto on the accompanying service list:

Executed on November 30, 2010 at Moraga, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

_____/s/
Christine Dable
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