

December 6, 2010

VIA E-MAIL PAC@CPUC.CA.GOV

Mr. Paul Clanon
Executive Director
California Public Utilities Commission
505 Van Ness Ave.
San Francisco, CA 94102

**Re: Response of Commercial Energy of California to Southern
California Edison's Request for Extension of Time to Comply with
Timelines Established in D. 10-03-022 for the Year 2 Phase-In of
Increased Direct Access
File No. R.07-05-025**

Dear Mr. Clanon:

In response to the request of Southern California Edison (SCE) for an extension of time to comply with the timelines established in D. 10-03-022 for the Year 2 phase-in of increased direct access, made by SCE pursuant to Rule 16.6 of the Commission's Rules of Practice and Procedure, Commercial Energy of California offers the following comments.

Commercial Energy, a registered ESP, does not object to an extension of time for the date on which customers must submit six-month notices to switch to direct access under the Year 2 phase-in. However, Commercial Energy submits that the extension must be far longer than the two week period of time requested by SCE. First of all, the Motion of Commercial Energy Requesting an Order to Show Cause, filed September 27, 2010, has not yet been ruled upon. In that Motion, Commercial Energy demonstrated errors in the calculation of the capacity available for allocation of additional direct access customers in the first PG&E Open Enrollment Window (OEI) and asked the Commission to order PG&E to show cause why it should not be required to reconfigure the capacity available and permit additional direct access customers to switch to direct access as part of the first queue. If Commercial Energy's Motion is granted by the Administrative Law Judge or the Assigned Commissioner, this could, and likely would, modify the amount of capacity available for direct access in subsequent queues, including the Year 2 phase-in.

Fundamental fairness dictates that customers who may be considering whether to submit a notice to switch to direct access have accurate information about what quantity of direct access capacity is available before they are forced to decide whether to submit a notice to switch.

Mr. Paul Clanon
Executive Director
December 6, 2010
Page 2.

Accordingly the commencement of the OEW for the Year 2 phase-in should be delayed until a decision on the Commercial Energy Motion Requesting an Order to Show Cause has been issued, including a final decision on the amount of capacity available, after consideration of any response made by PG&E pursuant to an Order to Show Cause.

The Commission and the Executive Director must also appreciate that there is no reason to rush to initiate the OEW for the Year 2 phase-in. All the capacity for the first partial year phase-in of direct access as well as for the Year 1 phase-in was fully subscribed in mere seconds owing to the extremely high demand for additional direct access capacity and the use of on-line switching notices. If an OEW can be fully subscribed so quickly, there is no reason why it must be held in early January, over eleven months before the direct access service can commence. It makes much more sense for the OEW to be scheduled after important criteria, such as the quantity of direct access capacity available, is clearly established and all parties are apprised of the Commission's decisions in that regard.


Equally importantly, the Commission is going to be considering modification of the existing direct access switching rules in the third and current phase of this proceeding, as explained in the November 22, 2010 Assigned Commissioner's Ruling Adopting Amended Scoping Memo and Schedule in R.07-05-025. Customers considering a switch to direct access should have the ability to make an informed decision based upon an understanding of the switching rules that will be in place during the up coming Year 2. If the Commission is going to make important decisions about direct access phase-in procedures, customers will only be able to make well informed decisions if they fully understand the new rules that will determine their ability to switch to or return from direct access before they are required to submit notices to switch to direct access in an OEW. Delaying the OEW until the Phase III issues are resolved would not cause an undue delay in the Year 2 phase-in. Note that the November 22nd Ruling contemplates a final decision on the Phase III issues on May 24, 2011. That would permit more than enough time to hold an OEW in the second half of the year, and for the utilities to have plenty of time to process switching notices.

Commercial Energy submits that the proper schedule for initiating the OEW for the Year 2 phase-in after all key decisions have been made could be determined as part of the resolution of the Phase III issues. Alternatively, the Executive Director could grant an extension well beyond the two weeks requested by SCE, while making the full extent of the extension subject to modification by the ALJ and/or the Assigned Commissioner or a subsequent decision of the full Commission in Phase III.

Mr. Paul Clanon
Executive Director
December 6, 2010
Page 3.

Commercial Energy has no objection to SCE's second request for an extension of 30 days for processing notices to switch submitted for the Year 2 phase-in, which will presumably follow the OEW at such time as the Commission determines it should take place. A copy of this letter has been served on all the parties in the above-referenced proceeding. Thank you for your consideration of Commercial Energy's concerns.

Very truly yours,



Michael B. Day

Counsel for Commercial Energy of
California

cc: ALJ Thomas Pulsifer
All Parties to R.07-05-025