BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company (U39E) for Approval Demand Response Programs, Pilots and Budgets for 2012-2014.	Application 11-03-001 (Filed March 1, 2011)
Application of San Diego Gas & Electric Company (U902M) for Approval of Demand Response Programs and Budgets for Years 2012-2014.	Application 11-03-002 (Filed March 1, 2011)
Application of Southern California Edison Company (U 338E) for Approval of Demand Response Programs, Activities and Budgets for 2012-2014.	Application 11-03-003 (Filed March 1, 2011)

PROTEST OF THE ALLIANCE FOR RETAIL ENERGY MARKETS AND DIRECT ACCESS CUSTOMER COALITION TO THE APPLICATIONS OF THE INVESTOR-OWNED UTILITIES

Sue Mara
RTO ADVISORS, L.L.C.
164 Springdale Way
Redwood City, CA 94062
Telephone: (415) 902-4108
Facsimile: (650) 369-8268
E-mail: sue.mara@rtoadvisors.com

Consultant to
ALLIANCE FOR RETAIL ENERGY MARKETS

Daniel W. Douglass
Douglass & Liddell
21700 Oxnard Street, Suite 1030
Woodland Hills, California 91367
Telephone: (818) 961-3001
Facsimile: (818) 961-3004
Email: douglass@energyattorney.com

Attorneys for
DIRECT ACCESS CUSTOMER COALITION

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The Alliance for Retail Energy Markets ("AReM")[1] and Direct Access Customer Coalition[2] ("DACC") respectfully submit this protest to the applications of Pacific Gas and Electric Company ("PG&E"), Southern California Edison Company ("SCE") and San Diego Gas & Electric Company ("SDG&E") (collectively, the Investor-Owned Utilities or "IOUs"), which were filed on March 1, 2011, requesting approval of their proposed demand response ("DR") programs for 2012 through 2014. On March 30, 2011, Administrative Law Judge ("ALJ") Kelly Hymes issued a ruling consolidating the IOUs' applications into one proceeding. On March 31,

[1] AReM is a California non-profit mutual benefit corporation formed by electric service providers that are active in the California's direct access market. This filing represents the position of AReM, but not necessarily that of a particular member or any affiliates of its members with respect to the issues addressed herein.
[2] DACC is a regulatory alliance of commercial, industrial and governmental customers who have opted for direct access to meet some or all of their electricity needs.

2011, ALJ Hymes issued an electronic mail setting a due date of April 4, 2011 for responses or protests to the consolidated IOU applications. This protest is therefore timely filed.

I. INTRODUCTION

Each IOU application sets forth its proposals for DR programs, pilots and budgets for 2012 through 2014. Taken together, the proposals request more than half a billion dollars in funding for the three-year period. While AReM/DACC are continuing to review the details of the extensive applications, we have identified significant competitive issues that affect Direct Access ("DA") customers, Electric Service Providers ("ESPs"), Demand Response Providers ("DRPs"), and California's competitive retail market. AReM/DACC have raised similar issues previously in the 2008 DR application proceeding (A.08-06-001 *et al*) and in individual utility ratemaking proceedings, but to date the issues have been deferred or left unresolved.[3] AReM/DACC therefore submits this protest so that these crucial issues, which are common among all three of the IOUs' applications, can be addressed in this consolidated proceeding.

As described more fully in the sections that follow, AReM/DACC's protest touches on the following issues:

- The need to limit the expansion of the IOU-based DR programs so that the provision of those services by the competitive market can flourish.
- The costs associated with DR programs that are used to provide supply-side resources should be appropriately recovered though the generation cost function.

[3] See, for example, D.10-02-032, which deferred a decision on cost allocation issues for direct access customers raised by DACC. (p.135 and 138). In A.10-03-014, PG&E's Phase II General Rate Case, DACC again raised the issue of the allocation of demand response costs, but it was not explicitly addressed in the March 14, 2011 Marginal Cost and Revenue Allocation Settlement Agreement.

- Allocation of the costs of the programs must be restructured to ensure that customers who participate in the programs and receive the benefits therefrom are paying for them.
- The IOUs dynamic pricing and time-of-use rates schedules should not be treated as demand response programs and the costs thereof should be recovered through the generation cost function.
- The process of disseminating necessary information to ESPs when their direct access customers are participating in the IOUs' DR programs must be improved.

AReM/DACC request that the Commission include each of these issues within the scope of this consolidated proceeding, and provide sufficient time and staff supervision to the vetting of these issues in workshops prior to the issuance of any ruling that approves the IOUs' applications.

II. GROUNDS FOR PROTEST AND EFFECT OF THE APPLICATIONS ON PROTESTANTS

AReM/DACC submit the following grounds for protest:

A. The provision of subsidized DR programs by the IOUs should be restricted as much as possible to ensure that competitive markets emerge that can provide these services.

IOU DR programs create a barrier to entry for the provision of these services by the competitive market, because the costs of those programs are recovered through utility rates and with regulatory subsidies.[4] Competitive demand response is in its nascent stages in California with a number of the IOUs' proposed DR services already provided competitively to customers by ESPs, DRPs or energy service companies ("ESCOs"). The emergence of these

[4] These barriers are not unlike the barriers that utility ownership and contractual control of generating assets creates for merchant generating investment, which has been extensively discussed in the IOUs' long-term procurement planning proceedings.

competitive markets for demand response should not be stymied by increasing or further entrenching the role that the IOUs play in the provision of demand response services.

For instance, DRPs[5] are able to offer their own DR programs in competition with the utility or offer programs under the auspices of the utility. As to utility programs, each has approached DRP participation in their 2012-2014 DR programs differently, but in general, has proposed limiting that participation. In other words, rather than expanding the options for competitive providers, the IOUs have proposed to limit such options.

For example, PG&E's application notes the "unique opportunities" provided by aggregators,[6] but proposes to make only three of its programs available to them.[7] SCE proposes eliminating third-party DR contracts, stating that it will focus instead on "facilitating" the ability of DRPs to bid into the wholesale market.[8] SDG&E, which has made the most extensive use of DRPs, expresses significant concerns that DRPs "can deliver their committed loads."[9] SDG&E asks the Commission to act on its "policy recommendation" to "decline future contracts" with DRPs.[10] AReM/DACC question the wisdom of limiting DRP involvement, when most DR services can be offered effectively by competitive suppliers.

SDG&E, for one, seems to agree with AReM/DACC that DRPs are direct competitors of the IOUs and the preferred option for some programs. Specifically, SDG&E argues that utilities *should not* engage in providing DR services to wholesale markets operated by the California Independent System Operator ("CAISO"), explaining that this can best be done by DRPs or the customers themselves. SDG&E notes that the Commission should avoid the

[5] The IOUs generally refer to DRPs as "aggregators" in their applications.
[6] PG&E Application, p. 4.
[7] Capacity Bidding Program, Base Interruptible Program and Aggregator Managed Portfolio. (PG&E Prepared Testimony, Chapter 2, p. 2-26).
[8] SCE Prepared Testimony, Volume 2, pp. 70-71; SCE states, however, that it plans to allow DRPs to participate in its experimental ancillary services tariff, p. 71.
[9] SDG&E Prepared Testimony, Chapter I, p. MFG-9.
[10] SDG&E Prepared Testimony, Chapter I, p. MFG-9.

"utility as a "middleman."[11] SDG&E also provides evidence that the utilities directly compete with the DRPs, claiming that, when DRPs offer utility programs, they are "cannibalizing existing DR programs."[12] In other words, the utility and the DRP are seeking the same customers to enroll, thereby directly competing for business. Thus, DR Programs are, in large part, competitive services and the role of the utility in providing these services under rate-regulated authority should diminish, rather than expand. Moreover, as explained in more detail in the following section, the costs associated with these programs should not be afforded the non-bypassable rate treatment normally restricted to monopoly utility services.

In addition, the IOUs' applications include a number of energy-related services that are or could be offered in the competitive market. For example, in PG&E's application such services are described under the categories of DR Enabling Programs, System Support Activities, DR Core Marketing and Outreach, and Integrated Programs. Similarly, SCE's DR "Marketing and Outreach" programs seem designed to capture and retain the customer "through the continual cycle of Discovery, Activation and Participation," including providing customers with "lifestyle plans" and "holistic DSM solutions."[13] As further examples, SCE's proposals for EnergyManager® Programs,[14] DR Quick Assessment Tool ("QAT"),[15] and its Integrated Demand Side Management Programs ("IDSM"), which includes "Institutional Partnerships," technology "incubator outreach" and food processing pilots, could all easily be provided by the competitive market.[16]

[11] SDG&E Prepared Testimony, Chapter I, p. MFG-11.
[12] SDG&E Prepared Testimony, Chapter I, p. MFG-9.
[13] SCE Prepared Testimony, Volume 2, p. 2.
[14] SCE Prepared Testimony, Volume 2, p. 139.
[15] SCE Prepared Testimony, Volume 2, p. 95.
[16] SCE Prepared Testimony, Volume 3.

The table below provides examples of competitive DR-related services included within PG&E's proposed DR programs based on AReM/DACC's preliminary review.

Preliminary Identification of PG&E's Proposed DR Programs That Are Or Could Be Available in the Competitive Market[17]	
DR Program	**Competitors Providing Service**
Price-responsive, emergency-triggered and third-party DR programs	ESPs, DR Providers (DRPs), Community Choice Aggregators (CCAs)
Integrated Energy Audits	ESPs, ESCOs
InterAct/DR Forecasting Tool	ESPs, DRPs
Home-Area Network Integration	ESPs, DRPs, ESCOs
Auto DR	ESPs, DRPs
Energy Carbon Management Software	ESPs, ESCOs
Electric Vehicle Support	ESCOs
Emerging Technologies	ESPs, DRPs, ESCOs

As a threshold matter, the Commission must evaluate the IOUs' applications in the context of whether it is at all necessary to expand the role of the IOUs in the provision of demand response service, or whether the time is right (as AReM and DACC believe) to begin to reduce the footprint of the IOUs with respect to demand response and let the competitive market assume an increasing role in that regard. AReM and DACC respectfully request that the Commission devote substantial time to discussion of these competitive issues during this proceeding.

[17] These services are described in PG&E's Prepared Testimony, Chapters 2, 3, 4, 5 and 6.

B. The IOUs' proposed allocation of the costs of all DR programs to distribution violates the principles that the costs of supply-side resources belong in generation and the costs of competitive services must be recovered outside of non-bypassable rates.

When the Commission opened the competitive retail market in April 1998,[18] it was careful to ensure that the costs of any services offered by the utility in the competitive retail market be excluded from rates charged to direct access customers. These exclusions included all of the utilities' generation-related costs, as well as other services that were allowed to be offered competitively, *i.e.*, meter provision and meter data management. Consistent with these principles established back in 1998, and to protect and enhance California's competitive retail market, (1) DR services that provide a supply-side function should be recovered in the generation cost function and (2) DR services that are competitively provided in the market should be recovered either through the generation cost function or through direct charges to those who receive the services.

The importance of DR as a supply-side resource has become pronounced in recent years. The Commission has consistently directed the utilities to modify their DR programs to integrate them with wholesale markets, in which DR must bid and behave like a supply-side resource. PG&E devotes an entire chapter of its testimony to discussing its compliance with this directive.[19] Moreover, the Federal Energy Regulatory Commission ("FERC") recently issued Order 745, which requires that DR resources be allowed to bid into organized wholesale markets and paid like generators in those markets.[20] Thus, the role of DR as a supply-side resource is fully recognized by both the state and the federal government, and it is time to align the cost recovery for those programs with their supply-side purpose.

[18] The competitive retail market was authorized by AB 1890.
[19] PG&E Prepared Testimony, Chapter 7.
[20] See, for example, Order 745, March 15, 2011, para. 4, p. 4.

In approving utility DR programs in D.09-08-027, the Commission acknowledged and set in motion the integration of demand response with energy markets. However, despite the recognition of the close link between demand response and generation supply, the Commission has continued to allow the IOUs to allocate all costs of the DR programs, including DR providing supply-side resources, to the distribution function.

In addition, the IOUs have traditionally been allowed to recover the costs of many DR-related services that could otherwise be effectively provided in the competitive market. A sample of these services proposed by the IOUs in their 2012-2014 programs is provided in the previous section. As it insisted when opening the competitive retail market, the Commission should prohibit the IOUs from recovering the costs of any DR-related services in the non-bypassable distribution rates when the same services can be provided by competitive entities. Allowing such cost recovery would hinder the competitive market and stifle innovation. Instead, the Commission should direct the utilities to recover the costs through separate charges to the customers receiving the services or through the generation function, which would avoid adverse competitive results.

C. The IOUs' proposed allocation of the costs of all DR programs through distribution rates violates the cost causation principle.

The Commission should ensure in this proceeding that the IOUs adhere to the well-established principle of cost causation by allocating the costs of the DR programs to the customers who participate in those programs. Consequently, DR programs available solely to bundled service customers should be paid for by bundled service customers and direct access customers should only pay for the costs of programs in which they are fully able to participate. To make this determination, each of the IOUs' existing and proposed new programs should be evaluated to determine if participation by direct access customers is permitted and viable. If so,

then direct access customers should be assessed a fair share of those costs. If not, the costs should be allocated only to bundled customers. For example, some of the DR programs are only available to residential customers. Since current law and regulations exclude new residential customers from electing direct access service at present, the costs of those programs should be allocated only to bundled customers.

Further, if the costs of administering a specific DR program differ depending on whether the customer is bundled or direct access, as is clearly the case with some of PG&E's programs for example, those costs must be allocated appropriately to ensure that direct access customers do not pay for costs solely attributable to bundled customers.

The IOUs' applications violate these principles by proposing to recover the costs of their DR programs[21] and pilots from "all distribution service customers" without regard to participation, eligibility or differing costs incurred.[22] Moreover, the IOUs make no attempt to justify their proposed cost recovery. Simply because this is the way costs have been recovered in the past is inadequate justification and, as described above, fails to address competitive retail market realities and the Commission's desire for a flourishing DR market.

As an example and based on a preliminary review of PG&E's application and details gleaned therein, the following table shows how PG&E's proposed cost recovery through distribution rates does not follow appropriate cost causation principles, because: (1) the specific DR program costs are to be recovered from customers who do not participate in or qualify for the program; (2) the specific DR program costs included in the application only apply to bundled customers; or (3) the specific DR program costs are recovered equally from all customers despite

[21] One exception to this statement in that incentive payments for some of the IOU programs, generally those run through DRPs, are recovered through ERRA. In addition, PG&E proposes filing a separate application for cost recovery after completing a new solicitation. (PG&E Prepared Testimony, Chapter 11, p. 11-7)

[22] PG&E Prepared Testimony, Chapter 11, p. 11-1; SCE Prepared Testimony, Volume 4, pp. 40-44; SDG&E Application, pp. 10-11.

the fact that bundled customers are treated differently than direct access customers and account for higher costs to the utility.

Sample Results of Preliminary Review of PG&E's DR Programs Showing Inconsistencies with Cost Causation Principles	
DR Programs Available Only to Bundled Service Customers	Scheduled Load Reduction Program (SLRP); SmartAC-residential, InterAct,[23] Peak Day Pricing (PDP)[24]
DR Programs Available Only to Residential Customers	Smart AC-residential, HAN-residential
DR Programs Which Include Only Bundled Customers' Costs	Proxy Demand Resource (PDR)[25]
DR Programs In Which Implementation Costs Differ For Bundled and Direct Access Customers	PG&E pays for meter for bundled customer but direct access customer responsible for own meter costs: Capacity Bidding Program (CBP); Demand Bidding Program (DBP), Aggregator Managed Portfolio (AMP)[26]
DR Programs In Which Payments to Customers Differ For Bundled and Direct Access Customers	CBP – Energy payments to bundled customers only[27]

Now is the time for the Commission to ensure that cost recovery is implemented in a non-discriminatory manner following cost causation principles. Costs that solely apply to bundled customers must be recovered solely from those customers. Costs that apply solely to direct access customers should be recovered solely from direct access customers. Costs that apply *equally* to all customers should be recovered from all customers. PG&E and SDG&E can easily implement such cost recovery by establishing separate sub-accounts within the distribution

[23] PG&E Prepared Testimony, Chapter 4, p. 4-7.
[24] PDP is a dynamic pricing program that is solely available to bundled customers. The Application states that the costs for PDP measurement and evaluation and notifications are included. (PG&E Application, p. 5; PG&E Prepared Testimony, p. 2-31)
[25] PG&E Prepared Testimony, Chapter 7, p. 7-6.
[26] See Appendix 2B, Program Description Templates.
[27] PG&E Prepared Testimony, Chapter 2, p. 2-28.

function, as is the practice of SCE. In fact, SCE affirms in its application that it has separate sub-accounts specifically to address the fact that some DR programs *only apply* to bundled customers. The costs of these bundled-only programs are recovered through a generation sub-account in SCE's DR Program Balancing Account ("DRPBA") and the costs of DR programs that apply to both bundled and direct access customers are recovered through a distribution sub-account in the DRPBA.[28]

Finally, the IOUs propose to spend millions of dollars on related activities such as training for "sales" employees, IT requirements and statewide marketing and "outreach."[29] The costs of these additional activities should be allocated proportionally to the programs they support and the costs recovered similarly, either as generation or excluded from general rates and recovered as separate customer-specific charges.

D. The IOUs' applications are silent on allocating the benefits of the DR programs to those who pay the costs.

While the IOUs' applications and testimony contain proposals for cost recovery, there is no discussion of allocation of the associated benefits. For example, the discussion of Resource Adequacy ("RA") in PG&E's application is confined to addressing the alignment of its DR programs with the RA rules.[30] In fact, PG&E estimates that 1,325 MW of capacity will be created by its proposed DR programs by 2014, presumably much or all of which would qualify as RA capacity.[31] Similarly, SCE's application focuses on RA "alignment,"[32] and estimates that

[28] SCE Prepared Testimony, Volume 4, pp. 43-44.
[29] For example, PG&E projects expenditures of more than $60 million for "System Support Activities" alone. See Table 10A-6, PG&E Prepared Testimony, Appendix 10A.
[30] PG&E prepared Testimony, Chapter 2, p. 2-1 and Chapter 7, pp. 7-14 – 7-18.
[31] PG&E Application, p. 3.
[32] SCE Prepared Testimony, Volume 4, pp. 12-14.

the DR programs will provide 1,900 MW of capacity by 2014.[33] SDG&E also discusses RA "alignment"[34] and estimates that its DR programs will provide 220 MW of capacity by 2014.[35]

Commission practice has been to allocate RA capacity from the DR programs to the customers who pay for those costs, including direct access customers. Yet, the IOUs are silent on any such allocation of RA benefits. The applications are similarly silent regarding allocation of any benefits or credits that accrue related to Renewable Portfolio Standards ("RPS") or greenhouse gas ("GHG") requirements.[36] As a corollary to the principle of cost causation, any benefits accruing because of the DR programs must be allocated to the customers paying for those programs. The Commission should direct the IOUs to revise their applications to allocate the benefits in accordance with the allocation of the costs of the DR programs.

E. Utility default rate tariffs are not DR programs and to treat them as such severely compromises the competitive retail market.

Each of the IOUs' applications and testimony describe its dynamic pricing programs, identifying them as part of their catalogue of existing and proposed DR programs.[37] Examples of these rate tariffs are PG&E's Time-of-Use ("TOU") rates, SCE's Real Time Pricing ("RTP") tariff and SDG&E's Critical Peak Pricing ("CPP") tariffs. While the applications note that most of the costs associated with the IOUs' dynamic pricing tariffs are recovered elsewhere, some limited costs may be included in these applications. In addition, all three IOUs provide a summary of the load impacts these tariffs provide and "count" these dynamic pricing tariffs as

[33] SCE Application, p.1.
[34] SDG&E Prepared Testimony, Chapter III, pp. GMK-10 – GMK-11.
[35] SDG&E Prepared Testimony, Chapter V, Table KS-2, p. LW/KS-11.
[36] For example, SCE mentions GHG reduction in passing as a benefit of its DR programs; SCE Prepared Testimony, Volume 4, p. 12.
[37] PG&E Application, pp. 3-7; PG&E Prepared Testimony, Chapter 2, pp. 2-31 – 2-35.

valuable components of their overall DR programs.[38] The IOUs appear to be trying to make the case that these dynamic pricing tariffs are DR programs, whose costs should be recovered through distribution rates.

AReM/DACC strongly oppose this approach as anti-competitive and discriminatory and propose instead that any costs associated with dynamic pricing tariffs be recovered in the generation cost function or be assigned solely to bundled customers in distribution rates. Dynamic pricing rate tariffs are applicable only to bundled service customers and, most significantly, are the rate tariffs though which these bundled customers buy electricity. Indeed, these dynamic pricing tariffs, as well as mandatory tariffs based on time-of-use ("TOU") rates, are the tariffs that are *required* for all large commercial and industrial customers and may, over the next few years, become the default rate tariffs for all customers. As discussed above and, by statute, electricity is a competitive service provided by the utility. All bundled service customers must buy electricity in accordance with a rate tariff. It makes no sense that a tariffed rate becomes a DR program simply because it contains time-sensitive rates. Indeed, such a rationale that all time-sensitive rates are DR programs with the costs recoverable through distribution rates would eviscerate retail choice entirely. Thus, the IOUs' proposed approach must be rejected.

F. The applications fail to offer provisions, including some previously agreed to by the IOUs, necessary to ensure appropriate treatment for direct access customers and ESPs.

ESPs provide electricity and other services to direct access customers through individual, bilateral contracts. The ESP contractual relationship is with its customer; it has no

[38] For example, PG&E Application, p. 3. The table incorporates the load impacts of these tariffs under "time-of-use rates." PG&E also includes a breakdown of the load impacts of these dynamic pricing rate tariffs in Table 2-2, PG&E Prepared Testimony, Chapter 2, p. 2-4. In addition, SCE "counts" dynamic pricing tariffs toward DR load impact results in SCE Prepared Testimony, Volume 1, p. 19 and SDG&E in SDG&E Prepared Testimony, Chapter V, p. LW/KS-11.

contractual relationship with a third-party aggregator or with the utility for DR purposes. By contrast, the utility has a contractual relationship with the third-party aggregator or with the customer if directly enrolled Enrollment in utility DR programs should not be allowed to undermine or compromise the pre-existing contractual arrangement between the ESP and its customer. A DA customer's activities required under the utility DR or aggregator programs could affect its obligations under its contract with the ESP. Utility tariffs should clearly identify which programs are open to DA customers and include specific requirements that must be met to enroll the DA customers in those programs, including notification to the customer's ESP. However, the IOUs' applications make no mention of these provisions. In fact, AReM raised these same issues in A.08-06-001 *et al* and subsequently entered into a settlement agreement jointly with the three IOUs and other parties, yet none of those provisions appear in the applications.[39] Among other things, the settlement provided for the utilities to notify the affected ESP when one of its direct access customers enrolled in a DR program and of events called under such DR programs.

In addition, the utility advice letter process warrants improvement. The utilities frequently submit changes to their DR programs through this process and, at times, these changes may modify DR program requirements, customer obligations or program budgets. Such changes will not only affect the allocation of the costs of those programs, but may affect utility communications with direct access customers, utility marketing materials sent to the direct access customer, and ESP contracts. To ensure a more meaningful opportunity to address issues that may arise as a result of the IOUs modifications to their approved DR program, the advice letter process should be enhanced to require adequate notice to direct access customers

[39] D.09-08-027, p. 8.

participating in DR programs and their ESPs at the time the utility files an advice letter modifying any DR program.

Accordingly, AReM/DACC request that the Commission direct the IOUs to modify their applications to provide the necessary protections for ESPs and direct access customers outlined herein.

III. RESPONSE TO APPLICANTS' PROCEDURAL PROPOSALS

A. Category of Proceeding, Need for Hearings, Schedule

The IOUs have made identical procedural proposals. AReM/DACC concur with their proposed category of the proceeding as rate setting. AReM/DACC also agree that evidentiary hearings may not be necessary, but recommend that the issues presented by AReM/DACC be addressed in workshops during which parties can determine if there are areas of consensus. The workshops would be followed by comments and reply comments. Therefore, AReM/DACC propose revising the IOUs' schedule[40] to add two to three workshops in May followed by comments and reply in June.

B. Issues To Be Considered

AReM/DACC respond to PG&E's list of issues to be considered in this proceeding, which is the most comprehensive list provided by the IOUs.[41] AReM/DACC do not oppose PG&E's list of issues, but offer the following additions:

(h) AReM/DACC's proposal to foster the provision of DR services by the competitive market by limiting the development or expansion of subsidized utility DR programs;

(i) AReM/DACC's proposal to eliminate the recovery of any of the costs of the supply-side DR programs through distribution rates, including the costs to provide services that can be provided by competitive suppliers.

[40] For example, PG&E's schedule is provided in PG&E Application, p. 18.
[41] PG&E Application, p. 17.

(j) AReM/DACC's proposal to allocate the costs and benefits of utility DR programs properly to the customer classes that can participate in those programs;

(k) AReM/DACC's proposal to eliminate categorizing dynamic pricing and time-of-use rate tariffs as demand response programs and to require that costs associated with these tariffs are recovered through the generation cost function; and

(l) AReM/DACC's proposal to ensure that the IOUs provide reasonable provisions and adequate notice to ESPs when direct access customers enroll in IOU DR programs.

IV. CONCLUSION

AReM/DACC have identified significant issues with the IOUs' applications that significantly disadvantage direct access customers and their ESPs, stifle innovation and hinder the expansion of DR in California. Retail competition across the country has spurred an explosion in new product offerings and services that were previously unavailable, and unthinkable, from traditional utilities, including numerous demand response offerings and energy efficiency services.[42] A recent study conducted by the NorthBridge Group concluded that, while retail markets are still evolving nationally, the success of these markets should be judged by the "new value-added services, market-based pricing and *efficient customer consumption decisions* that competition encourages." (emphasis added)[43] In this proceeding, the Commission has the opportunity to set a new path for DR in California and facilitate expansion of competitive DR services.

For these reasons and those stated above, AReM/DACC respectfully request that the Commission agree to address these vital issues in this consolidated proceeding and establish principles to ensure that utility-sponsored DR programs enhance rather than hinder the

[42] *Annual Baseline Assessment of Choice in Canada and the United States (ABACCUS) – Commercial and Industrial,* Energy Retailer Research Consortium, December 10, 2008, p. 15.
[43] *Embrace Electric Competition or its Déjà vu All Over Again*, The NorthBridge Group, October 2008, p. 61.

competitive markets, costs and benefits are fairly and appropriately allocated, and ESPs and direct access customers are equitably treated under utility DR programs.

Respectfully submitted,

Sue Mara
RTOADVISORS, L.L.C.
164 Springdale Way
Redwood City, California 94062
Telephone: (415) 902-4108
Facsimile: (650) 369-8268
sue.mara@rtoadvisors.com

CONSULTANT TO THE
ALLIANCE FOR RETAIL ENERGY MARKETS

Daniel W. Douglass
DOUGLASS & LIDDELL
21700 Oxnard Street, Suite 1030
Woodland Hills, California 91367
Telephone: (818) 961-3001
Facsimile: (818) 961-3004
douglass@energyattorney.com

Attorneys for
DIRECT ACCESS CUSTOMER COALITION

Date: April 4, 2011

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the ***Protest of the Alliance for Retail Energy Markets and Direct Access Customer Coalition to the Applications of the Investor-Owned Utilities*** on all parties of record in ***A.11-03-001, A.11-03-002, A.11-03-003, R.06-04-010, R.07-01-041, and A.08-06-001,*** by serving an electronic copy on their email addresses of record and, for those parties without an email address of record, by mailing a properly addressed copy by first-class mail with postage prepaid to each party on the Commission's official service list for this proceeding.

This Certificate of Service is executed April 4, 2011 at Woodland Hills, California.

Michelle Dangott

SERVICE LISTS A.11-03-001, A.11-03-002, A.11-03-003, R.06-04-010, R.07-01-041 and A.08-06-001

9watts@gmail.com
abb@eslawfirm.com
abesa@semprautilities.com
achang@efficiencycouncil.org
aecaonline@gmail.com
aeo@cpuc.ca.gov
afaustino@semprautilities.com
afreifeld@viridityenergy.com
ag2@cpuc.ca.gov
agarcia@energy.state.ca.us
ahmad.faruqui@brattle.com
alex.kang@itron.com
aliddell@icfi.com
alyssa.cherry@sce.com
ameliag@ensave.com
ames_doug@yahoo.com
andrea.horwatt@sce.com
andrew.wood3@honeywell.com
andrew_meiman@newcomb.cc
ann.kelly@sfgov.org
ann.peterson@itron.com
ann_mccormick@newcomb.cc
annette.beitel@gmail.com
apetersen@rhoads-sinon.com
ashish.goel@intergycorp.com
ashley.watkins@energycenter.org
asloan@rs-e.com
atencate@rsgrp.com
atr@cpuc.ca.gov
awatson@quest-world.com
barrettlarry@comcast.net
bbarkett@summitblue.com
bboice02@yahoo.com
bcragg@goodinmacbride.com
bdicapo@caiso.com
bdille@jmpsecurities.com
bernardo@braunlegal.com
bfinkelstein@turn.org
bhines@svlg.net
bill@jbsenergy.com
bkb@cpuc.ca.gov
bkc7@pge.com
bmcdonnell@mwdh2o.com
bmfinkelor@ucdavis.edu
bob.ramirez@itron.com
bobbi.sterrett@swgas.com
bobho@mid.org
brad.bergman@intergycorp.com
brbarkovich@earthlink.net
bsk@cpuc.ca.gov
burtt@macnexus.org
cadickerson@cadconsulting.biz
carl.silsbee@sce.com
case.admin@sce.com
cassandra.sweet@dowjones.com
cbaskette@enernoc.com
cdamore@icfi.com
cem@newsdata.com
centralfiles@semprautilities.com
cf1@cpuc.ca.gov
cheryl.collart@ventura.org
chinman@caiso.com
chris@cuwcc.org
chris@emeter.com
cjn3@pge.com
clamasbabbini@comverge.com
clark.bernier@rlw.com
clark.pierce@us.landisgyr.com
claufenb@energy.state.ca.us
cln@cpuc.ca.gov
cmkehrein@ems-ca.com
cneedham@edisonmission.com
cpjoe@gepllc.com
cpuc@certichron.com
cpuccases@pge.com
cpucdockets@keyesandfox.com
craigtyler@comcast.net
crmd@pge.com
crogers@energy.state.ca.us
crv@cpuc.ca.gov
cscruton@energy.state.ca.us
cxc@cpuc.ca.gov
cyin@yinsight.net
cynthiakmitchell@gmail.com
dadams@viridityenergy.com
dale@betterbuildings.com
dan.violette@navigantconsulting.com
dara@ecsgrid.com
darmanino@co.marin.ca.us
dave.hanna@itron.com
david.gordon@efm-solutions.com
david.reed@sce.com
david.reynolds@ncpa.com
david@nemtzow.com
davidmorse9@gmail.com
dbarker@semprautilities.com
dbp@cpuc.ca.gov
dbr@cpuc.ca.gov
dil@cpuc.ca.gov
dmahone@h-m-g.com
dmg@cpuc.ca.gov
dnemtzow@ice-energy.com
dnl@cpuc.ca.gov
don.arambula@sce.com
douglass@energyattorney.com
dpape@icfi.com
drebello@quest-world.com
dwood8@cox.net
dwtcpucdockets@dwt.com
dwylie@aswengineering.com
edd@cpuc.ca.gov
edf@cpuc.ca.gov
edwardoneill@dwt.com
efm2@pge.com
elaine.s.kwei@pjc.com
elee@davisenergy.com
elvine@lbl.gov
emahlon@ecoact.org
emello@sppc.com
epetrill@epri.com
epoole@adplaw.com
e-recipient@caiso.com
eric@ethree.com
eric@strategyi.com
erik@erikpage.com
ewoychik@comverge.com
fadia.khoury@sce.com
filings@a-klaw.com
fred.coito@kema.com
gandhi.nikhil@verizon.net
garwacrd@sce.com
gayatri@jbsenergy.com
gesmith@ecsny.com
gesusa@gmail.com
ghamilton@gepllc.com
glbarbose@lbl.gov
glw@eslawfirm.com
grant.cooke@intergycorp.com
gstaples@mendotagroup.net
gthomas@ecoact.org
gtropsa@ice-energy.com
hankryan2003@yahoo.com
hcf@cpuc.ca.gov
hgilpeach@scanamerica.net
hhuerta@rhainc.com
higgins@newbuildings.org
hoerner@redefiningprogress.org

brian.hedman@cadmusgroup.com
bruce.foster@sce.com
bruce@builditgreen.org
bschuman@pacific-crest.com
ja_boothe@yahoo.com
jak@gepllc.com
janders@caiso.com
janderson@viridityenergy.com
janep@researchintoaction.com
janet.combs@sce.com
janreid@coastecon.com
jay.bhalla@intergycorp.com
jbazemore@emi1.com
jc8@cpuc.ca.gov
jcastleberry@rs-e.com
jcelona@sbcglobal.net
jci@cpuc.ca.gov
jeanne.sole@sfgov.org
jeff.hirsch@doe2.com
jeff@jbsenergy.com
jeffgray@dwt.com
jeffreyh@hellermanus.com
jellis@resero.com
jennifer.barnes@navigantconsulting.com
jennifer.fagan@itron.com
jennifer.green@energycenter.org
jennifer.porter@energycenter.org
jennifer.shigekawa@sce.com
jerry@enernex.com
jerryl@abag.ca.gov
jgoodin@caiso.com
jhe@cpuc.ca.gov
jheckler@levincap.com
jholmes@emi1.com
jimflanagan4@mac.com
jimross@r-c-s-inc.com
jjg@eslawfirm.com
jkz1@pge.com
jl2@cpuc.ca.gov
joc@cpuc.ca.gov
jody_london_consulting@earthlink.net
john.cavalli@itron.com
john@enactenergy.com
john@proctoreng.com
john_newcomb@newcomb.cc
joshbode@fscgroup.com
joyce.leung@sce.com
joyw@mid.org
jparks@smud.org
jpn@cpuc.ca.gov
js@clearedgepower.com
jshields@ssjid.com
jskromer@qmail.com
jsqueri@goodinmacbride.com
dcengel@fscgroup.com
dgeis@dolphingroup.org
dgrandy@caonsitegen.com
dhungerf@energy.state.ca.us
julien.dumoulin-smith@ubs.com
jw2@cpuc.ca.gov
jweil@aglet.org
jws@cpuc.ca.gov
jwwd@pge.com
jyamagata@semprautilities.com
jym@cpuc.ca.gov
karen@klindh.com
kathleen.gaffney@kema.com
ka-wing.poon@sce.com
kcooney@summitblue.com
kdusel@navigantconsulting.com
kea3@pge.com
keh@cpuc.ca.gov
keith.mccrea@sablaw.com
kenneth.swain@navigantconsulting.com
kho@cpuc.ca.gov
khy@cpuc.ca.gov
kjk@kjkammerer.com
kjsimonsen@ems-ca.com
kkm@cpuc.ca.gov
klatt@energyattorney.com
klaughlin@viridityenergy.com
klewis@energy.state.ca.us
kmb@cpuc.ca.gov
kmills@cfbf.com
kmills@cfbf.com
kowalewskia@calpine.com
kshore@semprautilities.com
ksmith2@semprautilities.com
kwong@semprautilities.com
kwz@cpuc.ca.gov
larry.allen@navy.mil
larry.cope@sce.com
laura.genao@sce.com
lcasentini@rsgrp.com
ldavidson@semprautilities.com
lettenson@nrdc.org
lgk2@pge.com
lhj2@pge.com
liddell@energyattorney.com
lisa_weinzimer@platts.com
ljimene@smud.org
lmanz@viridityenergy.com
lmh@eslawfirm.com
lms@cpuc.ca.gov
lnavarro@edf.org
lob@cpuc.ca.gov
lp1@cpuc.ca.gov
lpark@navigantconsulting.com
hvidstenj@kindermorgan.com
hxag@pge.com
irene.stillings@energycenter.org
irene@igc.org
m1ke@pge.com
magq@pge.com
magq@pge.com
mainspan@ecsgrid.com
marcel@turn.org
marian.brown@sce.com
marilyn@sbesc.com
mark.s.martinez@sce.com
martinhomec@gmail.com
mary.lynch@constellation.com
mary.tucker@sanjoseca.gov
matt_sullivan@newcomb.cc
mbaker@sbwconsulting.com
mbhunt@ucdavis.edu
mclaughlin@braunlegal.com
mgb@cpuc.ca.gov
mgillette@enernoc.com
mgm@cpuc.ca.gov
mgo@goodinmacbride.com
mharcos@rs-e.com
mharrigan@ase.org
michael.cheng@paconsulting.com
michelle.d.grant@dynegy.com
miino@rhoads-sinon.com
mike@calcerts.com
mistib@comcast.net
mjd@cpuc.ca.gov
mkh@cpuc.ca.gov
mking@staplesmarketing.com
mlewis@ctg-net.com
mlong@anaheim.net
mmcguire@summitblue.com
mmoore@newportpartnersllc.com
mmw@cpuc.ca.gov
mmyers@vandelaw.com
mpa@a-klaw.com
mpa@a-klaw.com
mparsons@mwdh2o.com
mpieniazek@drenergyconsulting.com
mrh2@pge.com
mrw@mrwassoc.com
msherida@energy.state.ca.us
mtierney-lloyd@enernoc.com
mwbeck@lbl.gov
mwt@cpuc.ca.gov
mwu@caiso.com
nancykrod@consol.ws
nes@a-klaw.com
nfugate@energy.state.ca.us
nfw@cpuc.ca.gov

jst@cpuc.ca.gov
jtiffany@ase.org
judi.schweitzer@post.harvard.edu
judypau@dwt.com
nphall@tecmarket.net
nplanson@consumerpowerline.com
nprivitt@semprautilities.com
nquan@gswater.com
olivia.samad@sce.com
paul.karr@trilliantinc.com
paul.notti@honeywell.com
pbarthol@energy.state.ca.us
pcanessa@charter.net
pcf@cpuc.ca.gov
peter.pearson@bves.com
philha@astound.net
pjacobs@buildingmetrics.biz
pk@utilitycostmanagement.com
pmcleod@finsch.com
pmschwartz@sbcglobal.net
policy.solutions@comcast.net
ppl@cpuc.ca.gov
pstoner@lgc.org
ptyno@ecsny.com
pvillegas@semprautilities.com
pwuebben@aqmd.gov
r.raushenbush@comcast.net
rachel.harcharik@itron.com
rafi.hassan@sig.com
rafi@pge.com
rbremault@comcast.net
rcounihan@enernoc.com
regrelcpuccases@pge.com
rekl@pge.com
remit@hellermanus.com
remmert@caiso.com
rfox@intergycorp.com
rita@ritanortonconsulting.com
rknight@bki.com
rmccann@umich.edu
rmettling@bluepointenergy.com
rmowris@earthlink.net
rob@clfp.com
rob@consol.ws
robertg@greenlining.org
robertgex@dwt.com
rogerl47@aol.com
lwhouse@innercite.com
lwilloughby@semprautilities.com
lwrazen@semprautilities.com
lwrazen@semprautilities.com
rogerv@mid.org
rquattrini@energyconnectinc.com
rsapudar@energy.state.ca.us
rschmidt@bartlewells.com
rsperberg@onsitenergy.com
rwalther@pacbell.net
saeed.farrokhpay@ferc.gov
salleyoo@dwt.com
sami.khawaja@cadmusgroup.com
samsirkin@cs.com
sas@a-klaw.com
saw0@pge.com
sbarata@opiniondynamics.com
sbender@energy.state.ca.us
scl@cpuc.ca.gov
scott.tomashefsky@ncpa.com
sculbertson@icfi.com
sdebroff@rhoads-sinon.com
sdhilton@stoel.com
sdpatrick@semprautilities.com
sean.beatty@mirant.com
sephra.ninow@energycenter.org
service@spurr.org
sesco@optonline.net
shawn_cox@kindermorgan.com
shong@goodinmacbride.com
skg@cpuc.ca.gov
skihm@ecw.org
slda@pge.com
sls@a-klaw.com
smartinez@nrdc.org
smaye@nappartners.com
smithmj@calpine.com
snr@cpuc.ca.gov
snuller@ethree.com
southlandreports@earthlink.net
srh1@pge.com
srm@cpuc.ca.gov
srovetti@sfwater.org
srrd@pge.com
sschare@summitblue.com
sschiller@efficiencycouncil.org
ssmyers@att.net
nhernandez@isd.co.la.ca.us
nkh3@pge.com
nlong@nrdc.org
norman.furuta@navy.mil
staples@staplesmarketing.com
stephaniec@greenlining.org
stephen.baker@constellation.com
steve@greenplumbersusa.com
steven@sfpower.org
sthompson@ci.irvine.ca.us
sue.mara@rtoadvisors.com
susan.munves@smgov.net
swentworth@oaklandnet.com
tam.hunt@gmail.com
tburke@sfwater.org
tconlon@geopraxis.com
tcr@cpuc.ca.gov
tcrooks@mcr-group.com
ted@energy-solution.com
tflanigan@ecomotion.us
tglassey@certichron.com
thamilton@icfi.com
theresa.mueller@sfgov.org
tim@marinemt.org
timea.zentai@navigantconsulting.com
tjs@cpuc.ca.gov
tlmurray@earthlink.net
tmfry@nexant.com
tom@ucons.com
tomk@mid.org
tory.weber@sce.com
trh@cpuc.ca.gov
ttutt@smud.org
tylerb@poweritsolutions.com
vwood@smud.org
wblattner@semprautilities.com
wbooth@booth-law.com
wchen@ecsgrid.com
wem@igc.org
wilkinson@es.ucsb.edu
wmcguire@fypower.org
wtr@cpuc.ca.gov
wwester@smud.org
wynne@braunlegal.com
yxg4@pge.com
zap@cpuc.ca.gov
ztc@cpuc.ca.gov