

**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.

Rulemaking 07-05-025
(Filed May 24, 2007)

**COMMENTS OF THE ALLIANCE FOR RETAIL ENERGY MARKETS
ON THE RULING OF ADMINISTRATIVE LAW JUDGE PULSIFER
AUTHORIZING FORMAL COMMENTS ON EX PARTE DOCUMENT**

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July 8, 2011

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In accordance with Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”) and the directives provided in the *Administrative Law Judge’s Ruling Authorizing Formal Comments on Ex Parte Document* (“Ruling”), issued on July 1, 2011, the Alliance for Retail Energy Markets (“AReM”)¹ submits the following comments.

I. BACKGROUND

On March 9, 2011, the Federal Executive Agencies (“FEA”), on behalf of the Edward Air Force Base (“Edwards”) filed a petition to modify (“Petition”) Commission Decision (“D”) 10-03-022. The Petition requested that the Edwards electric load that has been served by the Western Area Power Authority (“Western”) be re-categorized as DA load, and that the DA cap and baseline assigned to SCE in D.10-03-022 each be increased by 218 Gwh. This additional 218 Gwh represents the amount of electric load at Edwards during July 2003 through June 2004, which was the time period identified as the 12 month consecutive time period during which DA

¹ AReM is a California mutual benefit corporation whose members are electric service providers that are active in California’s direct access market. The positions taken in this filing represent the views of AReM but not necessarily those of any individual member of AReM or the affiliates of its members with respect to the issues addressed herein.

was at its highest, as required by Senate Bill (“SB”) 695. On May 10, 2011, Administrative Law Judge (“ALJ”) Pulsifer issued a proposed decision (“PD”) denying the Petition. On July 1, ALJ Pulsifer issued the Ruling, which notes that FEA has submitted an *ex parte* notice that includes proposed modifications to the PD. The Ruling states;

In the interests of a fair and balanced record as the basis for the Commission’s consideration of the PD, this ruling authorizes the formal filing of one round of concurrent comments on the changes proposed to be made to the PD as contained in the e-mail document provided through the above-referenced *ex parte* communication of FEA.²

As directed by the ALJ, AReM submits these brief comments on the Ruling.

II. COMMENTS

A. AReM has raised legitimate issues with respect to the implementation of the FEA Petition.

In response to the FEA’s Petition, AReM submitted comments noting that AReM did not object to FEA’s proposed changes to D.10-03-022 as long as implementation of the Petition would not harm any other Direct Access (“DA”) customers. Moreover, AReM agreed with FEA that no DA customers would initially be harmed by the Petition if the SCE load cap and baseline were both adjusted by the 218 Gwh. However, AReM noted that D.10-03-022 requires SCE to periodically adjust the baseline to reflect 12 months of load associated with the customers on DA and that the periodic baseline adjustments will determine whether there is additional room under the cap for new DA load. If load at Edwards AFB increases over time, then re-categorizing Edwards AFB as a DA load will reduce the ability for other customers to move to DA service. AReM suggested two separate ways that would ensure that the applicability of the DA cap to existing and future DA customers would not be affected by FEA’s request. Ultimately, the PD denied the Petition, so there was no reason for the PD to address AReM’s issues.

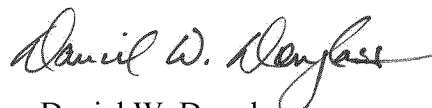
² See Ruling, page 2

Now, however, the Ruling presents a revised PD with wording changes proposed by FEA which could lead to the implementation of FEA's Petition under one of two circumstances. The first is that the PD urges FEA and SCE to enter into bilateral negotiations to address FEA's request. The second is that if those bilateral negotiations are unsuccessful, FEA may file a new petition in order to protect its allocation of preference power that it obtains from WAPA. Because the revised PD could potentially lead to the Edwards' load being treated as DA load, AReM's issues about the impact of the Petition on existing DA customers and DA load must be resolved.

B. AReM must be allowed to participate in any bilateral negotiations that deal with FEA being granted DA status.

Clearly, if bilateral negotiations are unsuccessful, and FEA brings a new petition before the Commission, AReM will be able to raise its issues in that proceeding. However, if SCE and FEA enter into bilateral negotiations that deal with FEA being granted DA status, AReM's issues could well be forgotten or ignored, if AReM is not allowed to participate in the discussions. Therefore, AReM respectfully requests that if the modified PD contemplated by the Ruling is issued and adopted by the Commission, it must specifically direct that any and all parties in Rulemaking 07-05-025 should be appropriately noticed as to when the negotiating sessions will take place, and allowed to fully participate in those discussions if the agenda for such discussions include possible DA status for FEA.

Respectfully submitted,



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