**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)

NOTICE OF EX PARTE COMMUNICATION WITH DAMON FRANZ BY COMMERCIAL ENERGY OF CALIFORNIA AND CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION

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For Commercial Energy of
California

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Pursuant to Rule 8.3 of the Commission's Rules of Practice and Procedure, Commercial Energy of California and the California Large Energy Consumers Association submit this Notice of Ex Parte Communication.

On Wednesday, September 7, 2011 at 3 pm an Ex Parte communication was held with Damon Franz, Advisor to President Michael Peevey. In attendance for Commercial Energy were Ron Perry, CEO of Commercial Energy, and Michael Day of Goodin, MacBride, Squeri, Day & Lamprey, LLP, outside counsel for Commercial Energy. Also in attendance was William Booth, counsel for the California Large Energy Consumers Association (CLECA). The meeting was initiated by Mr. Day and took place at the Commission's offices in San Francisco and lasted for approximately 45 minutes.

At the meeting Mr. Day and Mr. Perry explained that the bonding requirement adopted in the Proposed Decision issued in the above-captioned docket would have a seriously damaging effect on the Direct Access market and would actively discourage ESPs from selling to customers, and discourage customers from entering into contracts for Direct Access Service. Mr. Perry presented a table that he created from the formula for the bonding requirement contained in Appendix to the Proposed Decision, to show the approximate impact of an increase in volatility and an increase in energy costs on the amount of the bond that ESPs would have to purchase. The table demonstrates that increases in volatility and energy prices within historical experience can cause the cost of a bond for an ESP to be so large as to make it uneconomical to participate in the Direct Access market. Because PG&E and SCE refused to provide an updated bond calculation during the hearings, Mr. Perry used available public information to approximate current utility energy costs. Any margin of error in the assumed utility energy cost number is not meaningful because the order of magnitude of the bond cost grows so rapidly as market prices and volatility increase.

Mr. Booth explained that from the perspective of an industrial customer such a bonding provision would create a disincentive to participate in Direct Access. In addition, because the amount of the bond could be altered every six months by an Advice Letter filing changing the volatility inputs to the bonding calculation, there would be substantial uncertainty for both customers and ESPs that would undermine the ability of such parties to enter into long term fixed price Direct Access contracts.

Mr. Day pointed out that the existing tariff provisions that require all returning Direct Access customers to take Transitional Bundled Service (TBS rates) is a time-tested and effective means of ensuring that the utility's bundled customers are not saddled with additional procurement costs due to the return of a Direct Access customer. It was explained that the all the Direct Access parties in the case, the large majority of the customer groups represented in the case, and SDG&E all supported the use of TBS rates in lieu of the complicated and potentially destabilizing bonding requirement.

The table demonstrating the potential impact of the bonding requirement is attached to this Notice. If you have any other questions regarding this Ex Parte Notice, please contact Michael Day at the address below.

Respectfully submitted this 12th day of September, 2011 at San Francisco, California.

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