BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U338E) for Applying the Market Index Formula and As-Available Capacity Prices adopted in D.07-09-040 to Calculate Short-Run Avoided Cost for Payments to Qualifying Facilities beginning July 2003 and Associated Relief.	A.08-11-001 (Filed November 4, 2008)
And Related Matters.	R.06-02-013 R.04-04-003 R.04-04-025 R.99-11-022

LATE-FILED EX PARTE NOTICE OF DIRECT ACCESS CUSTOMER COALITION AND 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
ALLIANCE FOR RETAIL ENERGY MARKETS

September 22, 2011

BEFORE THE PUBLIC UTILITIES COMMISSION
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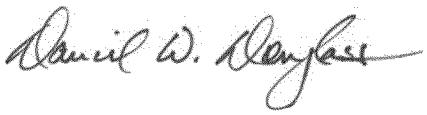
In accordance with Rule 8 of the Commission's Rules of Practice and Procedure, the Direct Access Customer Coalition ("DACC") and the Alliance for Retail Energy Markets ("AReM") provide the following notice of ex parte communication. On Monday, September 19, 2011, at approximately 10:00 a.m., an ex parte meeting was held with Stephen St. Marie, Advisor to Commissioner Catherine J.K Sandoval. The meeting was initiated by DACC and AReM, which were represented by Len Pettis of the California State University for DACC, and Mary Lynch of Constellation Energy for AReM. Daniel Douglass, counsel to DACC and AReM, also attended. The meeting occurred at the office of the Commission at 505 Van Ness Avenue, San Francisco, and lasted for approximately thirty minutes.

The purpose of the meeting was to discuss the proposed decision issued by ALJ Yip-Kikugawa denying the Petition for Modification filed by the QF/CHP Settling Parties on July 28, 2011, and the alternate proposed decision issued by Commissioner Ferron that would approve it. Using the attached chronology, the events leading up to the two proposed decisions were

discussed. DACC and AReM urged support for the proposed decision, noted it was in accordance with the law and pointed out the continued illogicality of the Settling Parties' position that although there would be no cost shifting, language protecting direct access and community choice interests from such an eventuality must be stricken from D.11-07-010.

Respectfully submitted,



Daniel W. Douglass
DOUGLASS & LIDDELL

Attorneys for
DIRECT ACCESS CUSTOMER COALITION
ALLIANCE FOR RETAIL ENERGY MARKETS

September 22, 2011

QF/CHP Chronology
Application 08-11-001 and related matters

December 16, 2010
D.10-12-035 issued, approving QF/CHP settlement and directing that the CARB CHP goal is allocated among Commission-jurisdictional LSEs based on their respective percentage of total retail sales. This allocation is used to establish GHG Targets for all LSEs, including the IOUs, ESPs and CCAs.

April 1, 2011
The Settling Parties and CMUA file a joint petition for modification of D.10-12-035. It notes that "Under the Settlement Agreement, New and Transferred MDL customers could be subject to new NBCs as a result of resource procurement by the investor owned utilities ("IOUs") under the CHP Program. In its Application for Rehearing, CMUA argued that such new NBCs violate Commission precedent established in D.08-09-012 and, therefore, the Commission should not adopt the provisions of the Settlement Agreement that would impose NBCs on MDL customers." The proposed changes and clarifications include:

- Transferred MDL customers who have departed IOU service as of the Settlement Effective Date will not be responsible for any NBC associated with the Settlement Agreement, but will remain responsible for whatever other charges they will incur at the time of departure under the Status Quo (*e.g.,* Ongoing Competition Transition Charges ("CTC"), etc.)
- In no event shall the NBC for CHP Settlement PPAs apply to Transferred MDL customers after July 1, 2027.
- Transferred MDL customers who depart IOU service after the Settlement Effective Date will not be responsible for any CHP Program costs associated with the Second Program Period and the IOUs' Greenhouse Gas Emissions Reduction Targets.

April 18, 2011
Marin Energy Authority, Direct Access Customer Coalition, Shell Energy North America and Alliance for Retail Energy Markets file joint comments noting that "the Commission must ensure against cost-shifting as a result of the Petition. The customers of CCAs and ESPs should not be required to pay for any of the nonbypassable costs associated with the QF/CHP Program that would have been paid by MDL customers but for the changes to the settlement proposed in the Petition." The CMUA settlement is not opposed, but the comments note that the agreed upon stranded cost approach creates the potential for cost shifting to the CCA/Direct Access Parties.

July 14, 2011
Decision 11-07-010 issued, approving CMUA Petition for Modification. The decision states, in part:

> The proposed modifications in the Petition limit the time period to recover certain costs associated with the Settlement from MDL Customers. Therefore, there is a possibility that MDL Customers would not be responsible for some portion of the costs

related to generation resources procured on their behalf. Pursuant to Pub. Util. Code § 366.2(d)(1), which prohibits the shifting of recoverable costs between customers, the IOUs cannot recover costs attributable to MDL Customers from bundled or other departing load customers (i.e., CCA and DA Customers). As such, any unrecovered costs attributable to MDL Customers shall be the responsibility of the Settling Parties. Since costs incurred on behalf of MDL Customers shall be the responsibility of MDL Customers, as specified in D.08-09-012, or Settling Parties, as required under Pub. Util. Code § 366.2(d)(1), Joint Respondents' concern that there would be a potential for cost shifting to CCA and DA Customers is unfounded.

July 28, 2011

The Settling Parties file a petition for modification of D.11-07-010, seeking to eliminate the language cited above.

September 14, 2011

ALJ Yip-Kikugawa issues proposed decision denying the Petition for Modification. Commissioner Ferron issues alternate proposed decision that would approve it. The ALJ notes that the original decision was "consistent with the requirements of Pub. Util. Code § 366.2(d)((1)" and that Section 366.2(d)(1) prohibits "any shifting of recoverable costs between customers."

September 28, 2011

Comments due on the proposed decisions.