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

NOTICE OF EX PARTE COMMUNICATION OF THE ALLIANCE FOR RETAIL ENERGY MARKETS, THE MARIN ENERGY AUTHORITY, AND THE DIRECT ACCESS CUSTOMER COALITION

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October 17, 2011

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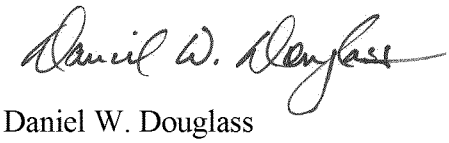
Pursuant to Rule 8.4 of the Rules of Practice and Procedure of the California Public Utilities Commission ("Commission"), the Alliance for Retail Energy Markets, the Marin Energy Authority, and the Direct Access Customer Coalition submit this notice of ex parte communication. On October 14, 2011, Dan Douglass, counsel of record for the aforesaid parties, initiated a written communication with Steve St. Marie, advisor to Commissioner Catherine J.K. Sandoval, via email. The subject of the email was security requirements for electric service providers and certain statements made by Pacific Gas and Electric Company ("PG&E") in a written ex parte communication that was attached to PG&E's October 12, 2011 notice of ex parte communication filed in this proceeding.

Both Mr. Douglass' email and an attachment to said email are provided as Attachment "A" to this notice.

Respectfully submitted,



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October 17, 2011

ATTACHMENT "A"

ffi

From: douglass@energyattorney.com [mailto:douglass@energyattorney.com]
Sent: Friday, October 14, 2011 2:43 PM
To: Steve St. Marie
Subject: R.07-05-025 - Direct Access - PG&E's Notice of Ex parte Communication

Hi Steve,

AReM, MEA and DACC were a bit intrigued by some of the statements made in the attached ex parte report by PG&E. PG&E states in their attachment:

- Posting security to cover energy price volatility is a cost of doing business that all firms in the industry must bear
  - o PG&E currently has a $3 billion banking facility to cover such costs, and has approval from the CPUC for up to $4 billion

This statement is, perhaps unintentionally, rather confusing. According to PG&E, their own "banking facility" is intended to "cover such costs," in reference to the costs of an ESPs performance guarantee or bond. In fact, those are two entirely different things. A banking facility (typically a line of credit) can be drawn or used by PG&E to access cash to buy product. The facility may have "security" features protecting PG&E's suppliers in the event that PG&E fails to pay, but the facility is not for the benefit of anyone else. On the other hand, the financial security that would be imposed on ESPs is a guarantee that can be drawn by third parties – not suppliers -- in the event of performance defaults by the ESP.

A plumbing contractor may need a line of credit, a banking facility, to buy wholesale supplies. A personal guarantee may be associated with that line. But that is completely different from the performance bond that the contractor posts to assure customers that jobs will be completed on time. In their ex parte correspondence, PG&E brings up its own cost structure, for the purpose of asserting (incorrectly) that they already bear costs that should now be imposed on ESPs. PG&E says that imposing the Financial Security Requirements as they define them are necessary, so that "ESPs are no longer shielded from the realities of the marketplace." They complain that the ESPs have "exaggerated" the costs of compliance with the FSRs.

It would be interesting to determine the size of the bond PG&E would need to post, and the likely cost of said bond, if it was subject to the same FSRs as it proposes for ESPs. Our guess is that would be a very big number. If PG&E wants to subject itself to the FSRs, too, then perhaps we could talk about the playing field being level.

AReM, MEA and DACC will file an ex parte report for this communication.

Best regards,

Dan

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From: Cuaresma, Sally [mailto:A2C7@pge.com]
Sent: Wednesday, October 12, 2011 4:25 PM
To: sst@cpuc.ca.gov; cjs@cpuc.ca.gov; fer@cpuc.ca.gov
Cc: AdviceTariffManager@sce.com; AndersonR@conedsolutions.com; Middlekauff, Charles (Law); CentralFiles@SempraUtilities.com; DBR@cpuc.ca.gov; DWTCPUCDOCKETS@dwt.com ; Diane.Fellman@nrgenergy.com; HKingerski@mxenergy.com; Jennifer.Hein@nrgenergy.com; JerryL@abag.ca.gov; KFoley@SempraUtilities.com; KKloberdanz@SempraUtilities.com; Silva, Madeline; MMcclenahan@SempraUtilities.com; RLane@semprautilities.com; RegRelCPUCCases; SJP@cpuc.ca.gov; SNelson@Sempra.com; Saeed.Farrokhpay@ferc.gov; Service@spurr.org ; Pagedar, Sujata; TCorr@SempraUtilities.com; TRoberts@SempraUtilities.com; VidhyaPrabhakaran@dwt.com; WDSmith@SempraUtilities.com; WKeilani@SempraUtilities.com; abb@eslawfirm.com; ako@cpuc.ca.gov; amber.wyatt@sce.com; atrowbridge@daycartermurphy.com; avalos@montaguederose.com; barmackm@calpine.com; bcragg@goodinmacbride.com ; bernardo@braunlegal.com; bfinkelstein@turn.org; bfs@cpuc.ca.gov; Cherry, Brian K; blairj@mid.org; blaising@braunlegal.com; blake@consumercal.org; brbarkovich@earthlink.net; californiadockets@pacificorp.com; case.admin@sce.com; cassandra.sweet@dowjones.com; ccasselman@pilotpowergroup.com; cem@newsdata.com; chh@cpuc.ca.gov ; Warner, Christopher (Law); clamasbabbini@comverge.com; clu@cpuc.ca.gov; cmansbridge@ces-ltd.com; cmkehrein@ems-ca.com; colin.cushnie@sce.com; cpuc@liberty-energy.com; crv@cpuc.ca.gov; david.oliver@navigantconsulting.com; dbp@cpuc.ca.gov; ddavie@wellhead.com; debeberger@cox.net; debra.gallo@swgas.com; dgrandy@caonsitegen.com ; dhaval.dagli@sce.com; dhuard@manatt.com; dorth@krcd.org; douglass@energyattorney.com; ds1957@att.com; dvidaver@energy.state.ca.us; edd@cpuc.ca.gov; ek@a-klaw.com; erasmussen@marinenergyauthority.org; eric.a.artman@gmail.com; etoppi@ces-ltd.com; ewdlaw@sbcglobal.net; filings@a-klaw.com; gbawa@cityofpasadena.net; gblack@cwclaw.com; george.waidelich@safeway.com; gifford.jung@powerex.com; gmorris@emf.net; gohara@calplg.com; hcolbert@sourceenergy.net; hgolub@nixonpeabody.com; igoodman@commerceenergy.com; iibarguren@tyrenergy.com; james.richards@tyndall.af.mil; james.schichtl@sce.com; janet.combs@sce.com; janreid@coastecon.com; jarmstrong@goodinmacbride.com; jcasadont@bluestarenergy.com; jderosa@ces-ltd.com; jeanne.sole@sfgov.org; jeff.malone@calpeak.com; jeffgray@dwt.com; jennifer.shigekawa@sce.com; jjg@eslawfirm.com; jkarp@winston.com; jkern@bluestarenergy.com; jleslie@luce.com; jmcmahon@8760energy.com; john.holtz@greenmountain.com; joseph.donovan@constellation.com; joyw@mid.org; jpacheco@water.ca.gov; jscancarelli@crowell.com; jspence@water.ca.gov; judypau@dwt.com; julie.martin@bp.com; Wu, Josephine; kar@cpuc.ca.gov; karen@klindh.com; kb@enercalusa.com; kdw@cpuc.ca.gov; kdw@woodruff-expert-services.com; keith.mccrea@sablaw.com ; kellie.smith@sen.ca.gov; ken@in-houseenergy.com; kenneth.swain@navigantconsulting.com; kerry.hattevik@nexteraenergy.com; khassan@semprautilities.com; kho@cpuc.ca.gov; kjsimonsen@ems-ca.com; kjuedes@urmgroup.com; klatt@energyattorney.com; kmills@cfbf.com; kowalewskia@calpine.com; lgg2@comcast.net; liddell@energyattorney.com; lisa_weinzimer@platts.com; lisazycherman@dwt.com; lmarshal@energy.state.ca.us; lmh@eslawfirm.com; lmi@cpuc.ca.gov; los@cpuc.ca.gov;

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Subject: R.07-05-025 - Direct Access - PG&E's Notice of Ex parte Communication

Attached please find PDF copy of PG&E's Notice of Ex Parte Communication and its associated attachment with Steve St. Marie (Advisor to Comr Catherine Sandoval).
Re: Direct Access - R.07-05-025
Sally Cuaresma
Regulatory Relations
Tel.# 415/973-5012

Reopening Direct Access Proceeding

Summary

- Do not dilute the ESP financial security required by law to protect customers
- Modify the PD's Renewable Portfolio Standard ("RPS") adder to appropriately reflect the market value of RPS energy

Financial Security Requirements

- The PD correctly finds that ESPs are legally obligated to cover all incremental costs resulting from an involuntary return of their customers to IOU bundled service (PU Code § 394.25(e))
  - ESP financial security must be sufficient to cover these costs
- Posting security to cover energy price volatility is a cost of doing business that all firms in the industry must bear
  - PG&E currently has a $3 billion banking facility to cover such costs, and has approval from the CPUC for up to $4 billion
  - The PD's financial security requirements are substantially less than those required by financial exchanges
  - ESPs should no longer be shielded from the realities of the market place
- Customers should be protected from ESP defaults, particularly under stressed market conditions
- ESPs have exaggerated the commercial impacts of complying with the PD

RPS Adder

- The RPS adder should be based on the market indices advocated by PG&E and DRA
  - There is sufficient liquidity in the REC market
  - The ESP's Green Benchmark will not measure above-market costs for renewables because it is does not reflect market prices
- If PG&E and DRA's proposal is not adopted, the PD should adopt the DOE data for 100% (not 32%) of RPS adder, consistent with the recent AB 920 decision
- If the PD does retain any use of the Green Benchmark, its application needs to be modified in several respects, including
  - UOG costs in the Green Benchmark should be levelized to address the front-loaded nature of utility ratemaking
  - The Green Benchmark should exclude pre-2003 RPS contracts, consistent with the Commission's RPS practices