

**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 BY
THE ALLIANCE FOR RETAIL ENERGY MARKETS,
THE DIRECT ACCESS CUSTOMER COALITION AND
THE MARIN ENERGY AUTHORITY**

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
**ALLIANCE FOR RETAIL ENERGY MARKETS
DIRECT ACCESS CUSTOMER COALITION
MARIN ENERGY AUTHORITY**

April 4, 2012

**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.

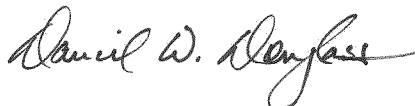
Rulemaking 07-05-025
(Filed May 24, 2007)

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

Pursuant to Rule 8.4 of the Commission's Rules of Practice and Procedure, the Alliance for Retail Energy Markets ("AReM"), the Direct Access Customer Coalition ("DACC") and the Marin Energy Authority ("MEA") respectfully files this notice of ex parte communication. This notice reports on the attached letter that was sent this day addressed to Commission President Peevey, Commissioner Simon, Commissioner Florio, Commissioner Sandoval, and Commissioner Ferron requesting Commission action on issuance of a draft resolution to implement certain provisions of D.11-12-018.

To request a copy of this notice, please contact Michelle Dangott at (818) 961-3003 or mdangott@energyattorney.com.

Respectfully submitted,



Daniel W. Douglass
DOUGLASS & LIDDELL

Attorneys for
**ALLIANCE FOR RETAIL ENERGY MARKETS
DIRECT ACCESS CUSTOMER COALITION
MARIN ENERGY AUTHORITY**

April 4, 2012

DOUGLASS & LIDDELL

AN ASSOCIATION OF
PROFESSIONAL CORPORATIONS

21700 OXNARD STREET, SUITE 1030

WOODLAND HILLS, CALIFORNIA 91367-8102

telephone 818.961.3001

facsimile 818.961.3004

Email douglass@energyattorney.com

Donald C. Liddell, P.C.

2928 2nd Avenue
San Diego, California 92103
Telephone 619.993.9096
Facsimile 619.296.4662

Gregory S.G. Klatt – Of Counsel

411 E. Huntington Drive, Suite 107-356
Arcadia, California 91007
Telephone 818.961.3002
Facsimile 818.961.3004

April 4, 2012

VIA FEDERAL EXPRESS

President Michael Peevey
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, California 94102

Commissioner Timothy Alan Simon
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, California 94102

Commissioner Michel Peter Florio
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, California 94102

Commissioner Catherine J.K. Sandoval
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, California 94102

Commissioner Mark Ferron
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, California 94102

Re: The Need for Action to Implement D.11-12-018 in Docket R.07-05-025

Dear Commissioners:

This is an inquiry into the status of an overdue draft Resolution to implement the provisions of Commission decision D.11-12-018, issued on December 7 of last year. That decision was issued in the Direct Access Rulemaking, R.07-05-025 and made major revisions to the calculation of the Power Charge Indifference Amount (PCIA). The PCIA is a major factor in the calculation of the so-called "exit fees" paid by customers that depart utility bundled service either to move to direct access or community choice aggregation. Ordering Paragraph (OP) 4 of the decision provides that:

4. Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company must each file a Tier 2 advice letter with the Energy Division within 30 calendar days following the issuance of this decision, identifying the relevant data necessary to revise the Power Charge Indifference

DOUGLASS & LIDDELL

AN ASSOCIATION OF
PROFESSIONAL CORPORATIONS

President Michael Peevey
Commissioner Timothy Alan Simon
Commissioner Michel Peter Florio
Commissioner Catherine J.K. Sandoval
Commissioner Mark Ferron
April 4, 2012
Page 2

Amount, Competition Transition Charge, and Temporary Bundled Service tariffs,
in accordance with this decision.

The utilities acted in a timely basis, filing their advice letters on January 6. Since then, DA and CCA interests have been waiting eagerly for the draft Resolution, in hopes that it would be speedily approved by the Commission. We had expected it would be a matter of a few weeks at most to see a draft Resolution. However, it seems to have fallen into the proverbial black hole and despite repeated inquiries both to Energy Division and the assigned Commissioner's office, we've gained no understanding of why this exceptionally long delay has occurred.

It's important to understand this isn't just some routine procedural matter. OP 40 of the decision provides, in part, that:

This resulting billing adjustment amounts **shall be refunded** to each of the utility's customers who were direct access, community choice aggregation or non-exempt departing load customers during the period from the effective date of the PCIA rate change adopted in their respective ERRA proceedings for 2011 through the effective date of the revised PCIA implemented pursuant to the revisions adopted in this proceeding. [Emphasis added].

These refunds are significant and my DA and CCA clients (our firm represents the Marin Energy Authority, Direct Access Customer Coalition, CCA Alliance and the Alliance for Retail Energy Markets) are, to put it mildly, highly concerned about the delay in getting out a draft Resolution. This delay has a significant, ongoing impact on customers as refunds dating back to April 2011 are owed to them. In addition, these customers are continuing to over-pay the PCIA charge every month as the release of the draft Resolution is unreasonably withheld without any credible explanation.

Finally, to compound matters even further, delay in getting out a draft Resolution has resulted in DA and CCA customers not receiving their share of SCE's refund of \$441 million in DWR operating reserves. For bundled customers, SCE is refunding this amount through an energy credit. (See SCE Advice Letter 2674-E.) However, instead of providing a comparable credit to DA and CCA customers, the Commission agreed that SCE can refund the credit through the PCIA. As a result, SCE's DA customers will be unable to receive their DWR refund until SCE changes its PCIA, which will not occur until the Commission finalizes the draft Resolution.

In addition to the financial impacts, the high PCIA is also a key factor triggering customers to opt out of the Marin Energy Authority CCA program – a decision which then binds them to

DOUGLASS & LIDDELL

AN ASSOCIATION OF
PROFESSIONAL CORPORATIONS

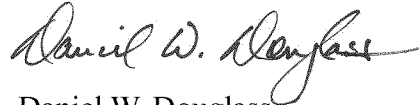
President Michael Peevey
Commissioner Timothy Alan Simon
Commissioner Michel Peter Florio
Commissioner Catherine J.K. Sandoval
Commissioner Mark Ferron
April 4, 2012
Page 3

bundled service for a minimum of 12 months. Opt-out notices have already been mailed to the remaining 105,000 customers to be enrolled in MEA's CCA program. However MEA is unable to provide specific cost information to its enrolling customers without the information to be provided in the Resolution. For these reasons we hope that the draft Resolution can move forward without further delay, thereby minimizing any further negative impacts.

In order for a vote to be held at the May 10 Commission meeting a draft Resolution must be issued no later than April 10. To avoid further delay, the draft Resolution should require that the Decision become effective within 48 hours and that credits be issued to customers immediately.

If there is anything you could do to break the logjam on this matter and let us know when a draft Resolution will be issued, it would be highly appreciated. Thank you!

Very truly yours,



Daniel W. Douglass
DOUGLASS & LIDDELL

Counsel for the
ALLIANCE FOR RETAIL ENERGY MARKETS
DIRECT ACCESS CUSTOMER COALITION
MARIN ENERGY AUTHORITY

DWD/md

cc: R.07-05-025 Service List
Edward Randolph – Director, Energy Division