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April 26, 2012

VIA ELECTRONIC MAIL AND OVERNIGHT MAIL

Energy Division
California Public Utilities Commission
505 Van Ness Avenue, Room 4002
San Francisco, California 94102

Re: Draft Resolution E-4475

Dear Sir or Madam:

The Alliance for Retail Energy Markets (“AReM”),¹ City and County of San Francisco, City of Cerritos, Commercial Energy, Direct Access Customer Coalition (“DACC”),² Marin Energy Authority, (“MEA”),³ Retail Energy Supply Association (“RESA”),⁴ and School Project for Utility Rate Reduction (“SPURR”)⁵ (hereafter collectively referred to as the “Joint Parties”) respectfully submit these comments on Draft Resolution E-4475, in accordance with the notice issued by the Energy Division on April 6, 2012. The Draft Resolution addresses Pacific Gas and Electric Company’s Advice Letter 3987-E, Southern California Edison Company’s Advice Letter 2688-E, and San Diego Gas & Electric Company’s Advice Letter 2325-E to revise the Market Price Benchmark (“MPB”) to include a Renewable Portfolio Standard (“RPS”) Adder, in

¹ AReM is a California mutual benefit corporation formed by 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 individual members or the affiliates of its members with respect to the issues addressed herein.

² DACC is a regulatory alliance of educational, commercial, industrial and governmental end-use customers that utilize direct access for all or a portion of their electricity load requirements.

³ MEA is the first community choice aggregator to serve customers in California.

⁴ RESA’s members include: Champion Energy Services, LLC; ConEdison Solutions; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; Energetix, Inc.; Energy Plus Holdings LLC; Exelon Energy Company; GDF SUEZ Energy Resources NA, Inc.; Green Mountain Energy Company; Hess Corporation; Integrys Energy Services, Inc.; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC; PPL EnergyPlus, LLC; Reliant; Stream Energy; TransCanada Power Marketing Ltd.; and TriEagle Energy, L.P.. The comments expressed in this filing represent the position of RESA as an organization but may not represent the views of any particular member of RESA.

⁵ SPURR is a joint powers authority, a membership organization that aggregates utilities services purchasing power and expertise for over 200 California public K-12 school districts, county offices of education, and community college districts.

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accordance with Decision (D.) 11-12-018 issued in the Direct Access (“DA”) Rulemaking 07-05-025.

The Joint Parties support the Draft Resolution’s adoption of the input for the RPS Adders for 2011 and 2012, and further, supports the resolution’s inclusion of Exhibit A, the Proposed Formula to Calculate the Vintaged Market Price Benchmark, for both the 2011 and 2012 MPBs and for MPBs going forward. To insure implementation without added delay the Joint Parties request that the utilities be required to submit a Tier 2 Advice Letter within 10 days of the effective date of the final Resolution, implementing the decision. The Joint Parties have the following limited comments on the Draft Resolution, and respectfully request that the Commission consider modifying the Draft Resolution as requested herein.

1. The Final Resolution Needs to Specify Near Term Firm Dates for Implementation of the Revised Power Charge Indifference Adjustment and Accompanying Refunds

On January 6, 2012, in compliance with Ordering Paragraph (“OP”) 4 of D. 11-12-018, the three utilities submitted, pursuant to the advice letters cited above, relevant data necessary to revise the Power Charge Indifference Amount (“PCIA”), ongoing Competition Transition Charge (“CTC”), and Temporary Bundled Service (“TBS”) tariffs, in accordance with that decision. However, D.11-12-018 did not specify a date for issuance of a draft Resolution in response to those advice letters, and as a result the Draft Resolution was not issued until three months after the advice letters were submitted. This delay in the process of implementing the provisions of D.11-12-018 has negatively affected DA and community choice aggregation (“CCA”) customers that have a significant financial stake in having D.11-12-018 implemented on a timely basis. This is because D.11-12-018 specified that the utilities are to refund to DA/CCA customers all amounts charged over the revised PCIA, as provided in Ordering Paragraphs 40 and 41:

40. Southern California Edison Company and San Diego Gas & Electric Company must calculate the difference attributable to the revised Power Charge Indifference Amount (PCIA) compared with the PCIA previously adopted in their 2011 Energy Resource Recovery Account (ERRA) proceedings. 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. Future changes to the PCIA shall be incorporated as an adjustment to the prospective 2011 PCIA rates in the Tier 2 Advice Letter filing based upon the revised PCIA methodology adopted in this proceeding.

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41. Once Pacific Gas and Electric Company (PG&E) implements the revised Power Charge Indifference Amount (PCIA) consistent with the methodologies adopted in this proceeding, PG&E shall promptly revise its previously adopted 2011 PCIA rate to incorporate this deferred difference. This resulting difference shall be remitted in the form of a refund to each of the utility's customers who were direct access, community choice aggregation or non-exempt departing load customers during the period from April 14, 2011, through the effective date of the revised PCIA implemented pursuant to the revisions adopted in this proceeding. Future changes to the PCIA shall be incorporated as an adjustment to the prospective 2011 PCIA rates based upon the revised PCIA methodology adopted in this proceeding.

Therefore, there is over a year's worth of refunds that have accrued for affected DA and CCA customers, with the amount growing on a daily basis until the necessary rate changes are approved and implemented. The aggregate amount is in the many tens, if not hundreds, of millions of dollars. To compound matters even further, delay in implementing the necessary rate changes has resulted in DA customers not receiving their share of SCE's refund of \$441 million in California Department of Water Resources ("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 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 implements revisions to its PCIA.

As written, the Draft Resolution does not provide a specific timeframe for finalization of the Market Price Benchmark and implementation of the revised PCIA by the utilities. This "*que sera, sera*" approach is inconsistent with D.11-12-018, which contemplated prompt implementation of the revised PCIA (*See, e.g.,* D.11-12-018, Ordering Paragraph 39). Therefore, it is necessary to revise the Draft Resolution so that it includes clear guidance on how and when remaining matters will be addressed.

There are five Ordering Paragraphs (OPs) in D.11-12-018 that need to be fleshed out in the final Resolution. OP 5 speaks about the Energy Division developing the resolution on the RPS adder. OP 6 merely states that certain CAISO charges should be excluded from the MPB. OP 7 states that "[t]he Market Price Benchmark (MPB) calculation must be weighted to reflect variations in load shape on a time-of-use basis based upon the most recent investor-owned utility (IOU) bundled load profile data that is publicly available." OP 8 states that "[t]he capacity adder in the MPB shall be updated using the Net Qualifying Capacity of the utility electric supply portfolio and the most recent California Energy Commission estimate of the going forward costs of a combustion turbine." OP 9 speaks about revisions to the TBS rate.

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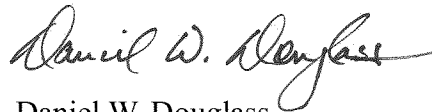
Importantly, OPs 6-8 do not assign responsibility to a particular entity for developing the updated MPB, nor do they set a timeframe for completion of the work. The Joint Parties therefore request that OPs 6-8 be implemented by the utilities by requiring each to submit a Tier 2 Advice Letter within 10 days of the effective date of the final Resolution. As a Tier 2 Advice Letter, other parties will have the opportunity to review it, but the Energy Division can dispose of it without a further resolution (unless there are significant issues), so it should be implemented much more quickly. The utilities should further be required to implement the necessary rate changes and commence refunds to affected customers within thirty (30) days after filing of their respective Tier 2 advice letters unless directed to the contrary by the Energy Division.

2. Additional Clarification on Calculation

Overall, the Joint Parties concur with the calculation methodology presented in the Draft Resolution. However, one clarification concerning the application of the MPB to the CTC is needed. The appropriate MPB to determine CTC is not explicitly defined in the Draft Resolution or D.11-12-018. The Joint Parties recommend that the final Resolution should clarify that a separate, distinct MPB is needed to determine CTC for each IOU, just as separate, distinct MPBs are needed to determine indifference amounts for each vintaged total portfolio. The MPB for the CTC should apply the proper weighting of the Brown and RPS adders and the appropriate capacity adder to reflect the resources included in the CTC.

The Joint Parties thank the Commission for considering these comments and ask that the Draft Resolution be modified as discussed herein.

Respectfully submitted,



Daniel W. Douglass

Attorney for the

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

AND ON BEHALF OF THE JOINT PARTIES

cc: Kathryn Auriemma, Energy Division (via electronic mail)
R.07-05-025 Service List