

**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)

**JOINT COMMENTS OF
ALLIANCE FOR RETAIL ENERGY MARKETS, CALIFORNIA MANUFACTURERS
& TECHNOLOGY ASSOCIATION, DIRECT ACCESS CUSTOMER COALITION,
ENERGY USERS FORUM, PACIFIC GAS AND ELECTRIC COMPANY (U 39M),
RETAIL ENERGY SUPPLY ASSOCIATION, SAN DIEGO GAS & ELECTRIC
COMPANY (U 902E), AND SOUTHERN CALIFORNIA EDISON COMPANY (U 338E)**

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July 10, 2012

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I. INTRODUCTION AND BACKGROUND

In accordance with the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure and the May 31, 2012 *Administrative Law Judge's Ruling Regarding Blanket Waiver Regarding Status Report Request* ("ALJ Ruling"), Alliance For Retail Energy Markets ("AReM"),¹ California Manufacturers & Technology Association ("CMTA"),² Direct Access Customer Coalition ("DACC"),³ Energy Users Form ("EUF"),⁴ Pacific Gas and Electric

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 CMTA works to improve and enhance a strong business climate for California's 30,000 manufacturing, processing and technology based companies. Since 1918, CMTA has worked with state government to develop balanced laws, effective regulations and sound public policies to stimulate economic growth and create new jobs while safeguarding the state's environmental resources. CMTA represents businesses from the entire manufacturing community -- an economic sector that generates more than \$250 billion every year and employs more than 1.5 million Californians.

³ 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.

⁴ EUF is an ad hoc group that represents the interests of medium and large bundled service and direct access customers in California, primarily taking service on rate schedules for accounts with demand above 100 kW.

Company (“PG&E”), Retail Energy Supply Association (“RESA”),⁵ San Diego Gas & Electric Company (“SDG&E”), and Southern California Edison Company (“SCE”) (collectively the “Joint Parties”) submit these joint comments.

On February 23, 2012, AReM, DACC, and RESA filed a joint motion requesting the production of an updated status report on direct access (“DA”) implementation (“Motion”). The motion also requested a blanket waiver of the requirement for parties to file new motions to request subsequent status reports on DA implementation results. In comments in response to the motion, PG&E indicated that more specificity regarding the parameters of the blanket waiver is needed. PG&E also noted that the November 2010 Working Group Report,⁶ which included a series of proposed process improvements for managing the DA load cap after the increases are fully phased in, proposed to address the administration of future DA enrollments. PG&E, along with the other utilities joining in the comments, indicated that the Commission should take action on the Working Group Report’s recommendations.

On May 31, 2012, Administrative Law Judge (“ALJ”) Pulsifer issued a ruling in this proceeding soliciting comments on the blanket waiver request and the Working Group Report’s

⁵ 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.

⁶ Pursuant to the June 15, 2010 *Assigned Commissioner and the Administrative Law Judge Ruling Clarifying Scope and Scheduling Further Proceedings*, three working groups were formed and technical workshops were held on July 12 and 13, 2010, to address potential changes to DA switching rules, updates to Transitional Bundled Service rates, financial security requirements for Energy Service Providers pursuant to Public Utilities Code Section 394.25(e), ensuring uniform compliance with resource requirements consistent with Senate Bill 695, and DA process improvements. Participating parties included AReM, BlueStar Energy, California Alliance for Choice in Energy Solutions, California Large Energy Consumers Association, CMTA, California State University, City of Cerritos, Commercial Energy, DACC, EnerNOC, Inc., EUF, PG&E, RESA, SDG&E, School Project for Utility Rate Reduction, SCE, The Utility Reform Network, and Wal-Mart.

proposed process improvements. In these joint comments, the Joint Parties address the following issues raised in the ALJ Ruling:

1. The ongoing process that should be followed if and when additional space becomes available under the DA load cap;
2. The specific reporting requirements that should accompany the process;
3. Potential objections to the Commission's adoption of the series of proposals in the November 15, 2010 working group report for process improvements for managing the DA load cap after the phase-in is complete;
4. The specific information to be provided in subsequent status report updates on DA implementation results; and
5. The frequency of intervals with which status reports should be provided.

II. DISCUSSION

1. The ongoing process that should be followed if and when additional space becomes available under the DA cap.

When addressing DA process improvements during the technical workshop, parties recognized that the current process of first-come, first-served for DA enrollment has created some issues for customers and the utilities. To foster a level playing field, the working group recommended that the current DA enrollment process be replaced with a lottery process.⁷ After extensive discussions on the topic, the Joint Parties have reached agreement and propose herein that a lottery process be implemented as described in Attachment A hereto.⁸ The Joint Parties believe this proposal to be fair to all concerned parties and recommend its adoption.

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⁷ The Joint Parties' lottery process proposal is patterned after DACC's 2010 lottery proposal, which was included in the Working Group Report.

⁸ EUF and CMTA support this proposed lottery process; however, EUF and CMTA maintain that they prefer the first come, first served process (referred to as Option 2 in the Working Group Report), which EUF, CMTA and others proposed in the 2010 Working Group meetings.

2. The specific reporting requirements that should accompany the process.

The Joint Parties recommend that the following reporting requirements described in Response 4, below, should apply to the new lottery process.

3. Potential objections to the Commission’s adoption of the series of proposals in the November 15, 2010 working group report for process improvements for managing the DA load cap after phase-in is complete.

The November 15, 2010, Working Group Report included nine suggested process improvements for managing the DA load cap after the phase-in is complete. The Working Group Report proposed to: 1) eliminate the Original Direct Access Declaration and Direct Access Load Growth Affidavit; 2) modify the Customer Assignment Affidavit; 3) develop a new Replacement Affidavit; 4) modify the Relocation Affidavit; 5) implement an electronic Direct Access Service Request; 6) standardize the 6-month Notice Submissions; 7) modify the DA enrollment process; 8) establish a lottery enrollment; and 9) postpone the January enrollment window.

The Joint Parties have no objections to the Commission’s adoption of these nine proposals. However, items #7 through #9 are replaced with the lottery process outlined in Attachment A. Also, to provide further clarity regarding relocation options, the Joint Parties propose a modification to the Working Group Report’s revised Relocation Affidavit, and propose to add a new option where the customer can qualify as follows:⁹

D. “Current Location” means one or more existing customer Premises where the electric load of one or more service accounts is currently being served under DA. “New Location” means a different Premises than the Current Location to which the customer intends to relocate all or part of its business and operations from the Current Location. The New Location may only consist of one service account at which the customer has been receiving bundled service. The New Location shall not be eligible for DA service until all electric service accounts billing under the same customer of record at the Current Location have been terminated. Customer

⁹ See Attachment B.

must submit this request to Utility no later than 90 days from the date all the service accounts at the Current Location have been terminated.

In addition, the Joint Parties have already provided their proposals to modify item 7 (direct access enrollment process), item 8 (lottery enrollment), and item 9 (postpone the January enrollment window) in response to question 1 above.

4. The specific information to be provided in subsequent status report updates on DA implementation results.

Previously, parties requesting status reports on DA implementation results were required to file a motion, which the Commission has granted each time. However, for the sake of administrative ease, the Joint Parties respectfully request that the Commission grant a blanket waiver to relieve parties from the requirement of filing new motions to request status reports on DA implementation results. The Joint Parties propose that the Energy Division should prepare an annual report summarizing the results of the enrollment process for the previous year for each utility. The Joint Parties propose that the status reports should include information regarding retail customer demand for DA service and the effectiveness of the DA enrollment process, as this information is helpful to determine whether any changes should be made to the enrollment process in the future., and will provide insight regarding the effect of regulatory uncertainty regarding non-bypassable charges and other DA regulatory requirements. Accordingly, the Joint Parties propose that the status reports include the following:

1. Number of valid Six-Month Notices submitted by the utility during the Submission Period. Duplicate Six-Month Notices will not be reported.
2. Amount of DA load, in annual gigawatt hours, available under the Overall DA Load Cap as of the commencement date of the lottery.
3. Lottery number assigned to the last customer given an opportunity to switch during the year. (Assuming 1, 2, 3...).

4. Number of customers and associated annual gigawatt hours of customer loads that remained on the waiting list as of December 31 of the previous year.

The utilities will provide the above information to the Energy Division by April 1 of each year, for the previous year, beginning in 2014. Notwithstanding, the blanket waiver is no longer valid and the utilities are relieved of this reporting responsibility if the process changes in such a way that the required data is no longer relevant (i.e., if the DA limits are lifted), or the submission process is eliminated.

5. The frequency of intervals with which status reports should be provided.

The Energy Division should aggregate the utility information, and issue a status report in May of each year, beginning in 2014.

III. CONCLUSION

For the reasons provided above, the Joint Parties respectfully request that the Commission adopt the recommendations presented herein.

Respectfully submitted,

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On behalf of
ALLIANCE FOR RETAIL ENERGY
MARKETS, CALIFORNIA
MANUFACTURERS & TECHNOLOGY
ASSOCIATION, DIRECT ACCESS
CUSTOMER COALITION, ENERGY USERS
FORUM, PACIFIC GAS AND ELECTRIC
COMPANY, RETAIL ENERGY SUPPLY
ASSOCIATION, SAN DIEGO GAS &
ELECTRIC COMPANY, AND SOUTHERN
CALIFORNIA EDISON COMPANY

July 10, 2012

ATTACHMENT A

RANDOM NUMBER LIST SWITCHING REQUEST AND ENROLLMENT PROPOSAL

ESTABLISH RANDOM NUMBER LIST ENROLLMENT

Issue – The current first-come, first-served submittal process for Six-Month Notices to switch and potentially enroll in Direct Access (DA) service has created some issues for customers and IOUs, and parties wish to improve the process. The IOUs and DA Parties¹ jointly propose the following modified proposal for submitting a Six-Month Notice request and enrollment process:

- 1) DA customers or their authorized agent may submit Six Month Notices via email or an online IOU form during a prescribed 5-business day window (Submission Period) in the second full business week in April of 2013 for space under the established Overall Load Cap that may become available commencing in October of 2013 and continuing through 2014. Beginning in 2014, the Submission Period will be the second full week in June of each year for space under the established Overall Load Cap that may become available during the twelve months of the subsequent calendar year. The Submission Period will begin on Monday at 9:00 a.m. Pacific Time and end on Friday at 5:00 p.m. Pacific Time. Six Month Notices received prior to 9:00 a.m. Monday or after 5:00 p.m. Friday will be rejected. Submissions must be made by or on behalf of an individual customer and shall include the following information:
 - a) Customer Name, Six-Month Notice, Submitter Name, and number of Service Accounts being submitted.
 - b) A completed Six-Month Notice may cover multiple Service Accounts but they must all be for the same customer, under that customer's Federal Taxpayer ID. A Six-Month Notice found to include multiple Taxpayer IDs will be considered to have a deficiency. Upon email notification from the IOU of such deficiency, DA customers or their authorized agent shall have five business days to correct the Taxpayer ID or submit a new Six-Month Notice for the Service Account(s) covered by a different Taxpayer ID.
 - c) A prioritized list of the submitted Service Accounts (in the event, the available space under the established Overall Load Cap cannot accommodate the entire list).
- 2) Upon IOU receipt of each Six-Month Notice, the IOU will send an automatic receipt via email, addressed to the party from whom the notice was received, acknowledging that the Notice was received. The purpose of this e-mail shall be just to confirm that the submission was received. It shall neither confer any priority, nor impact the lottery process.
- 3) Any duplicate Six-Month Notices covering the same Service Accounts will be discarded. If more than one Six-Month Notice is received for a Service Account, only one will be confirmed; all others will be ineligible. For any Six-Month Notice that the IOU determines to be ineligible, it will send via e-mail a notice to the party from whom the Six-Month Notice was received that it has been determined to be ineligible. If the party believes that the IOU's determination of ineligibility is in error, the party will have 5 business days to dispute the IOU's determination, upon which the IOU will review its determination and advise the submitter of the information required to resolve the dispute.
- 4) IOU to review/audit/confirm Six-Month Notices within 30 business days following close of the Submission Period.

¹ The DA Parties include AReM, Commercial Energy, DACC, EUF and RESA.

- 5) During the review and audit process, a Six-Month Notice that is found to have a deficiency (e.g., incorrect service account number) may be accepted on the condition that it is corrected by the customer within five (5) business days after the IOU notifies the customer of such deficiency. Six-Month Notices will be void in the event a deficiency in a Six-Month Notice is not corrected by the customer within five (5) business days, but only as to the service account(s) for which there was an uncorrected deficiency.
- 6) Six-Month Notices will be accepted subject to all deficiencies being resolved and availability of space under the established Overall Load Cap. By the 30th business day of the review period, each IOU will run the "randomizer" tool (Microsoft Access or some other tool agreed-upon by all parties) to assign a random number to each customer submission.
- 7) The Six-Month Notices will be ordered in sequence by their randomly assigned number and accepted subject to the established Overall Load Cap. Remaining Six-Month Notices will be placed on a Wait List in the order assigned by randomizer, and will be maintained on that Wait List for the subsequent calendar year until the next enrollment period commences.
- 8) Within 10 business days, following the 30 day review period, customers will receive email notification that their Six-Month Notice has been accepted or placed on the Wait List along with their initial sequence number, based upon the random "lottery" number.
- 9) All Six-Month Notices on the Wait List on the last business day of each calendar year will be cancelled and superseded by the following year's Wait List.
- 10) On the last business day of each month, the IOU will determine if there is room under the Overall Load Cap and notify the first customer on the Wait List that there is available space under the Overall Load Cap:
 - a) If the available space under the Overall Load Cap is sufficient to accommodate all of the customer's Wait-Listed Service Accounts, the IOU will notify the customer of the DASR Due Date for each accepted Service Account at least 45 days in advance of the customer's earliest possible switch date. During this process, a six-month notice that is found to have a deficiency (e.g., incorrect service account number) may be accepted on the condition that it is corrected by the customer within five (5) business days after the IOU notifies the customer of such deficiency. Six-Month Notices will be void in the event a deficiency in a six-month notice is not corrected by the customer within five (5) business days, but only as to the service account(s) for which there was an uncorrected deficiency. Customers will have 15 business days either to accept or decline the space offered, without penalty. Should the customer decline the space offered, the customer is removed from that year's Wait List and remains on utility bundled service. The IOU will then notify the next customer on the list.
 - b) If the available space under the Overall Load Cap is not sufficient to accommodate all of the customer's Service Accounts on the wait list, the IOU will notify the customer at least 45 days in advance of the customer's earliest possible switch date of the eligible Service Account(s) and the earliest possible switch date of the eligible Service Account(s) and will work with the customer to determine the Service Accounts to be switched. The remaining Service Accounts, if any, on the customer's list will remain on the Wait List. Customers will have 15 business days either to accept or decline the space offered, without penalty. Should the customer decline to accept the space offered, the customer is removed from that year's Wait List and remains on utility bundled service.
 - c) Should a customer accept the offer and fail to submit a DASR by the DASR Due Date, the customer's account(s) will be switched to Transitional Bundled Service and be subject to the then current Switching Exemption Rules.

ATTACHMENT B



An EDISON INTERNATIONAL Company

Direct Access Customer Relocation Declaration

A. Electric Service Provider (ESP) Declaration

I, _____, state as follows:

1. I am an officer of _____ (*Name of ESP*) ("ESP") authorized to make this declaration. I have personal knowledge of the matters set forth herein and if called upon as a witness could and would testify competently thereto.
2. Pursuant to a valid agreement (Agreement) by and between _____ (Name of ESP) and _____ (Name of Customer), ESP provides electric power service to Customer at the Current Location, as specified below.
3. As stated herein, Customer requests to transfer its direct access (DA) service provided by Utility and electric power service provided by ESP at the Current Location, to the New Location, as specified in this document. This relocation is requested in the normal course of business.
4. Under the provisions of the Agreement, the Customer has the right to receive electric power service from ESP for electric service loads located at the New Location.
5. All conditions of the Agreement necessary for a transfer of electric service from Current Location to New Location have been satisfied, including any necessary approvals by ESP.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this ___ day of _____, _____ at _____, _____.
(City, State)

Signature

Title

Date

B. Customer Declaration

I, _____, state as follows:

1. I am an authorized representative of _____ (“Customer”) and I am authorized to make this declaration.
2. I have personal knowledge of the matters set forth herein and if called upon as a witness could and would testify competently thereto.
3. Customer entered into an agreement for electric power service (Agreement) with the ESP as identified above.
4. Customer requests to transfer its DA service provided by Utility and its electric power service provided by ESP from Current Location to New Location, as noted on the attached form. This relocation is requested in the normal course of business.

Please check one:

_____ A. “Current Location” means one existing customer Premises¹ where the electric load of one service account (which may consist of one or more electric meters) is currently being served under DA. “New Location” means the same or different Premises from the Current Location which has been newly acquired or constructed by customer, at which the customer intends to relocate all or part of its business and operations from the Current Location. The New Location may only consist of one service account.

_____ B. “Current Location” means one existing customer Premises where the electric load of one or more service accounts are currently being served under DA. “New Location” means the same or different Premises from the Current Location which has been newly acquired or constructed by customer, at which the customer intends to relocate all or part of its business and operations from the Current Location. The New Location may consist of one or more service accounts at a single Premises.

_____ C. “Current Location” means one or more existing customer Premises where the electric load of one or more service accounts is currently being served under DA. “New Location” means a different Premises from the Current Location to which the customer intends to relocate all or part of its business and operations from the Current Location. The New Location may consist of one or more service accounts at a single or multiple Premises. Customer warrants that the total DA load of all active accounts at New Location after the relocation has been completed is limited to loads the same as, or substantially the same as, the loads represented by the Current Location. .

_____ D. “Current Location” means one or more existing customer Premises where the electric load of one or more service accounts is currently being served under DA. “New Location” means a different Premises than the Current Location to which the customer intends to relocate all or part of its business and operations from the Current Location. The New Location may only consist of one service account at which the customer has

¹ Premises is defined in Utility’s electric Rule 1.

been receiving bundled service. The New Location shall not be eligible for DA service until all electric service accounts billing under the same customer of record at the Current Location have been terminated. Customer must submit this request to Utility no later than 90 days from the date all the service accounts at the Current Location have been terminated.

5. Customer understands that a New Location cannot include bundled service accounts that have been in the customer's name for more than ninety (90) days. This section is not applicable if section 4.D. above is selected.
6. Customer warrants its total DA load as a result of the relocation does not exceed the load limitations provided in the Agreement.
7. Customer agrees to maintain, and make available to the California Public Utilities Commission (CPUC) upon request, all records associated with its electricity service and consumption at Current Location and New Location, including, but not limited to, the applicable meter and account numbers, and the associated direct access load.

8. Customer agrees to:

(Check one)

_____ Close its account(s) at Current Location on _____
(Expected date).

_____ Return its account(s) at Current Location(s) to bundled service
on _____ (Expected date).

_____ Split the load on the account(s) at Current Location as follows (this section
is only applicable if section 4.C above is selected).
Identify service account number(s) in the space below:

9. Customer understands that this notice must be submitted within 60 days of closing its account at the Current Location or moving part of its business or operations from the Current Location to a New Location.

10. Customer understands that a DASR must be submitted within 60 days of either a) this relocation declaration's acceptance by the Utility or b) establishment of electric service at the New Location, whichever is later, for this relocation to be valid.

11. Customer understands that continuous direct access status pursuant to Ordering Paragraph 4 of CPUC Decision 02-11-022 (exemption from paying the DWR components of the DA Cost Responsibility Surcharge) will transfer to a relocation account only if each account at the Current Location(s) being combined for the relocation account qualifies as continuous direct access. If the customer elects to combine a number of accounts that do not qualify as continuous direct access, then the relocation account will not qualify as continuous direct access.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this _____ day of _____, _____ at _____, _____.
(City, State)

Signature

Title

Date



Name on Account:

Current Location Information

Service Account Number _____
Service Address _____
City, State, Zip _____
Meter Number _____
Service Account Number _____
Service Address _____
City, State, Zip _____
Meter Number _____

Service Account Number _____
Service Address _____
City, State, Zip _____
Meter Number _____

New Location Information

(The direct access service will occur at the New Location and if only part of its business or operations is relocated, the Current Location may also continue to receive direct access service)

Service Account Number _____
Service Address _____
City, State, Zip _____
Meter Number _____
Start Date for Relocation _____
Service Account Number _____
Service Address _____
City, State, Zip _____
Meter Number _____
Start Date for Relocation: _____

Service Account Number _____
Service Address _____
City, State, Zip _____
Meter Number _____
Start Date for Relocation: _____

(For more accounts, please list the additional information on a separate sheet and attach it to this form)

Upon receipt by Utility of the customer relocation declaration, Utility shall review the information and notify ESP within five business days either that (a) the relocation declaration has been accepted; or (b) Utility has reasonable cause not to process the customer relocation declaration. Upon receiving notification of the relocation declaration's acceptance under subsection (a) above, ESP must submit a DASR to Utility within 60 days of either a) this relocation declaration's acceptance by the Utility or b) establishment of electric service at the New Location, whichever is later. Upon receiving denial notification from Utility under subsection (b) above, Utility and ESP shall confer as soon as possible to determine what additional information is required in order for the relocation declaration to be accepted. This document may be executed in counterparts and submitted by fax or email, provided the originals are delivered to Utility within 10 business days thereafter.