

**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 REPLY COMMENTS OF
SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E),
PACIFIC GAS AND ELECTRIC COMPANY (U 39-E), AND
SAN DIEGO GAS & ELECTRIC COMPANY (U 902-E)
ON PROPOSED DECISION REGARDING ELECTRIC SERVICE
PROVIDER FINANCIAL SECURITY REQUIREMENTS
FOR INCREMENTAL PROCUREMENT COSTS**

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December 14, 2012

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In addition to comments filed by Southern California Edison Company (SCE), Pacific Gas and Electric Company (PG&E) and San Diego Gas & Electric Company (SDG&E) (collectively referred to as the “the IOUs”) on the November 20, 2012 proposed decision of Administrative Law Judge (ALJ) Pulsifer, “Decision Regarding Electric Service Provider Financial Security Requirements for Incremental Procurement Costs” (PD), there were two other sets of comments filed. First, the Marin Energy Authority (MEA) filed comments supporting language in the PD that would make clear that findings in the PD regarding the financial security requirements for Electric Service Providers (ESPs) do not “prejudge” the financial security requirements for Community Choice Aggregators (CCAs). The IOUs do not object to this aspect of the PD and thus no reply to MEA’s comments is required.

Second, a coalition of ESPs and Direct Access (DA) customers referred to as the “Joint Parties” filed comments supporting the PD and only proposing minor changes to clarify certain language regarding the definition of “small customers” and the affiliation between small customers and large customers. The IOUs do not *per se* oppose the clarifications proposed by the Joint Parties. However, in their opening comments, the IOUs have argued that a small customer for Section 394.25(e) purposes should be distinguished from a large customer based solely on the criterion deemed relevant in D.11-12-018: whether a customer actually has “the

same level of sophistication as large commercial and industrial customers to protect themselves” in the event of an involuntary return by their ESP.¹ As the IOUs explained in their comments, with this criteria in mind, the appropriate definition of a small customer is any customer with demand that is below 200 kilowatts (kW).

Similarly, the IOUs’ comments also addressed the issue of the definition of affiliate. Specifically, the IOUs recommended that the PD be modified to define what “affiliated” means for Section 394.25(e) purposes. The Commission has defined “affiliate” in the Affiliate Transaction Rules, adopted in D.97-12-088, as amended and revised by D.98-08-035 and D.98-12-075.² This definition should be modified to remove utility-specific references and adopted in the final Commission decision for Section 394.25(e) purposes.

If the Commission adopts the changes to the PD proposed by the IOUs, the Joint Parties comments will be moot. If the Commission does not adopt the IOUs’ proposals, the IOUs do not oppose the clarifications proposed by the Joint Parties.

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¹ See Decision (D.) 11-12-018 at 68 (emphasis added).

² D.06-12-029, Appendix A-1, p. 1, providing: 'Affiliate' means any person, corporation, utility, partnership, or other entity 5 per cent or more of whose outstanding securities are owned, controlled, or held with power to vote, directly or indirectly either by a utility or any of its subsidiaries, or by that utility's controlling corporation and/or any of its subsidiaries as well as any company in which the utility, its controlling corporation, or any of the utility's affiliates exert substantial control over the operation of the company and/or indirectly have substantial financial interests in the company exercised through means other than ownership. For purposes of these Rules, 'substantial control' includes, but is not limited to, the possession, directly or indirectly and whether acting alone or in conjunction with others, of the authority to direct or cause the direction of the management or policies of a company. A direct or indirect voting interest of 5% or more by the utility in an entity's company creates a rebuttable presumption of control.

SDG&E and SCE have authorized PG&E to sign and file this reply on their behalf.

Respectfully submitted,

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