

**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
OF THE DIRECT ACCESS CUSTOMER COALITION
AND THE ALLIANCE FOR RETAIL ENERGY MARKETS**

Pursuant to Rule 8.4 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), the Direct Access Customer Coalition¹ (“DACC”) and the Alliance for Retail Energy Markets² (“AREM”) provide the following joint notice of ex parte communications. On Monday, March 11, 2013, at approximately 11:00 a.m. an oral ex parte communications occurred telephonically between Administrative Law Judge Thomas R. Pulsifer and Daniel Douglass, counsel to DACC and AREM. The subject matter of the call was needed clarifications to Decision D. 13-01-021, *Decision Regarding Electric Service Provider Financial Security Requirements for Incremental Procurement Costs*, as modified by D.13-02-017.

Mr. Douglass explained that although the body of the original decision pertaining to the financial security requirement (“FSR”) referred repeatedly to “residential and small commercial customers” that are affiliated with large (20 kW or larger) customers, that the ordering paragraphs inadvertently neglected also to include references to residential customers that are affiliated with large customers. As a result, there was unnecessary confusion as to which customers were or were not exempted from the small customer FSR. Mr. Douglass therefore

¹ DACC is a regulatory advocacy group comprised of educational, governmental, commercial and industrial customers that utilize direct access for all or a portion of their electrical energy requirements. In the aggregate, DACC member companies represent over 1,900 MW of demand that is met by both direct access and bundled utility service and about 11,500 GWH of statewide annual usage.

² AREM is a California mutual benefit corporation formed by Electric Service Providers (“ESPs”) that are active in California’s Direct Access retail electric supply market.

requested that a clarifying decision be issued, as was done in D.13-02-017, at the request of Southern California Edison Company in its Notice of Ex Parte Communication filed on February 15, 2013.

ALJ Pulsifer requested that Mr. Douglass file a report of ex parte communications that noted the relevant excerpts from D.13-01-021 and identified the clarifications that needed to be made. In accordance with that directive, the body of the decision contains the following language (emphasis added):

pp. 2-3: As previously determined in D.11-12-018, ESP financial security requirements are to include incremental procurement cost risks for involuntary returns involving DA residential and small commercial customers not affiliated with a large customer.

p. 3: We also determined in D.11-12-018, however, that large commercial and industrial (C&I) customers (as well as small residential and commercial customers affiliated with a large customer) bear their own risks for increased procurement costs, if any, in the event of an involuntary return to bundled service.

p.3: For this purpose, we limit the calculation to include only DA residential and small commercial customers (i.e., those having load of less than 20 kilowatts (kW), and not affiliated with a large customer).

p. 4, footnote 5: This latter requirement excludes residential and small commercial DA customers affiliated with a large DA customer.

p. 18: Large DA customers typically have a number of customer accounts, some of which potentially include small residential and small commercial accounts. Thus, those affiliated small customer accounts would be classified with the large commercial customer contract, and thus not included in the small customer account categories.

D.13-01-021 should be modified as follows (suggested revisions are underlined to show requested changes):

p. 32, Finding of Fact (“FOF”) 2: In D.11-12-018, the Commission determined that, as sophisticated businesses with the ability to protect themselves in negotiating contracts with ESPS, large commercial and industrial DA customers (and residential and small commercial customers affiliated therewith) should not be able to return directly to BPS, but should instead be placed on the TBS schedule during the transitional period before either resuming DA or returning to an 18-month bundled service commitment.

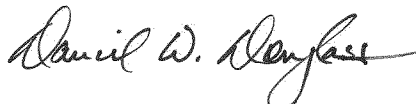
p. 33, FOF 4: Residential and S-small commercial customers accounts affiliated with a large commercial or industrial customer, however, were to be treated the same as their large customer affiliate for purposes of ESP financial security.

p. 37, Ordering Paragraph (“OP”) 1: For purposes of identifying Electric Service Provider reentry fee and financial security amounts to cover incremental procurement costs for Direct Access (DA) residential and small commercial customers set forth in Appendix 1 of this decision, the calculation shall apply only to those residential and small commercial DA customers with demand less than 20 kilowatts (kW) over three consecutive months and that are not affiliated with a large customer (i.e., a customer with demand of 20 kW or more).

p. 40, OP 14: If a residential or commercial service customer account shows demand of less than 20 kilowatts for three consecutive months, and is not affiliated with a large customer (i.e., a large customer being one with demand of 20 kW or more), the customer will be considered small for purposes of ESP financial security requirements for incremental procurement costs.

The conversation lasted approximately ten minutes. No written materials other than references to D.13-01-021 were used.

Respectfully submitted,



Daniel W. Douglass
DOUGLASS & LIDDELL
21700 Oxnard Street, Suite 1030
Woodland Hills, CA 91367
Telephone: (818) 961-3001
Facsimile: (818) 961-3004
Email: douglass@energyattorney.com

Counsel to
DIRECT ACCESS CUSTOMER COALITION
ALLIANCE FOR RETAIL ENERGY MARKETS

March 12, 2013