

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Enhance
the Role of Demand Response in Meeting
the State's Resource Planning Needs and
Operational Requirements.

Rulemaking 13-09-011
(Filed September 19, 2013)

**LIST OF THE MATERIAL ISSUES OF FACT IN DISPUTE
PROVIDED BY THE DIRECT ACCESS CUSTOMER COALITION
AND THE ALLIANCE FOR RETAIL ENERGY MARKETS**

Sue Mara
RTO ADVISORS, L.L.C.
164 Springdale Way
Redwood City, CA 94062
Telephone: (415) 902-4108
Facsimile: (650) 369-8268
E-mail: sue.mara@rtoadvisors.com

Consultant to
**DIRECT ACCESS CUSTOMER COALITION
ALLIANCE FOR RETAIL ENERGY MARKETS**

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

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

May 20, 2014

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In accordance with the directive provided in the April 2, 2014, Joint Assigned Commissioner and Administrative Law Judge Ruling and Revised Scoping Memo Defining Scope and Schedule for Phase Three, Revising Schedule for Phase Two, and Providing Guidance for Testimony and Hearings (“Ruling”), as modified by the May 16, 2014, email ruling of Administrative Law Judge Kelly Hymes, the Direct Access Customer Coalition (“DACC”)¹ and the Alliance for Retail Energy Markets (“AReM”)² respectfully submit this list of the material issues of fact³ in dispute in this proceeding, for consideration at the evidentiary hearings scheduled to commence on June 9, 2014.

¹ DACC is a regulatory alliance of educational, commercial and industrial customers that utilize direct access for all or a portion of their electrical demand. 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 non-profit mutual benefit corporation formed by electric service providers that are active in the California’s direct access market. This filing represents the position of AReM, but not necessarily that of a particular member or any affiliates of its members with respect to the issues addressed herein.

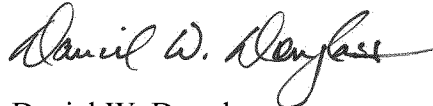
³ Certain issues on the list include examples of parties who have advocated disparate positions on these topics. However, the listing of parties is meant to be illustrative as opposed to a comprehensive list of all parties that have taken position(s) on these issues. DACC/AReM also notes that the rebuttal testimony to be served May 22 may present additional items of material disputed facts.

- Are the current demand response (“DR”) cost recovery policies and cost allocation mechanisms sufficient to achieve equitable cost allocation of the IOUs’ DR program costs (SCE at p. 45; PG&E at p. 8-3; SDG&E at p. AB-5) or do they need to be changed to achieve accuracy, fairness and competitive neutrality (MCE at p. 5; DACC/AReM at p. 3)?
- Should any change in DR cost recovery policy and cost allocation mechanisms be based on specific costs for which a utility is seeking recovery and be specific to each funding application (SCE at p. 45) or should there be consistency across all utilities (ORA at p. 17; DACC/AReM at pp. 8-9)?
- Should DR cost recovery policy and cost allocation mechanisms be determined in this proceeding (MCE at p. 3; DACC/AReM at p.3) or should DR cost allocation be addressed in other dockets such as the Long-Term Procurement Plan (“LTPP”) or the residential rulemaking (R.12-06-013) (SDG&E at p. AB-6)?
- Do Supply Resources perform generation-like functions or substitute for generation procurement?
- Are the utility DR programs categorized as Load Modifying Resources either solely available to bundled customers or provide generation-related functions?
- Should all DR programs that are substitutes for generation or generation procurement, which provide benefits solely to bundled customers and/or provide generation-related functions, have their costs recovered through generation rates (DACC/AReM at p. 3) or are other cost allocation approaches more accurate, fair and competitively neutral?

- Should utility DR program tariffs and contracts for the Demand Response Auction Mechanism (“DRAM”) explicitly state that the use of Back-Up Generators (BUGs) for providing DR is prohibited (ORA at p. 2) or should the Commission not exclude demand reduction provided from resources that use BUGs (DACC/AReM at p. 25)?
- Does the Commission have authority to impose an obligation on all load-serving entities to procure DR from the DRAM or otherwise (Ruling, Att. A, p. 4) or does it not have such authority (CLECA at p. 46; MCE, p. 8 as to CCAs, DACC/AReM at p. 27)?

DACC/AReM respectfully request that the Commission agree to address these vital issues in this proceeding and establish principles and cost allocation mechanisms for utility-based demand response programs that enhance rather than hinder the competitive markets and ensure accuracy, fairness and competitive neutrality for direct access customers and electric service providers.

Respectfully submitted,



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

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