

**Response of the Direct Access Customer Coalition to the
Request of President Michael Picker for Informal Comments
on the Customer and Retail Choice En Banc and White Paper**

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Pursuant to a June 1 email sent by Suzanne Casazza of the California Public Utilities Commission (“Commission”), parties were informed that Commission President Michael Picker had requested informal comments from the public on the CPUC’s Staff White Paper titled “Consumer and Retail Choice, the Role of the Utility, and an Evolving Regulatory Framework,” published May 9, 2017, and on the questions posed to the panelist at the Joint CPUC and California Energy Commission (CEC) En Banc on The Changing Nature of Consumer and Retail Choice in California, held on May 19, 2017.

Parties were encouraged to focus on the questions that were asked of the panelists that most closely represent their organization’s interests and encouraged to attach any reports for Commission consideration as appendices to their comments. The page limit on comments is two pages for comments on the White Paper and two pages for each set of questions posed to a panelist at the En Banc. Comments may include reports as appendices, which will not count against the page limit.

Although parties were informed that these informal comments would not be part of a formal proceeding record, they were cautioned that if the comments relate to a formal CPUC proceeding, the Commission’s Rules of Practice and Procedure for ex parte communications will apply.

The Direct Access Customer Coalition (“DACC”)¹ response attached hereto has complied with these directives.

Respectfully submitted,



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¹ DACC is a regulatory alliance of educational, commercial, industrial and governmental customers who have opted for direct access (“DA”) service for some or all of their loads. 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.

DACC Response to White Paper

The Staff White Paper marvels that customers have taken it upon themselves to embrace “retail choice” in significant numbers, but never explores why this is occurring. DACC – a unique association of direct access customers – is pleased to provide insight: customers of every size and variety want to control their own energy destinies. Large companies, accustomed to procuring commodities and services on their own terms at fixed prices, want to do the same for electricity. Universities with goals for zero-carbon emissions want to procure the types of resources under the terms, conditions, product structures and prices necessary to meet those goals. Hospitals want to procure power and backup systems that ensure continued operations during power outages. Elementary and secondary schools want long-term price certainty that fit within their specific risk profile. “Big Data” companies want to procure to meet their round-the-clock load with lower carbon energy resources. In short, customers have very specific, yet different, needs including individual risk profiles, which cannot be met through standard utility tariffs or even specialized tariffs meant to achieve selective Commission goals. Moreover, customers strongly believe that the utilities do not add value as procurement entities. Accordingly, DACC members believe that all customers should be free to procure from the electricity supplier of their own choosing on their own terms dictated by their specific needs and risk management policies.

While true customer “choice” has been limited since 2002, customers continue to press for new and expanded options. They have installed solar, wind and storage in record numbers – all as a way to control their energy price and greenhouse gas exposure. They continue to pursue direct access under the current lottery system, in which unfortunately only a few customers are permitted to switch to direct access each year. The latest direct access status report from Energy Division indicated that, in 2015, 1,452 customers requested to switch to direct access service, but only 65 customers were permitted to do so under the current cap.² As the report concludes:

*The pent-up load demand for DA remains substantial and has increased in 2015, as can be seen in increases in the number of customers on the waiting lists as well as the amount of customer load that remained on the waiting list for all three utilities.*³

² *Energy Division Direct Access Annual Report*, October 7, 2016, p. 3.

³ *Ibid* (emphasis added, footnote omitted).

The Commission should be seeking ways to *facilitate* and *support* these customer activities while considering the progress towards meeting California’s energy policy goals.

However, the current rules for “retail choice” in California are inconsistent with any well-functioning North American market model that “facilitate and support” the ability of customers to shape their own energy future. Direct access is capped, the utilities continue to recover a growing pool of “stranded costs” from customers who have not bought electricity from them since 1998, and the utilities continue to procure inefficiently through methods not focused on individual customer needs and charge non-bundled customers for the associated capacity.⁴ California’s requirements are overly prescriptive, rather than simple, clear standards for all to meet. No other competitive well-functioning retail market operates like the California market, nor can it.

DACC is encouraged by statements in the white paper indicating that the Commission plans to open a new rulemaking to consider the structure of the retail electric market and a transition of the IOUs into a new and more appropriate future role.⁵ However, the notion that the rulemaking would consider stringent regulation of “customer-centered technologies and risk management approaches,” is concerning. Markets cannot and do not succeed with improper oversight. The Commission should instead focus on promoting an environment where regulating entities facilitate the products and services customers need to manage their own energy futures. DACC’s members are eager to work hand-in-hand with the Commission and its staff to build a market structure that meets both customer and commission goals. Accordingly, DACC respectfully requests that the Commission open this new rulemaking as quickly as possible, so that California can ensure faster progress toward meeting its zero-carbon goal and making the State a competitive environment for new and existing businesses.

⁴ The Staff White Paper is incorrect at p. 8, where it states that “LSEs” pay the Cost Allocation Mechanism (“CAM). In fact, CAM is paid by customers, not LSEs.

⁵ Staff White Paper, pp. 13-14.

DACC Response to *En Banc* Questions

- I. **Panel Discussion: What Customers Want**
 - A. **In this ‘future’ retail electric system, how do you see the role for the regulated utility evolving and what role do consumers’ choices play in achieving broad public policy goals?**
 - B. **As technology and customer engagement evolves, what regulatory models do you believe are best suited to allow customers to make the choices they want while ensuring that all necessary investments are made to achieve California’s environmental and reliability goals? Do you think that the CPUC should react to it over time, or attempt to shape its direction (and conditions)?**
 - C. **Should residential customers have access to alternative retail suppliers other than CCAs? If so, describe the types of choices you want to have?**
 - D. **One concern about expanding consumer choice is safeguarding consumer from bad actors, what consumer protections need to be in place going forward? Are there any specific conditions, beyond essential consumer protections, that should be imposed on non-Utility load serving entities that want to serve the residential market? Should consumer protections be limited to for-profit entities and not CCAs? Should the regulated utilities always be available as a provider of last resort?**

DACC members want to see California evolve quickly towards an open competitive market, utilizing either an ERCOT or PJM market model. We believe the future market structure that will function best from a customer perspective is one in which the investor-owned utilities (“IOUs”) function exclusively as conduits for transactions between market participants to get electrons from the source of supply to the appropriate delivery points. We do not want the IOUs competing for generation services, whether conventional or sustainable power. DACC believes there is an inherent conflict of interest between offering a monopoly delivery service and the ideals of a competitive generation market.

When monopolies are permitted to perform services in both the supply and delivery areas, their inherent market power stymies and frustrates the development of a vibrant competitive market. For example, a check of the Commission’s website reveals 24 registered electric service providers in California, several of which are different subsidiaries of the same company, and many are not actually active in the California marketplace. Contrast that with the Texas market where by entering your zip code at Texaselectricrates.com⁶ an end-user can quickly compare rates from over forty active suppliers. PJM lists literally hundreds of members categorized as “Other Suppliers” who provide retail electric services to end-users.⁷ Put simply, California has a hollow and pale imitation of a competitive market. The cap on DA, the fact that the monopoly IOUs sell to all customers without DA rights and the extraordinarily inflexible stranded cost charges that continue to grow and accrue to customer utility accounts all conspire to render California an unfriendly environment for many competitive energy suppliers and new business in general.

This means, of course, that all end-users, have less supply choice, fewer supply options and higher costs with limited risk management options than would exist in truly competitive markets as demonstrated across North America. The result is that students at our universities, patients at our hospitals and customers that shop at retail establishments all must pay more. And why? So that we can maintain the polite fiction that monopoly providers have individual customer interests at heart and can deliver power most efficiently? Neither of those sentiments reflect the reality of the California marketplace. DACC believes that all California end-users should have freedom when considering energy suppliers and to have choice on whatever non-IOU supplier services meet market needs under the term and product structure desired. While our constituency is not residential, other than the students living in on-campus housing of our

⁶ https://www.texaselectricrates.com/?s_clid=b317e3fc7fa2cd4f57bbe75e5aefdd4c

⁷ <http://www.pjm.com/about-pjm/member-services/member-list.aspx>

university members, we believe that residential customers also should have the freedom of choice and the right to consider DA to meet their needs. Small residential aggregators, for example, can facilitate the development of local solar fields and community solar, if desired by customers. Most important, however, is that IOUs should be relieved of the responsibility to procure for commercial and industrial load that opt out of utility services.

DACC does not believe that IOUs do a good job of procurement to meet customer-specific needs and from experience prefer electric service provider (“ESP”) suppliers to tailor more efficient, economic and responsive solutions. We simply do not believe that that IOUs understand how to meet customer risk profiles when developing generation plan. While the Commission may like continued IOU procurement for all customer, DACC members strongly believe that allowing IOU procurement for commercial and industrial load increases prices, reduces transparency and negatively impacts customer energy goals. Instead, DACC members believe that the IOUs do not procure efficiently and that high utility costs discourage use of California’s clean energy. IOU procurement (and over procurement) is wasteful and thus has a very negative impact on California’s ability to combat climate change. We would prefer to see the Commission move away from IOUs acting as the provider of last resort (“POLR”) and believe the “slice of load” approach developed in other well operating energy markets be considered seriously as a way forward.

If the Commission is not willing to go so far as to end IOU procurement for commercial and industrial load completely, DACC believes that commercial and industrial customers should have an unfettered right to “opt-out” of IOU procurement and pre-pay their relevant power charge indifference amount (“PCIA”) and Cost Allocation mechanism (“CAM”) obligations in order to be relieved from them going forward. Customers who elect to “opt out” in this manner should pay market based rates, and all other associated charges, if returning to utility service for whatever period of time is required to ensure bundled utility service customers are not harmed as the utility determines how to serve the new marginal load. This will ensure that remaining bundled customers are not affected and forestall any potential gaming by customers trying to arbitrage competitive market fundamentals and utility pricing practices. DACC members want a market that allows customers to take risk and to develop a risk management approach specific to a customer’s needs. Many customers are comfortable with risk, know how to manage it and believe that partnering with their ESP suppliers provides significant benefit compared to monopoly IOU practices.

II. Panel Discussion: State of Customer Choice in California

- A. Having heard from the customer panel, what value or services does your company/organization offer customers that is distinct from the distribution utility? Are there specific innovations in tariffs or services that you are better equipped to provide than the traditional utilities?**
- B. As retail choice grows, whether through the growth in CCA programs, customer adoption of DERs, or reinstatement of full direct access, what do you see as the role for the regulated utility and where do you see your company/organization competing and cooperating with the utility?**
- C. As competition evolves and as competitive suppliers and technologies presumably supply greater shares of customers' electric energy needs, what regulatory models do you believe are best suited to promote competition while ensuring that all necessary investments are made to achieve California's environmental goals while maintaining reliability? Why?**
- D. What are important authorities that the CPUC should maintain or gain in the future to regulate the supply and resource adequacy portfolios as heavily for non-IOU suppliers as it does for IOUs? Should all retail sellers be required to procure long-term system and local capacity, or should the utilities continue to bear this responsibility? Are there other types of investments that should be made by the utilities or the ISO rather than by competitive suppliers representing many distributed decision makers?**
- E. Should the cap on retail choice be lifted? If so, for all customers or only for non-residential customers? Without any limits whatsoever? Should retail choice be available to residential customers in CCA territories? Who should bear the provider of last resort in any particular area?**
- F. Does the utility business model need to change fundamentally to accommodate greater choice? If so, in what ways? For example, should the utilities eventually become pure distribution providers with no retail function?**
- G. What role do you see yourselves as competitive suppliers playing in the provision of service to low-income and hard to serve customers? How do we ensure that these customers receive the same level and cost of service as higher income and easier to reach customers?**

DACC members are end-use customers, rather than ESPs that serve the state's DA load. Therefore, we are not in the position of offering services to customers, with one exception. DACC member the Regents of the University of California formed its own ESP in recognition that DA can perform a vital role in its initiative to become the first research university to achieve carbon neutrality by 2025. As a rule, however, DACC members take DA service because we believe that ESPs offer individually tailored, customer-specific services that the IOUs are either unable or unwilling to provide. If a DACC member wants 100% green power, unique billing services, assistance with distributed generation, demand response or storage options, etc., our ESP suppliers or other service providers in the industry can deliver it. Further, they do so more quickly, more efficiently and more economically than the monopoly IOUs. It is clear to DACC, after almost 20 years of DA service, that ESPs and other industry service providers are far more customer focused than IOUs and have a significantly greater ability to meet individual customer needs.

Therefore, DACC recommends that the role for the regulated utility should evolve, particularly with respect to serving commercial and industrial customer load. IOUs should abscond from the supply and service functions for those customers who "opt out" and focus on doing what they do best, delivering power reliably through their extensive transmission and distribution systems and performing timely and helpful customer service functions. Power procurement and associated services, however, should no longer be their responsibility for those who want other options. Instead, the Commission should explore the "slice of load" option and move away from monopoly supply and encourage the influx of new providers to the California market, at least for commercial and industrial load. Doing so will facilitate broader cooperation with the serving IOU rather than today's feeling that the IOU is impeding customer generation choice options and making utility service costlier than it needs to be.

DACC finds it bizarre that the question should be asked about, "what are the important authorities that the CPUC should maintain or gain in the future to regulate the supply and resource adequacy portfolios for non-IOU suppliers as done for the IOUs?" The answer to this question is quite simple: **none**. The last thing a competitive market needs is a governmental agency, no matter how well-intentioned and benign its motivation, trying to regulate how independent suppliers structure their supply portfolios. The Commission should maintain and perform its compliance function as it does currently for resource adequacy and RPS obligations. However, it should not move at all to regulate the ESP supply function in general. Doing so would be counter-intuitive to the idea of fostering a competitive retail market and likely infringe on the protections afforded DA customers and their ESP suppliers under P.U. Code Section 394(f).

DACC members certainly want to see the cap on retail choice lifted. We believe that choice ought to be the right of all Californians, from the resident of the smallest studio apartment to the largest industrial user. Furthermore, such choice should exist throughout the state, including in CCA territories. As a simple guiding principle, DACC members believe that choice is good for individuals and thus good for society. Conversely, restraints or restrictions on choice cause perverse results that impose greater costs and burdens on society. As DACC is not an advocacy organization for residential customers, we focus on the needs of educational, commercial and industrial customers. The question of residential retail competition involves numerous issues that must be addressed, not the least of which is that it is currently not permitted under California law.

Therefore, we restrict our recommendation to advocating that non-residential customers should be served by non-utility suppliers rather than by IOUs. Although the CPUC must wait for Legislation to lift the DA cap, it should not delay reining in PCIA in recognition of the shift in load to CCAs and (if the cap were lifted) to DA. Slowing down, or stopping, PCIA growth now will certainly assist a reopened market. It no longer makes sense for IOUs to plan to serve more than a small portion of commodity load. Today, CCA and DA together serve about 25% of load. As parties at the *en banc* seemed to agree, within a few years that could move to 75% or higher reduce their procurement planning. Further, all new construction should be exempt from IOU load planning and PCIA. Those new facilities have not been in the IOUs' plans and should not be locked in to IOU procurement. The IOUs need to plan now for their likely future status serving only a small portion of total load, not the near-100% of load in their territories that they used to supply.

The Commission should advocate to the Legislature that the cap on DA be lifted so that individual customers can elect if they so desire to opt out of utility service, while at the same time being permitted to elect to pre-pay their individual total PCIA obligation. Further, if the IOUs are permitted to retain a supply function for commercial and industrial customers, a DA customer that elects to return to utility service should be required to pay for an extended period a marginal cost of power procured by the IOU so as not to impose costs on remaining bundled service customers. Such an approach would enhance competition to the benefit of California electricity users for the foreseeable future. The current structure where some customer accounts are on DA and other are not on DA is not the appropriate way to manage energy risk across a portfolio.

III. Panel Discussion: Investor-Owned Utility Perspective on Current State of Retail Electricity Market and Coming Changes

- A. In this ‘future’ retail electric system, how do you see the role for the regulated utility evolving and what, if any, functions should be preserved for the regulated utility support achieving State policy goals? Do you see some form or another of retail “choice” as inevitable, in part as a result of technology changes like DERs? If so, do you prefer to see public policy (including policies adopted by the CPUC) react to it or drive it?**
- B. What regulatory models do you believe are best suited to promote competition while overseeing distribution utilities as their roles change? Should the CPUC have the clear authority to regulate the supply and resource adequacy portfolios as heavily for non-IOU suppliers as it does for IOUs? Are there other types of investments that should be made by the utilities (or the ISO) rather than by competitive suppliers representing many distributed decision makers?**

The questions asked in this section are largely repetitive to those asked in Sections I and II above. DACC therefore refers to its responses above concerning (a) the desirability of having the IOUs transition away from supplying electricity to commercial and industrial load; (b) the need to accelerate customer retail choice by removing the cap on DA; (c) the importance of having the Commission perform the compliance role for resource adequacy and RPS obligations; and (d) the need for the Commission to refrain from any attempt to regulate the supply portfolios of competitive generation and service suppliers.

The most interesting question above relates to how competition is being driven by technology changes and whether the Commission should react to it or drive it. DACC believes both roles are in fact inevitable. It will be critically important, however, for the Commission to choose carefully what its role should be and when it should focus on reacting, rather than attempting to drive, technological change. DACC believes that the Commission should refrain from prescriptive regulations as these will always lag cutting-edge technologies; rather the CPUC should set high standards and incentivize the IOU's to rebate the early adopters.

Certainly, the Commission will not be the *source* of technological changes such as DERs, storage innovations, solar panel efficiency improvements, smart technologies, etc. It does not need to *drive* such activities as they clearly are happening already in abundance. However, the Commission can *react* by either frustrating or facilitating new technology development. For example, it should move quickly to identify energy efficiency technologies such as smart thermostats, new motor designs, lighting improvements and new storage battery technologies, to name a few, for which adoption can be encouraged through IOU incentive programs. The current process for evaluating and confirming that new technologies are beneficial and worthy of such incentive support is time-consuming, tedious and needs to be stream lined. The Commission can *drive* the adoption of worthy technologies while not needing to drive the actual technology development. Thus, the important task will be for the Commission to avoid regulatory overreach and focus on identifying new technologies that are worthwhile and driving their acceptance through regulatory incentives and removing regulatory barriers that may exist to their adoption.

Regarding the current regulatory model, the burdensome stranded costs imposed on customers that elect to exercise their right of choice significantly frustrates retail choice for both DA and CCA customers. At the recent *en banc* the IOU panel focused extensively on stranded costs and used the proceeding as an opportunity to tout their portfolio allocation methodology

(“PAM”) proposed in the joint IOU application A.17-04-018. DACC believes that the traditional method of coping with stranded costs through a prescriptive regulatory approach, such as the CTC and PCIA, should be abandoned. Rather, we should move to a market approach.

If the utilities are to be transitioned away from supplying commercial and industrial load, as DACC recommends, then their current portfolios will become even more overloaded and excessive. The answer to that problem may be to consider monetizing the IOU portfolios as a mechanism for establishing a one-time exit fee for departing load. Much as the IOUs dispensed with their utility-owned generation during restructuring in the mid-1990s, consideration should be given to conducting auctions of existing IOU supply contracts to determine whether there are interested buyers. There needs to be far better identification of precisely what power supply the IOUs need to provide to their remaining residential load after they cease serving commercial and industrial customers. Any such approach would need to be extremely careful to preserve the full rights of the generator counterparties to those contracts. The California independent generation market is already in economic stress for many reasons and any effort to monetize the IOU portfolios should not enhance that condition. However, if auctions could preserve counterparty rights and result in monetizing the contract values, stranded costs could be better identified and allocated to departing load for one-time payments.

DACC believes that stranded costs need to be reconsidered by the Commission in the context of an omnibus proceeding that examines the future of retail choice and options for how it can be encouraged and facilitated. Stranded costs consideration should not be relegated to one-off applications that examine IOU proposals in a vacuum rather than comprehensively in a manner that encourages competitive market development.

Finally, as to the concern about “bad actors” and consumer protection, DACC members believe that consumer protection should be accorded to all customers, regardless of whether the supplier is an IOU, an ESP or a community choice aggregator (“CCA”). Current protections such as the annual power source and marketing disclosures are already in place and do a good job of protecting consumers, from the commercial and industrial customer perspective. DACC members can take care of themselves in this regard and thus do not see the need for any new protections.

IV. “Big Think Presentation” on the Future of Retail Electricity Service

- A. Are there any urgent steps that the CPUC, the CEC and/or CAISO need to take over next 12-18 months to begin changing the role of the utility and the structure of regulation?**
- B. Two kinds of customer choice are accelerating: customer-sited DERs and retail choice (either through CCAs and/or through other customer-driven processes). Do you see this as inevitable, or not? Do you think that the CPUC should react to it and/or adopt policy changes to shape it, or some of both?**
- C. What entity should have final responsibility for ensuring California meets its 2030 clean energy and climate goals?**
- D. What changes do each of these trends require of the distribution utilities and the regulatory framework? What are implications for resource procurement, long-term reliability and renewable integration particularly in view of the state’s aggressive climate goals? What changes, if any, in the way utilities earn their profits are necessitated by the growth in these kinds of departing loads?**
- E. Are the current CPUC and CAISO market rules adequate to ensure that non-utility retail sellers contribute a fair share to renewable integration and long-term reliability needs?**
- F. How do you see the role for the regulated utility evolving and what, if any, functions should be preserved for the regulated utility support achieving State policy goals?**
- G. What key lessons learned from California’s past and other restructuring efforts (CA Gas Deregulation, NY, HI, TX, UK) are particularly relevant as California plots the course forward?**

An extremely urgent step for the Commission to take is to curtail excessive utility procurement. The ever-expanding stranded cost burden continues to inhibit and frustrate retail competition, for both DA and CCA, through the imposition of PCIA and the Cost Allocation Mechanism. The Commission needs to look carefully at excess utility procurement in the upcoming Integrated Resource Planning Docket R.16-02-002 and act decisively to stop increasing the stranded cost burden that frustrates retail competition and inhibits economic growth.

Concurrently, the Commission needs to commence an omnibus proceeding to consider precisely how it can encourage and facilitate competitive markets. Such a proceeding should focus on: (a) restructuring of the utility supply function so that IOUs cease being the supplier to commercial and industrial load; (b) examination of what utility model, such as “slice of load” or other options, is best suited to serve the California electricity market; (c) consideration of how the current stranded cost paradigm can be replaced by one in which stranded costs for DA and CCA load are monetized and paid for on a one-time basis rather than continuing to be a never-ending burden on customers; (d) discussion of how to ensure that such a transition will enable the State to continue progress towards meeting its climate goals economically; and (e) ensuring that requisite consumer protections are provided to all, especially low-income and hard to serve customers.

This sort of a proceeding is needed precisely because the high cost of power in California is detrimental to economic growth and creates unneeded burdens. DACC attaches a paper by Professor Steve Cicala of the University of Chicago Harris School of Public Policy. Professor Cicala, a Faculty Research Fellow at the National Bureau of Economic Research, focuses on the economics of regulation, particularly as to environmental and energy policy. His paper estimates changes in electricity generation costs caused by the introduction of market mechanisms in service areas that were previously using command-and-control-type operations. It finds that “markets reduce production costs by \$3B per year by reallocating output among existing power plants: Gains from trade across service areas increase by 20% based on a 10% increase in traded electricity, and costs from using uneconomical units fall 20% from a 10% reduction in their operation.”⁸

DACC also attaches hereto a paper entitled *Conjectures & Refutations: Choice Critics Fail the Test*, by noted utility expert and former Chair of the Illinois Commerce Commission,

⁸ Abstract, “*Imperfect Markets versus Imperfect Regulation in U.S. Electricity Generation, January 22, 2017.*”

Philip R. O'Connor, PhD. Dr. O'Connor, examines the conventional criticisms of retail competition, finds them lacking and shows that the opposition does not survive empirical testing. He concludes that: (a) prices in competitive states have not been more volatile than in traditional states 1999-2013 or in the 2008-13 downturn; (b) prices in competitive states 1997-2013 rose less than in traditional states and were negative versus inflation; (c) competitive and traditional states have both added substantial capacity in line with relative load growth, with competitive states increasing ratio of production to consumption and showing relative improvement in capacity factor compared to traditional; and (d) there is no discernible difference between S&P utility bond ratings in competitive and traditional states.

Parties are also asked to comment on key lessons that can be learned from California's past restructuring efforts. There is a pervasive and untrue contention that direct access was a cause of the California Energy Crisis. When DA was implemented, customers who opted for choice saw on their bills a "PX Credit" which ensured that they were not charged for utility procurement. When the wholesale market disturbances caused PG&E to enter bankruptcy and SCE to be on the brink, the utilities stopped providing the PX Credit, causing DA customers to pay for power purchased from their ESPs as well as for power *not* purchased from IOUs. This forced DA customers to return to bundled service to avoid paying twice. California's problems were caused by a deficient market model. Rather than being a cause of the Energy Crisis, DA customers were in fact a victim. The limits on DA that still exist are entirely unjustified and should be eliminated. DA offers customers the epitome of choice. They can choose their supplier, choose their supply mix, choose their risk profile, choose their billing preferences, and get assistance with behind the meter strategies and technologies. DACC believes that the Commission can play a vital role in moving to a market model where choice and the many benefits it offers is the rule, rather than the exception, as it is currently.

DACC recognizes that there have been criticisms leveled at retail choice. The Utility Reform Network in fact used much of its time in the first panel at the *en banc* to level a critique that was lacking in both substance and analytical rigor. In the words of the German philosopher Arthur Schopenhauer, "All truth passes through three stages. First, it is ridiculed. Second, it is violently opposed. Third, it is accepted as being self-evident." The same process will occur with respect to the many benefits of competitive retail markets in electricity. The TURN presentation suggests we may now be at Schopenhauer's stage two, but with the Commission's help we can move in time to stage three.