Response of the Energy Users Forum to
the Request for Informal Comments on
the May 19, 2017 Customer and Retail Choice En Banc

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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.

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.

Energy Users Forum provides the attached response to augment the comments provided by the Direct Access Customer Coalition (DACC)

Respectfully submitted,

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EUF Response to En Banc Questions

Energy Users Forum (EUF)[1] supports and agrees with the **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 ("DACC Response")** submitted today. EUF has a few facts and comments to augment the DACC Response.

I. Panel Discussion: What Customers Want

The DACC response correctly notes: "We simply do not believe that that IOUs understand how to meet customer risk profiles when developing generation plan."[2] However, even if the Investor-Owned Utilities (IOUs) did understand how to meet customer risk profiles, the IOUs would not be able to due to the insurmountable conflict of interest the IOUs have. Entities of primary concern to the IOUs are their shareholders and the Commission. Meeting the individual needs of their customers is far from a primary concern and could often be in conflict with the interests of their shareholders.

II. Panel Discussion: State of Customer Choice in California

The DACC response provides important guidance for the Commission:

> "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

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[1] EUF is is an ad hoc coalition that represents the interests of medium and large bundled service and Direct Access (DA) customers in California, primarily taking service on rate schedules for accounts with demands above approximately 50 kW.

[2] **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**, p. 7

> 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)."[3]

An additional issue with further regulation of ESPs is that the ESPs often do not decide the composition of the supply portfolios of their customers. Customers often specify when to buy specific quantities of the products they want. Some of the proposals to further dictate the content or process of achieving the supply plans of the ESPs interferes with the relationship between ESPs and their customers, contravenes the terms of contracts between them, and is contrary to a primary purpose of DA: letting customers make and execute their own supply plans to meet their individualistic risk tolerances and objectives.

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

If the IOUs are to monetize their excess supply to determine the amount of a departing load exit fee, or liquidate assets for any other reason that would impact costs assigned to departed or departing customers, the CPUC should create an incentive for the IOUs to maximize the value of the transactions so as to minimize stranded cost. The incentive does not need to be monetary or a carrot. A stick may be the appropriate tool to provide the necessary motivation. Without an incentive to maximize liquidation value, the IOUs have a strong counter incentive to maximize the amount of stranded costs assigned to departing load, to create a disincentive for customers to depart.

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[3] DACC Response, p. 9

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

DACC points out a pervasive incorrect recollection of the facts, recounted by TURN's representative and others during the En Banc, related to the return of many direct access customers to IOU service during the energy crisis. DACC correctly states that the direct cause of the return was that "the utilities stopped providing the PX Credit."[4] The tariffs approved by the Commission at that time required the utilities to provide the credit, and due to the financial situation of PG&E and SCE, the utilities unilaterally stopping providing the credit, in contravention to their tariffs. The result was that ESPs and their customers had to pay for their own supply, which also could have been quite pricey, and the utility supply that they did not use and the utility did not provide. Since the customers could not avoid paying for the utility supply, the only option was that ESP contract be terminated so that customers could avoid being double billed.

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[4] DACC Response, p. 16