

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



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Rulemaking Regarding Whether, or Subject to  
What Conditions, the Suspension of Direct  
Access May Be Lifted Consistent with Assembly  
Bill IX And Decision 01-09-060.

R.07-05-025  
(Filed May 24, 2007)

**COMMENTS OF  
SAN DIEGO GAS & ELECTRIC COMPANY (U 902 E)  
REGARDING SUBSTANTIVE ISSUES**

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**January 5, 2010**

**BEFORE THE PUBLIC UTILITIES COMMISSION  
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Rulemaking Regarding Whether, or Subject to What Conditions, the Suspension of Direct Access May Be Lifted Consistent with Assembly Bill IX And Decision 01-09-060.

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**COMMENTS OF  
SAN DIEGO GAS & ELECTRIC COMPANY (U 902 E)  
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**I. INTRODUCTION**

Pursuant to the Rules of Practice and Procedure (“Rules”) of the California Public Utilities Commission (“Commission”) and the process and schedule set forth in the November 18, 2009 *Assigned Commissioner’s Ruling On Procedures to Address Senate Bill 695 Issues Relating to Direct Access Transactions* (“ACR”), as amended by the December 17, 2009 *Assigned Commissioner’s Ruling Amending the Scope of Issues Relating to Direct Access Phase-In* (“Amended ACR”), San Diego Gas & Electric Company (“SDG&E”) hereby submits its substantive comments regarding the issues that are to be resolved by April 11, 2010 in the new sub-phase of this proceeding, as identified in the ACR and modified in the Amended ACR.<sup>1</sup> Specifically, the ACR and Amended ACR requested parties’ comments on the ACR’s seven proposed main categories identifying the issues to be addressed in this sub-phase: i) determining direct access (“DA”) cap and baseline amounts; ii) determining the phase-in schedule; iii) monitoring and administration; iv) determining the process for utility customer

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<sup>1</sup> ACR, p. 4 and Amended ACR, pp. 3-6.

notification of new DA provisions; v) addressing a one-time exception for the switching rules; vi) procurement related requirements for Energy Service Providers (“ESPs”); and, vii) meter installation issues.

With respect to the first preliminary issue identified by the ACR, SDG&E submitted an informational filing on December 3, 2009 reflecting the data necessary for determining the DA cap that is subject to Senate Bill (SB) 695. Analysis of billed consumption (i.e., energy supplied) from April 1, 1998 through September 30, 2009 revealed that the maximum total kWh recorded and actually supplied by ESPs during a sequential 12-month period between April 1, 1998 and October 11, 2009 is 3,562,121,766 kWh for the 12-month period ending August, 2000. SDG&E submitted supplemental information on December 29, 2009 identifying the current level of direct access in its service territory as of November 30, 2009 to be 3,100,204,760 kWh.

## **II. ESTABLISHING THE PHASE-IN SCHEDULE**

### **A. What should be the length of phase-in period, within the three-to-five year range permitted under SB 695? What percentage of the total load cap should be allocated to each year of the phase-in period?**

As previously stated, SDG&E is generally amenable to a schedule that phases-in the maximum allowable DA load over a period of three years. Through workshops, the parties should be able to agree on the appropriate amount of the available load that is to be allocated during each year over the 3-year timeframe. The specific phase-in period and annual load amounts will need to take into account various factors such as the actual date of implementation (April 2010, or November 2010--if the 6-month notification requirement is not temporarily suspended) as well as the utilities’ schedules for determining their resource adequacy limits (which are currently established each

October for the following year). In the event parties are unable reach consensus on this issue, SDG&E recommends a phase-in that would allocate the available load on an equal-percentage-basis each year across the 3-year period.

### **III. MONITORING AND ADMINISTRATION ISSUES**

#### **A. Should an unused cap in one year roll into the next year? Should monitoring continue beyond the initial phase-in to keep up with DA load changes? Should DA eligible-load receive preference in returning for immediate years as long as overall cap is not exceeded? Should a set-aside be applied for DA eligible customers if load is approaching overall maximum in phase-in years?**

While SDG&E endorses transition and administration processes that are simple, fair, clear and orderly, assuming the existing switching rules (i.e., the 6-month notice requirement and the 3-year bundled service commitment) remain unchanged subsequent to an initial transition period described below, SDG&E does not anticipate any particularly significant issues associated with a proposal to roll the unused portion remaining under the established annual cap from one year into the amount allocated for the succeeding year. At the end of each year, this should require little more than evaluating current DA load and comparing that amount to the established cap for that particular year. Since such monitoring processes would be in use during the initial 3-year phase-in period, SDG&E sees no problem in maintaining processes to monitor DA load changes beyond the phase-in period.

SDG&E does not, however, agree with the concept of creating preferences or set-asides for existing DA-eligible load, regardless of the difference between the actual DA load and the available load remaining under the cap during or at the end of the phase-in period. Creating such preferences will require implementing additional rules that will unnecessarily create preferred classes of DA load adding potential complexity,

contention and delay to the transition process. Furthermore, while SB 695 provides the Commission with some discretion to modify currently effective rules governing direct transactions, there is nothing in the statute that states or even suggests that customers who are newly DA-eligible be treated any differently than existing DA-eligible customers. As a practical matter, SDG&E notes that its current IT systems have been programmed to deal with the already complex nature of the existing switching exemptions rules. To develop a separate set of on-going rules for newly DA-eligible customers or to change the rules for existing DA-eligible customers, the systems and process changes required would likely not be accomplished in time to implement a limited re-opening of DA by April 2010, as required by the statute.

**B. How frequently should utilities post updates so that parties know how DA load is in relation to the cap? What allocation process should be used when more Direct Access Service Requests are submitted than can be accommodated under the cap, consistent with orderly enrollments, clarity, transparency, and up-to-date data?**

As stated in its comments on December 7, 2009, SDG&E already submits a monthly report to the Commission's Energy Division that contains current DA load information. These reports are currently updated and provided on a monthly basis and there does not appear to be any compelling need to provide such reports on a more frequent basis.

Moreover, these monthly reports (with slight modifications) should provide parties with the information necessary to gauge where the current level of DA load falls in relation to the cap with sufficient precision. However, SDG&E notes that these monthly reports contain confidential information concerning DA load levels supplied by retail affiliate(s) of the utility and are thus provided only to the Energy Division.

In addition, SDG&E's reports are currently submitted 15 days after the end of each calendar month, and therefore the data may fluctuate at different points during the month as billing data is updated. The existing reports are intended to report current DA load based on recorded DA load and a projection of annual DA load for customers that have been DA for less than one year. In order to more precisely project and report an accurate representation of current DA load, and if monthly reporting is agreed to, SDG&E recommends that reporting take place 30 days after the end of each calendar month. This will provide a longer period of time for SDG&E to reconcile the previous month's data to ensure the most accurate report of current DA load. SDG&E would post the current annualized DA kWh on its website so that customers and ESP's have timely and easy access to this data concurrent with the monthly submission of the reports to the Commission.

With respect to Direct Access Service Requests ("DASRs"), SDG&E believes that a "first come, first served" process, as more fully described below, is the allocation methodology most consistent with enrollments that are orderly, transparent and accurate while maintaining a system that is inherently fair and simple to implement. As indicated above, SDG&E believes there is very little, if any, compelling reason to artificially create preferred classes of DA-eligible load, particularly where doing so comes at the risk of unnecessarily increasing complexity and contention among such classes.

#### **IV. CUSTOMER NOTIFICATION**

SDG&E would be willing to notify all DA-eligible bundled service customers of DA service provisions and options under the new provisions established by the

Commission pursuant to SB 695. SDG&E notes that general notification by bill-insert, as required for rate increases under the Commission's Rules, does not appear to be an appropriate means of notice. Notice to such customers via direct mailing may be a better means of notification; however, SDG&E believes that parties can address this issue more fully in workshops.

## **V. TEMPORARY SUSPENSION OF THE DA SWITCHING EXEMPTIONS RULES – INITIAL TRANSITION PERIOD**

In order to implement the limited re-opening of DA in a fair, simple, and administratively efficient manner for all eligible customers, SDG&E believes that a one-time limited suspension of the DA switching exemptions rules that would be effective only during the initial transition period described below, is appropriate. Specifically, the temporary suspension of the DA switching exemptions rules during the initial transition period would, 1) provide an existing DA-eligible customer, in the midst of a 3-year bundled portfolio service commitment, with a one-time opportunity to switch to DA service<sup>2</sup>, and 2) provide all eligible customers with an exemption from the 6-month notice requirement.

Consistent with processes historically established by the Commission for the initial implementation of changes to the DA service rules, SDG&E proposes a similar initial transition period to implement the limited re-opening of DA, as follows:

- As soon as practical after a Commission decision establishing the effective date for the limited re-opening of DA, SDG&E would provide notification regarding DA service and available options under provisions available pursuant to SB 695 to all eligible customers;

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<sup>2</sup> If the customer does not submit a request to switch during the transition period, it would be obligated to fulfill the remainder of its bundled service commitment.

- The date of this notification would represent the commencement of the initial transition period;
- During the first 60 calendar days of the initial transition period, eligible customers desiring to switch would be required to submit a notice of intent to request DA service;
- Each customer request would be date and time stamped by SDG&E upon receipt;
- During the 60-day period, and for an additional 20 calendar days, SDG&E would evaluate the annual load associated with customers' requests against the established annual DA load cap;
- DA load available under the established annual cap would be allocated to customers based on a "first-come, first-served" basis;
- In the event the annual load associated with customer requests exceeds the established annual cap, requests above the cap would not be processed for DA service;
- Customers would be notified that their requests could not be accepted at this time and that they will be placed on a waiting list;
- If a customer's request is accepted, SDG&E would notify the customer of the acceptance and provide instructions to notify its ESP that a DASR must be submitted to SDG&E in order for its account to switch to DA service;
- SDG&E would update the customer's account so that a DASR can be accepted from its ESP;

- ESPs would be required to submit a DASR within 60 days of the notice being sent to the customer;
- DASRs would be processed in accordance with the existing DASR processing rules contained in SDG&E's Rule 25;
- If a DASR is not received within the 60-day period, the customer would forfeit its switching priority and remain on its existing bundled service (i.e., it would not be subject to transitional bundled service);
- In order to subsequently elect DA service, these customers would be subject to the existing switching exemptions rules;
- At the end of the 60-day DASR submission period, the sum of the annual load associated with previously accepted requests for which a DASR was not received would be reallocated to requests pending on the waiting list;
- Once the established annual cap is reached, customer requests for DA service would be placed on the waiting list until such time DA load under the cap becomes available; and,
- New requests would be processed after requests that are currently pending on the waiting list.

At the conclusion of the initial transition period, and until such time the Commission adopts permanent changes to the existing rules, SDG&E proposes that the existing DA switching exemption rules continue to be applicable to all DA-eligible customers.

## **VI. PROCUREMENT RELATED REQUIREMENTS**

With regard to procurement requirements, SDG&E notes that SB 695 evidences the legislature's intent that as part of the reopening of direct access, direct access providers should be subject to the same requirements that apply to the three largest California electric utilities including Commission-adopted programs to implement resource adequacy provisions, renewable portfolio standards, and electricity sector requirements adopted by the California Air Resources Board pursuant to the California Global Warming Solutions Act of 2006. Additionally, direct access service providers should be subject to similar requirements with respect to general procurement obligations as well as renewable resource and combined heat and power standards.

## **VII. METER INSTALLATION ISSUES**

The Amended ACR included meter installation issues in the scope of this sub-phase. Specifically, the scope of the proceeding will include consideration as to whether a waiver of the interval data metering requirement for customers with loads greater than 50 kW requesting DA service should be provided. In that regard, SDG&E proposes that accounts with demand between 50 kW and 199 kW requesting DA service be provided a waiver of the interval meter requirement, unless the installation of an interval meter is requested by the customer or its ESP. If the customer or its ESP requests an interval data meter prior to the installation of a smart meter under SDG&E's Automated Metering Initiative, the customer will be billed for the cost of such meter.

## **VIII. NON-BYPASSABLE CHARGES**

The ACR posed the question as to what applicable non-bypassable charges are involved. In the Amended ACR, the Commission indicated that "this sub-phase will

not address what non-bypassable charges apply or how they are calculated.” The Amended ACR further stated that, “it could be useful for the IOUs to summarize the applicable charges for the benefit of customers considering switching to direct access.” Accordingly, the following summary represents the status of non-bypassable charges for DA customers, as applicable.

All DA customers are responsible for paying all charges contained in the applicable utility distribution company (UDC) rates. SDG&E’s UDC rates contain charges for Transmission, Distribution, Public Purpose Programs, Nuclear Decommissioning, the Competition Transition Charge, Reliability Services, and all applicable taxes, franchise fees, surcharges, and other charges.

In addition to the UDC charges set forth above, DA customers are also subject to the charges contained in Schedule DA-CRS (Cost Responsibility Surcharge), which also includes the Department of Water Resources Bond Charge (DWR-BC). The DA-CRS is intended to ensure remaining bundled service customers are indifferent to customers electing DA and therefore, also recovers above market costs associated with the DWR’s and the utility’s electric generation contracts and resources.

In accordance with Commission Decision (D.) 08-09-012 and Resolution E-4226<sup>3</sup>, the DA-CRS is vintaged based on when a customer submits its 6-month notice to switch to DA. The vintaged DA-CRS ensures that customers (classified as

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<sup>3</sup> On November 12, 2009, SDG&E filed Advice Letter (AL) 2125-E to implement the provisions of (D.) 08-09-012 and Resolution E-4226. As of the submission date of these comments, SDG&E has not received approval of AL 2125-E.

continuous or non-continuous)<sup>4</sup> switching to DA are charged only for the above market costs of resources that were secured to serve them as bundled service customers. A customer whose 6-month notice to depart bundled service is submitted on or after January 1<sup>st</sup> and before July 1<sup>st</sup> is billed the vintage rate for the previous year, while a customer whose notice to depart is submitted after July 1<sup>st</sup> and before January 1<sup>st</sup> is billed the vintage rate for the current year.

## **IX. CONCLUSION**

SDG&E looks forward to discussing the issues presented in this sub-phase with the interested parties during the workshops scheduled in the proceeding.

Respectfully submitted,

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January 5, 2010

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<sup>4</sup> Continuous DA customers are those customers who took DA service both before and after February 1, 2001. In addition, pursuant to Resolution E-3843, effective December 4, 2003, a customer who was DA prior to February 1, 2001 that returned to bundled service after September 20, 2001 shall be considered continuous DA. Continuous DA customers are exempt from the DWR Bond Charge and the Power Charge Indifference Adjustment components of the DA-CRS. These customers are not exempt from the ongoing CTC and will be billed for these charges under their otherwise applicable rate schedule.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the **COMMENTS OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902 E) REGARDING SUBSTANTIVE ISSUES** has been electronically mailed to each party of record of the service list in R.07-05-025. Any party on the service list who has not provided an electronic mail address was served by placing copies in properly addressed and sealed envelopes and by depositing such envelopes in the United States Mail with first-class postage prepaid.

Copies were also sent via Federal Express to Administrative Law Judge Thomas R. Pulsifer and Commissioner Michael R. Peevey.

Executed this 5<sup>th</sup> day of January, 2010 at San Diego, California.

/s/ Jodi Ostrander  
Jodi Ostrander



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