

**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)

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

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February 1, 2010

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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 reply comments to the parties’ substantive opening comments submitted on January 5, 2010.¹ In accordance with the ACR and Amended ACR, parties’ opening comments focused on seven categories of issues to be addressed in this sub-phase of the proceeding: 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 notification of new DA

¹ Opening comments were submitted on January 5, 2010 by the California Alliance for Choice in Energy Solutions and the Alliance for Retail Energy Markets (CACES/AReM), the Direct Access Customer Coalition (DACC), Pacific Gas and Electric Company (PG&E), BP America (BP), the California Large Energy Consumers Association (CLECA), Commercial Energy of California (CEC), the Division of Ratepayer Advocates (DRA), the Utility Reform Network (TURN), the Natural Resources Defense Council (NRDC), Southern California Edison Company (SCE), the Safeway Parties (Safeway) and SDG&E.

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.

On January 7, 2010 the presiding ALJ issued a ruling providing an agenda for parties attending the January 11, 2010 workshop. The stated goal of the workshop was to “foster an enhanced understanding of differing positions and underlying rationales, and to identify potential areas for consensus, or where reasons for differences may be clarified.”² SDG&E participated in the workshop and believes that overall the workshop was successful. Indeed, the discussions and issues addressed during the workshop and the two subsequent conference calls arranged by AReM that were attended by many of the parties, including all three IOUs, were very informative and helpful to SDG&E in developing a proposal to implement a process that it believes meets the Commission’s goal of transitioning towards reinstating DA by April 2010.

After considering the parties’ opening comments and the issues discussed further in the workshop and subsequent conference calls, SDG&E believes it has developed an easy to understand approach that is both simple and equitable for all eligible customers under SB 695. Moreover, because SDG&E’s proposal takes into account and utilizes SDG&E’s existing business processes and information technology (IT) systems, SDG&E is confident that it will be able to execute its proposal by the Commission’s April 2010 deadline to implement the limited re-opening of DA.

SDG&E will initiate the process by providing notification regarding DA service to all DA-eligible customers³. The date the notification is mailed by SDG&E to such customers represents the commencement of the Initial Transition Period (ITP).⁴

² January 7, 2010 Workshop Ruling, p. 2.

³ Upon implementation of the requirements of SB695 DA-eligible customers will included all active bundled service non-residential customers, existing DA-eligible bundled service non-residential customers and all existing DA-eligible bundled service residential customers.

II. THE PHASE-IN SCHEDULE

SDG&E's proposal incorporates a schedule that phases-in the maximum allowable DA load over a period of three years. A 3-year phase-in schedule appears to be supported by the majority of the parties, including PG&E, SCE, CACES/AReM, Safeway and DACC. Parties were unable to reach complete agreement on the appropriate allocation of load for each year over the phase-in timeframe. Thus, SDG&E's proposal adopts a simple, easy to understand and implement approach that allocates the available load on an equal-percentage-basis each year across the 3-year phase-in period.

SDG&E's proposal is also consistent with the approaches recommended by CACES/AReM and SCE.⁵ SDG&E originally proposed a simple first-come, first-served queuing process for receiving date and time-stamped notices of intent (NOI) to switch to DA service.⁶ SDG&E continues to believe that this is the simplest approach of all of the alternatives offered and will ensure that all customers are treated as equitably as possible and will have a full and fair opportunity to participate in the process of implementing the limited re-opening of DA. However, SDG&E believes that some of the ideas raised by the parties during the recent conference calls referenced above have merit. For instance, with regard to the NOI submission process during the time that load remains available under the annual cap, rather than evaluating each individual NOI against the cap, parties suggested a daily NOI batching process that SDG&E believes streamlines the process.

Thus, SDG&E's proposal has been modified to incorporate a first-come, first-served daily batching process, which also includes a soft cap on the annual allowable DA load, that will

⁴ "Attachment A" to these reply comments is included herein to provide the Commission and parties a summarized description of SDG&E's proposed implementation process.

⁵ CACES/AReM opening comments, p. 10-12; SCE opening comments, p.14-16.

⁶ SDG&E opening comments, p. 6-8.

allow SDG&E to simply sum the load associated with all NOIs submitted during a 24-hour period (the daily batch period would be extended to account for weekends and potential holidays when NOIs would not be processed) and as long as the load associated with the aggregated NOIs falls within a soft cap, not to exceed 10% of the established annual cap, all NOIs in the daily batch can be accepted simultaneously. In the event NOIs in a daily batch cause the DA load to exceed the soft cap, only then would SDG&E be required to look to the date and time stamp of the NOIs in that batch to prioritize the acceptance order. The date and time stamp process would also be required if customers remain on the waiting list, described below, in the event the maximum allowable DA load cap is reached.

SDG&E's proposal also addresses parties' concerns regarding the method under which customers could submit NOIs by allowing interested DA-eligible customers to submit NOIs through various means, including: i) email, ii) US mail, iii) facsimile or other acceptable means of communication (e.g., UPS, Federal Express...etc.). Each NOI received would be date and time-stamped upon receipt by SDG&E. To the extent SDG&E receives an NOI through the U.S. mail system, SDG&E will impart an 8:00 a.m. time-stamp on the business day it is received. All such NOIs will be reviewed to determine proper eligibility (i.e., correct customer class) and to verify the accuracy of account information. Eligible requests will be compared against the annual cap established for the first year of the 3-year phase-in period. Within 20 calendar days from receipt of the NOI, SDG&E will subsequently notify customers submitting NOIs whether their requests have been accepted or placed on the waiting list.

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?**

As SDG&E stated in its opening comments, SDG&E proposes to roll any unused portion of the established annual cap from one year into the amount allocated for the succeeding year. This approach to reallocating unused load under the annual cap limits is also supported by CACES/AReM. In addition, SDG&E agrees with CACES/AReM's view that, with the exception of a waiver of the 3-year minimum stay, no preferences should be given to existing DA-eligible customers. Waiver of the 3-year minimum stay is similarly supported by Safeway, DACC and the other utilities.⁷

On the other hand, DRA and TURN do not support such a waiver, with TURN suggesting that there is "very small risk that a DA-eligible customer would be unable to switch back to DA at the end of its three-year minimum stay"⁸ and DRA's view that "at this time, it is not certain whether or not customers will be precluded from becoming DA customers due to the existence of the cap if the three-year stay requirement is not waived."⁹ Since the level of customer interest remains uncertain, SDG&E does not dispute the contentions of TURN and DRA that the risk to returning customers may be small, however, given that there are only about 102 SDG&E customers with remaining commitments, SDG&E does believe that, on balance, ensuring equitable treatment among all DA-eligible customers outweighs any minor uncertainty that may be created by waiving the three-year minimum stay requirement.

⁷ CACES/AReM opening comments, p. 7-8; Safeway opening comments, p. 3; DACC opening comments, p. 1-2; SCE opening comments, p. 14; PG&E opening comments, p.3.

⁸ TURN opening comments, p. 3.

⁹ DRA opening comments, p. 4.

That said, SDG&E believes that the set-asides proposed by BP and the priority approach recommended by CLECA and Safeway provide preferential treatment to existing DA-eligible customers that would result in artificial classes of DA-eligible customers adding unnecessary complexity and contention, initially and over the longer term, resulting in delay of the transition process. Given that there is no language in SB 695 that provides for such potentially discriminatory treatment of DA-eligible customers, SDG&E's proposal refrains from creating arbitrary classes of DA-eligible customers and instead treats all DA-eligible customers the same.

Moreover, implementing such set-asides and preferences for existing DA-eligible customers would require more extensive and complex modifications to SDG&E's existing business processes and IT systems than are already contemplated and can be accommodated under SDG&E's proposal by April 2010. In that regard, SDG&E is extremely concerned that the additional system modifications and testing needed under such an approach would likely not be completed in time to implement the limited re-opening of DA by April 2010, as required by SB 695.

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?

The majority of the parties commenting on the posting issue (TURN, PG&E, SCE and SDG&E) all agree that updates should be posted to inform parties where the DA load stands in relation to the cap. Since SDG&E already submits a monthly report to the Commission's Energy Division containing current DA load information, SDG&E proposes to post its DA load/cap updates monthly to coincide with the provision of these reports, as specified below. This practice will most closely conform to SDG&E's existing business practices and no party has demonstrated any compelling need to provide such updates on a more frequent basis.

However, as SDG&E indicated in its opening comments, 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 from the previous month is updated. Thus, in order to more precisely project and report an accurate representation of current DA load, SDG&E would update its report 30 days after the end of each calendar month to provide a longer period of time to reconcile the previous month's data to ensure the most accurate report of current DA load.

With respect to Direct Access Service Requests ("DASRs"), SDG&E maintains that a "first-come, first-served" process is the methodology most consistent with enrollments that are orderly, transparent and accurate while maintaining a system that is inherently fair and simple to implement. Once a customer's NOI is accepted, SDG&E will provide notification of that fact as well as instructions for that customer to notify its ESP that a DASR must be submitted to SDG&E in order for the customer's account to switch over to DA service. In that event, the ESP would submit its customer-specific DASR within 60 days from the date SDG&E mails or emails the NOI acceptance notification to the customer. SDG&E will process any DASRs received in accordance with the existing DASR processing rules contained in SDG&E Rule 25.¹⁰

Upon close of the 60-day DASR submission period, the sum of the annual load associated with previously accepted NOIs for which a DASR was not received would be reallocated on a first-come, first-served basis to NOIs pending on the waiting list. The waiting list should remain active until all customers placed on the list as the result of submitting an NOI that was initially not accepted have either had their NOI accepted or have requested to be

¹⁰ If a DASR is not received within the 60-day window, the customer would forfeit its switching priority and remain on its existing bundled service. To subsequently elect DA service, such customers will be subject to the existing DA switching exemption rules.

removed from the list. This process is equitable for the customers that submitted NOIs; provides for a potential end date to the waiting list; and can be managed fairly easily by SDG&E.

Since SDG&E's process for customers returning to DA is largely automated, without extensive system changes, SDG&E would have no way of monitoring accounts that have submitted 6-month notices when there is no load under the cap. Absent some sort of intervention, i.e., either the extensive up-front system changes or developing some sort of ongoing manual process, at the end of the 6-month notice period, a DASR would automatically be accepted by the system and the account would switch to DA even if load was not available under the cap at the time. As a result, SDG&E customers will be able to submit 6-month notices only if there is available load under the current year's annual allocation at the time the notice is submitted. Additionally, if 6-month notices are placed on the waiting list, this would cause a perpetual waiting list that will likely lead to customer confusion and frustration and an unnecessary level of complexity to the process. Therefore, when load is not available, a customer's 6-month notice will not be accepted and 6-month notices will not be placed on the waiting list.¹¹

As indicated above, SDG&E disagrees with the position of Safeway and CLECA recommending current DA customers be given first priority. SDG&E maintains that there is very little, if any, compelling reason to artificially create preferred classes of DA-eligible customers, particularly where doing so comes at the risk of unnecessarily increasing complexity and contention among such classes. Based on SDG&E's reading of the parties' opening comments, SDG&E's approach appears to be fairly consistent with the principles and

¹¹ As discussed herein, SDG&E will post monthly updates to the current DA load on its website and whether 6-month notices are being accepted.

recommendations by the majority of parties commenting on the issue, including TURN, the CEC, DACC, CACES/AReM, PG&E and SCE.¹²

IV. CUSTOMER NOTIFICATION

SDG&E remains 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. Other than CACES/AReM's limited comments on the issue,¹³ very few of the parties provided suggestions regarding customer notification. In opening comments, SDG&E noted 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 and that notice via direct mailing may be a workable solution. In addition, after considering the workshop discussions on the issue, SDG&E would be willing to post such notices on its website.

V. PROCUREMENT RELATED REQUIREMENTS

SDG&E also generally supports the comments of TURN regarding treatment of local resource adequacy (RA) resources in the interim period between implementation of this sub-phase of the DA proceeding and a longer-term resolution of RA-related issues in R.09-10-032. In that regard, an interim approach similar to the proposal suggested by TURN, should be consistent with a smooth, orderly transition to reinstating direct access under SB 695.

VI. METER INSTALLATION ISSUES

In its opening comments, SDG&E proposed 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

¹² TURN opening comments, p. 3; CEC opening comments, p. 5-6; DACC opening comments, p. 1-2; CACES/AReM opening comments, p. 8-9; PG&E opening comments, p.3; SCE opening comments, p. 2, 9.

¹³ CACES/AReM request that the IOUs provide the text of the notice for review by ESP and customer representatives before such notices are mailed. CACES/AReM opening comments, p. 13.

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. SDG&E's proposal in this regard is somewhat consistent with the approach recommended by the majority of the parties submitting comments on this issue, and therefore SDG&E has no changes to this aspect of its proposal.

VII. CONCLUSION

SDG&E appreciates this opportunity to provide its reply comments on the substantive issues identified for resolution prior to the limited reopening of DA pursuant to SB 695. SDG&E believes its proposed process to implement the provisions of SB695 is not only easy to understand but is also fair and equitable for all eligible customers. SDG&E's proposal takes into account and utilizes SDG&E's existing business processes; minimizes modifications to existing IT systems; and addresses and mitigates most, if not all, of the concerns raised by the parties. Accordingly, SDG&E believes its proposal not only addresses the issues raised in a manner consistent with the goal of SB 695 but is one that is capable of being implemented within the relatively short timeframe involved in this sub-phase.

Respectfully submitted,

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February 1, 2010

ATTACHMENT A

Summary of San Diego Gas and Electric Company's Proposed Process to Implement a Limited Re-opening of Direct Access by April 2010 Pursuant to Senate Bill 695

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 SB695 to all eligible customers. Eligible customers would include all bundled service non-residential customers, all DA-eligible bundled service non-residential customers, and all DA-eligible bundled service residential customers.

The date this notification is mailed would represent the commencement the Initial Transition Period (ITP).

- During the first 60 calendar days of the ITP, all remaining term commitments for customers with existing 3-year BPS commitments would be waived and the 6-month advance notice requirement to switch to DA would be suspended.
- Eligible customers desiring to switch would be required to submit a Notice of Intent (NOI) to request DA service within a 60-Day NOI submission period which would be closed at 5:00 p.m. on the 60th calendar day. If the 60th calendar day falls on a Sunday or holiday, the NOI submission period would close at 5 p.m. on the next business day. NOIs received after the close of the NOI submission period would be rejected.
- Although SDG&E will encourage customers to submit NOIs via e-mail, NOIs received through US mail, fax, or other acceptable means, such as UPS or Federal Express...etc will also be accepted.
- Each NOI would be date and time stamped by SDG&E upon receipt.
- SDG&E would acknowledge receipt of an NOI within 48 hours of the date and time stamp. Customers submitting NOIs via email would receive a reply email with this acknowledgement. If a customer submits an NOI by means other than email and does not provide SDG&E with an email address on its NOI, SDG&E would send the acknowledgement notice via US Mail.

- On a daily basis, regardless of the date and time stamp, NOIs would continue to be reviewed to determine eligibility (i.e., correct customer class) and to verify accuracy of account information. SDG&E would notify customers if their account(s) is ineligible or if an NOI contains invalid account information. Ineligible NOIs would be rejected. NOIs containing invalid account information would be set aside until such time that SDG&E receives corrected information from the customer within the 60-days NOI submission period and would receive an updated date and time stamp based on when the corrected information is received by SDG&E.
- NOIs would be processed in daily batches. Daily batches would include NOIs received as follows:
 - NOIs received after 5:00 p.m. on Mondays and at or before 5:00 p.m. on Tuesdays would be placed in one daily batch for processing on Wednesdays. This process would continue on Wednesdays, Thursdays, and Fridays.
 - All NOIs received after 5:00 p.m. on Fridays and at or before 5:00 p.m. on Mondays would be placed in one daily batch for processing on Tuesdays.
- Daily batches would be evaluated against the annual allowable cap.
- SDG&E would apply a soft cap, not to exceed 10% of the annual cap, during the first two years of the 3-year phase-in when allocating available DA load to eligible NOIs to ensure the maximum number of NOIs in a daily batch that would otherwise cause the annual cap to be exceeded can be accepted. To accommodate the hard cap that will occur in the third year of the 3-year phase-in period, and in the event the soft cap threshold for the first two years is exceeded, customers submitting NOIs containing multiple accounts would be instructed to list their accounts in the order of priority they prefer their accounts to be switched to DA. During instances when caps are exceeded NOIs would be accepted first come, first served based on the date and time stamp.
- During the 60-day NOI period, to the extent the annual cap has not been reached, and for an additional 20 calendar days, SDG&E would continue to evaluate the annual load associated with NOIs against the established annual allocation of DA load. This additional 20 days would allow sufficient time to evaluate NOIs received before the end of the 60-day NOI submission period.

- Once the annual allowable maximum is reached, an NOI received during the 60-day NOI submission period would be placed on a waiting list.
- SDG&E would notify customers within 20 calendar days whether their NOI has been accepted or placed on the waiting list.
- The waiting list would remain active as long as there are customers on the waiting list or the DA rules are changed such that the waiting list is no longer required.
- For accepted NOIs, SDG&E would notify the customer by letter and provide instructions to inform its ESP that a DASR must be submitted to SDG&E in order for its account to switch to DA service.
- ESPs would have up to 60 days to submit a DASR from the date the customer's NOI acceptance letter was mailed.
- 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 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 on a first come, first served basis to NOIs pending on the waiting list.
- At the end of the 60-day DASR submission period, the temporary suspension of the existing DA switching exemptions rules would be terminated.
- Customers would be able to submit 6-month notices if there is available load under the current year's annual allocation. If load is not available, a customer's 6-month notice would not be accepted or placed on the waiting list.
- 6-month notices submitted by customers during times when load is not available under the cap will be rejected.
- SDG&E would post monthly updates to the current DA load on its website and whether 6-month notices are being accepted.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the **REPLY 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 1st day of February, 2010 at San Diego, California.

/s/ Joel Delloso _____
Joel Delloso



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