

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 1X
and Decision 01-09-060.

Rulemaking 07-05-025
(Filed May 24, 2007)

**SUBSTANTIVE REPLY COMMENTS OF THE
DIVISION OF RATEPAYER ADVOCATES
ON ASSIGNED COMMISSIONER'S RULING
REGARDING ISSUES ASSOCIATED WITH SENATE BILL 695
RELATING TO DIRECT ACCESS TRANSACTIONS**

Pursuant to the November 18, 2009 Assigned Commissioner's Ruling (ACR), (amended on December 17, 2009) addressing Senate Bill 695 (SB 695) issues relating to direct access (DA) transactions, the Division of Ratepayer Advocates (DRA) provides the following substantive reply comments on the scoping issues for this sub-phase of the proceeding. DRA provides its positions on a limited set of scoping issues. DRA's silence on certain issues should not be construed as agreement on those issues.

I. SUMMARY

As indicated in DRA's opening comments, DRA supports a process that requires minimum changes to current rules and regulations for DA transactions, and adds no new cost burden on bundled customers.¹ DRA reviewed other parties' opening comments and participated in the workshop. It also joined three subsequent conference calls.² In

¹ DRA Opening Comments at 1-2.

² Parties engaged in conference calls on January 15, January 22, and January 25, respectively.

DRA's view, these conference calls illustrated the many remaining differences among the parties, and the need for additional work to understand various proposals and to work out many details. Although there were areas of potential agreement, parties raised numerous issues of concern when discussing the implementation details. Given that there is very little time in Phase 1 of this proceeding for implementing changes to the existing rules, DRA submits that its proposal is the most practical, and involves the least amount of risk.

The limited reopening of DA service in SB 695 merely permits a small fraction of *new* DA load, and places a *cap* on overall DA load, not to exceed prior peak DA load since DA inception in 1998.³ Bearing in mind the limits on new DA service, DRA cautions against adopting proposals that could create in customers a false perception that there is an urgency to sign up for DA. DRA has argued that certain proposals, such as the 60-day "open-enrollment" period and a quick, front-loaded phase in period, could create a "gold rush" scenario, wherein customers believe they must rush to capture this one-time opportunity to sign up for DA, lest they miss out altogether.

Under the more moderate phasing-in scenario proposed by DRA, customers will not be pressured to sign up for DA immediately in the first year, but rather can take the time needed to investigate their options at their own pace. The more gradual phase-in period advocated by DRA reduces the need to establish preferential rules for various customer categories.⁴ Moreover, if the Commission adopts DRA's gradual phase-in process, any adjustments adopted in Phase 2 would be applied to a larger remaining pool of potential DA customers.

DRA recommends that the Commission follow existing DA policies to the extent possible for the first calendar year of DA enrollment, and proportionally allocate 20% of permissible DA load in this first year (April 2010 through December 2010) and for each subsequent year. DRA recommends that the Commission reject the electric service providers' (ESPs) proposals to "front-load" DA implementation (i.e., allocate a higher percentage in the first year), and reject the investor owned utilities (IOUs) proposals for a

³ Over a 12-month sum.

⁴ DRA Opening Comments at 1 & 4-5.

60-day open enrollment season for this first year of DA implementation (wherein existing switching rules would be lifted for nonresidential customers). The Commission can then begin the next phase of this proceeding immediately, and parties can refine their proposals and engage in the additional discussions needed to work out the details. This would increase the potential for joint proposals to be formed, and allow for transparency rules to be adopted, and ensure a smooth and successful implementation of DA for both energy providers and customers.

II. COMMENTS

In these reply comments, DRA addresses four issues, summarized as follows:

1. **The ESPs' proposal to front-load DA load**; front-loading the roll out of this new DA load is likely to be financially harmful to bundled customers and detrimental to market participants;
 2. **The IOUs' proposal for a 60-day open enrollment period**; both the ESP and IOU proposals for a 60-day open enrollment period are likely to trigger a “gold rush” scenario; this presents substantial risks to customers and potentially will have a widespread negative effect on overall program implementation;
 3. **Whether DA subscription should be on a first come, first served basis**; DRA is in agreement with the majority of parties that DA subscriptions should be based on a first-come, first-served basis; however, DRA recommends that the waiting list for over-subscription expire each year to avoid giving preferential treatment to those who sign-up in the earlier years; and
 4. **The Utility Reform Network's (TURN) proposal to temporarily address load migration for local RA obligations**; DRA supports TURN's proposal to temporarily address load migration for the local Resource Adequacy (RA) obligation.
- A. The Commission Should Adopted DRA's Gradual Process for New DA Load Implementation**
1. **The Commission Should Reject Some ESPs' Proposals to Front-Load the Phase-in Process**

In opening comments, both the California Alliance for Choice in Energy Solutions and the Alliance for Retail Energy Markets (CACES/AReM) and Commercial Energy of

Montana (Commercial Energy) urged the Commission to allow filling up to **75%** of the cap in the first year.⁵

DRA strongly disagrees with such front-loaded proposals. CACES/AReM supports its proposal, claiming that:

[I]nterest in Direct Access service is likely to be highest in the period immediately following the reopening, the front-end loaded schedule will serve to reduce the possibility that customers who are interested in returning to Direct Access will be precluded from doing so due to the cap.

However, while there is no evidence that interest in DA will be highest in the period immediately following the reopening, adopting a front-loaded approach may force both existing eligible DA customers and new DA customers to prematurely choose to switch to DA.⁶ Currently, many eligible DA customers have not exercised their choice to switch back to DA service, despite their ability to do so.⁷ This decision may be based on their assessment of the present market conditions. However, under the front-loaded schedule, these DA-eligible customers may feel forced to make a quick decision to switch, or risk losing the opportunity to new customers.

For similar reasons, potential new DA customers may feel pressured to sign up for DA immediately. In actuality, these new customers may not want to sign up until a year or two from now, or may still be researching and attempting to understand the repercussions of switching to DA, and which provider is best suited to their needs. All customers need time to research their options and to understand the DA rules. In addition, the IOUs need time to work out the details of how to accept customer requests, how to provide notice to customers or ESPs, how to manage the wait list, and many other issues. The post-workshop all-party phone conferences revealed a host of issues and details that need to be agreed upon by the parties, and many competing proposals by the

⁵ CACES/AReM Opening Comments at 7 and Commercial Energy Opening Comments at 5. CACES/AReM also proposed that 90% of load be permitted in the second year, and up to 100% of the cap in the third year. Commercial Energy suggested that the remaining 25% be spread equally over the following two years.

⁶ Combining front-end loading with the proposed 60-day open enrollment period and a potential wait list that rolls over each year may create a “gold rush” scenario, as discussed below.

⁷ IOU information filings on December 3 & December 29, 2009 pursuant to ACR issued on November 18 and modified on December 18, 2009

IOUs that are yet to be worked out. Each of these proposals needs more comprehensive analysis and understanding. Even once these details have been worked out, additional time will be required for the IOUs to make changes to their operations and test the adopted procedures. For these reasons, DRA concludes that a front-loaded process is not the optimal way to approach the first year of re-opened DA.

2. The Commission Should Adopt CLECA's 5-Year Phase-In Period, and Clarify that the First Year will End on December 31, 2010

DRA, in its opening comments, recommended that DA load be allocated equally over the implementation period of three to five years, which would mean allocating 20% to 33% of the DA load during each year. After reviewing parties' opening comments, DRA refines its position and supports the longer duration of five years for the implementation period as California Large Energy Consumers Association (CLECA) suggested.

CLECA stated in its opening comments:

We believe that the Commission should require the full five-year phase-in period and that it should permit the addition of 20% of the "delta" each year during that period. This sort of deliberate phase-in would reduce transitional and generation planning issues.... DA-eligible customer....need to understand that DA service can "fill up" and that their right to move to DA service could be cut off... [F]or the utilities, it would allow ESPs to better plan how to meet their resource adequacy and renewable portfolio requirements, it would give existing DA-eligible customers more time within which to make their decisions on the form of service they would like for the long-term and it would allow the new potential DA customers a period within which to make their decisions as well.⁸

DRA agrees with most of CLECA's concerns and the rationale stated above, and supports equal allocation of the remaining DA load over the full five-year duration allowed by SB 695.

⁸ CLECA Opening Comments at 5-6 (fn.omitted).

In the parties' conference calls, most parties agreed that the allocation should be based on a calendar year. DRA agrees, as this will align the DA process with resource adequacy projections, which are based on a calendar year. This means that by the time the Commission adopts a decision in April, there will be a maximum of 8 ½ months allotted for the first year; thus, the 20% allocation for this shortened first year already results in front-loading the first year. (This is even more reason to reject the ESPs' proposal to front-load the phase-in process up to a 75% in the first year.) Such a large allocation upfront, compounded by the initial truncated "year," will virtually negate the concept of a phase-in and compound the potential negative effects discussed above. The Commission can always change this allocation after the first year's experience as DRA suggested in our opening comments based on DA demand and supply, and other market conditions.⁹

Given the potential to cause premature switching to DA, the number of unanswered questions, the obvious implementation issues to work out, the reasons provided by CLECA, and the shortened first "year," it is much more reasonable to adopt a moderate phase-in schedule for re-opening of DA. For these reasons, DRA recommends that the Commission allocate the DA load equally over a 5-year period, 20% each year.

B. IOUs' 60-Day Open Enrollment Proposal is Likely to Create a "Gold-Rush" Scenario for Direct Access, and Therefore Should Be Rejected.

All three IOUs presented similar proposals for a 60-day "open enrollment" transitional period which entails a one-time switching rule exemption.¹⁰ However, DRA cautions against adoption of this policy, for the reasons discussed below:

1. IOU Proposals Are Not Practical For Implementation of an April 2010 Commission Decision.

At the workshop, issues were raised about the actual procedural details associated with each IOU open enrollment proposal. Subsequently, the IOUs provided more details

⁹ DRA Opening Comments at 7.

¹⁰ SCE Opening Comments at 3, SDG&E Opening Comments at 5, and PG&E Opening Comments at 7.

through e-mail communications, and three conference calls were held to discuss those details.¹¹ At the end of the last conference call on January 25, 2010, there was no conclusive outcome or consensus reached. The conference call discussions highlighted that parties are still seeking to understand the proposals, and that the IOUs still have details to work out within each proposal.

Additionally, the IOUs' proposals, while sharing some similarities, are not identical. For example, PG&E calls for a revised notice period from the current six months to a 90-day notice, while the other two IOUs would waive this requirement completely during the first 60-day open enrollment period.¹² The process of reviewing Notices of Intent (NOIs) and accepting Direct Access Service Requests (DASRs) also vary among the IOUs. For instance, PG&E would send a confirmation letter and give guidance to the customer as to when the customer's ESP needs to submit a DASR. The customer would then be given two opportunities for the DASR to be accepted: the first DASR deadline would be specified in the confirmation letter, and would occur approximately three months from the time the NOI was filed; if the customer did not file a DASR in that time period, the customer would be given another 60 days to file the DASR window, during which time the customer would be placed on transitional bundled commodity cost rates (TBCCR). If the customer did not file a DASR by the second deadline, the customer would remain on TBCCR rates for six months, then be placed back on bundled service for three years before being allowed to submit another NOI for DA.¹³ SCE would allow one opportunity for the DASR submission, consisting of a 60-day window after the open enrollment ended. SDG&E's proposal is very similar to that of SCE's.¹⁴

The wait list proposals presented by each of the IOUs also deviate from one another. It is clear that it would take time for the parties to flesh out these issues.

¹¹ IOUs sent e-mails on December 22, 2010, providing more detail about their open enrollment process.

¹² DRA has prepared and is attaching an IOU open enrollment detail comparison sheet as Attachment A to these reply comments. It has been reviewed, verified and corrected by the IOUs (via e-mails received over January 29 through February 1).

¹³ PG&E sent e-mail on December 22, 2010 describing the detail of the open enrollment process.

¹⁴ Id.

Currently, the Commission may not have adequate information to judge whether it should allow different rules for different IOUs or not. There is nothing on record so far to show what the rationale and impact would be for doing so.

In contrast, DRA's proposal urges that the Commission maintain the current Direct Access switching rules – which is a “business as usual” approach. This way, IOUs can plan their resources accordingly. Since the rules of engagement have been in place for a while, this would create the least amount of confusion for immediate implementation.

2. A 60-day Open Enrollment Period Coupled with Rule Waiver and Non-time Restricted Waiting List Could Unnecessarily Cause Some Customers to Rush into DA Participation

The IOUs' proposals, in general, include a short duration open enrollment period with incentives (waiving switching rule requirements) for customers to act quickly.¹⁵ In opening comments, CLECA noted significant problems associated with this one-time exception, namely, (1) it requires the DA-eligible customer to make a decision to return to DA service before that customer may be ready to make such a decision; and (2) it requires the customer to make what may be a one-time permanent decision since any ensuing return to bundled service might preclude a subsequent return to DA.¹⁶ DRA shares similar concerns.

The incentivized open enrollment period leaves customers with the impression that they would be gaining something by jumping into the initial 60-day enrollment “window.” As a consequence, some customers, who may not be ready to switch to DA at this moment, may feel pressured to enroll in order to capture this rule exemption “benefit.” Alternatively, as CLECA pointed out, they may be concerned that there will not be another opportunity to switch, because the permissible DA load will be fully subscribed by early participants, especially if the Commission were to adopt a front-loaded implementation. This problem is exacerbated if there is only one wait list that

¹⁵ SCE Opening at 3, SDG&E at 7, PG&E at 5.

¹⁶ CLECA Opening Comments at 6.

lasts for the entire DA implementation period (three, four, or five years, depending on Commission determination). Such a wait list would effectively invalidate the allocated annual cap, especially when combined with a 60-day open enrollment period. If many customers rush in at the first opportunity, as in the IOUs' proposed 60-day open enrollment period, the load associated with the customers on the wait list could exceed the cap imposed by SB 695, in which case there would be no opportunity left for customers may have decided to switch to DA later. Clearly, this is not a scenario that is fair and provides an equal opportunity for all customers.

3. Open Enrollment May Cause Customer Harm

Switching between bundled or DA service is not a very straightforward endeavor. Customers need to do their due diligence to identify the ESP that best suits their needs. It will take time for customers, especially the potential new DA participants, to research the various ESPs in the market, what types of services they offer, how the market may change, and how those changes impact their choices. This is very important for all customer classes, including small business customers. DRA's proposal for a measured rollout of DA and equal allocation over the phase in period provides customers the opportunity to investigate the necessary information at their own pace, and to sign up once they are informed and ready. Customers who are more equipped with market information, and who are ready to switch, may be more likely to sign up in the first years. However, with the DA load spread equally over five years, these customers will still be ensured that they will have an opportunity to sign up for DA later. In addition, customers who want to wait, observe, and learn from other customers' experience, will have adequate time to do so.

DRA concludes that it is not in the interest of any party – customers, IOUs, or ESPs, to establish a process that may cause significant problems and create anxiety. DRA's recommended measured DA rollout and equal allocation process will allow time to work out details of the enrollment process and queue management, which will alleviate potential implementation problems, and mitigate potential harm to the customers.

C. Any Wait List Should Only Last For the Duration of One Year of Allocation

The majority of the parties support accommodating DA demand on a first come, first served basis. DRA agrees. Some parties have suggested processing the DASR requests in “batches,” i.e. accepting all DASRs received within a certain time period; however, DRA believes that the importance of a batch processing is greatly lessened if time stamps are used as tie breakers.¹⁷

DRA is more concerned with parties’ proposals for managing “over-subscription,” i.e., when the demand for DA exceeds whatever limit the Commission adopts as the maximum annual allocation of the SB 695 cap for the year. DRA, at the workshop, stated its support for a lottery-style system to determine eligibility if customer requests for DA exceed that year’s cap,¹⁸ while most other parties supported a wait list.

DRA has considered the wait list approach, and does not support a wait list that lasts the entire duration of the allotted DA allocation. As DRA explained above, this kind of wait list potentially undermines the intent of the allocated annual cap, especially in combination with a 60-day open enrollment period. A permanent (unexpiring) wait list may incentivize many customers to rush in at the beginning of DA phase in, for fear that they will otherwise lose the opportunity altogether. This could easily lead to a large wait list, thereby depriving parties of the opportunity to seek DA service at a later date, and negating the whole concept of a phase in over three to five years. British Petroleum (BP), in their opening comments, for instance, went so far as to request a formal set aside for DA demand for charging electric vehicles (a market that, for the most part, does not exist yet).¹⁹

During the last all-party phone conference, one party suggested a wait list for each year. At the end of one year, the old wait list would be nullified and a new wait list would begin. DRA supports this concept, as it would mitigate any pressure participants would feel to get on the first DA list. Given the limited load available under the cap, no

¹⁷ Batch processing gains relevance, however, if the contract start date is used as the first tie breaker.

¹⁸ DA workshop, January 11, 2010. *See* Workshop Transcript, Volume 4, at 497.

¹⁹ Comments of BP America, Inc. (January 5, 2010) at 3.

alternative, whether an unlimited wait list, an expiring wait list or a lottery, guarantees all parties of having their NOIs accepted.

The advantages of an expiring wait list, however, are substantial. First, it helps promote a well reasoned and measured return to DA spread over the full three to five years of the program. Secondly, it greatly improves the efficiency of the wait list. When parties resubmit, they can update their load proposals. Furthermore, parties who have lost interest in DA will naturally drop out. Moving through the list is far more efficient if those who have lost interest have officially dropped out. It serves no party well if an IOU is left waiting for a DASR that is not going to arrive. Utilizing a wait list that expires each year will help prevent congestion that may be caused by a customer not removing its NOI even if that customer has lost interest in DA. Further, an expiring wait list encourages customers to submit timely NOI applications in the year when their interest is actually manifested. With an unexpiring list, a customer such as BP, might be pressured to sign up soon, when, in fact, its DA demand has not yet materialized. For these reasons, DRA believes that the expiring wait list is the best implementation option.

D. DRA Supports TURN's Local RA Proposal

DRA supports TURNS's revised proposal, which was circulated to parties on January 26, 2009 and discussed briefly at the workshops on January 11, 2010. TURN recommends a temporary adjustment to the Local Resource Adequacy (RA) Load Serving Entity's (LSE) Local Load obligation to reflect load migration. TURN proposes an interim and optional methodology to account for customer migration between LSEs on a monthly basis, by determining the Customer Load Obligation (CLO) for each LSE, and applying a payment to the LSE losing the load, for any Local RA transfer based on the \$40 per kW-year "waiver trigger" price. Such transactions would be reported by each LSE in its monthly System RA compliance filing; however, TURN's proposal would eliminate the need for an actual commercial sale of physical capacity to occur between the two LSEs.

DRA believes that, as an interim measure, the adjustment is reasonable. While a permanent solution to address this issue is being discussed in the RA Continuation

proceeding (R.09-10-032), and may be adopted later this year, DRA agrees with TURN that there may be a more urgent need to address this issue now, as load migration may increase significantly with the re-opening of Direct Access. Therefore, it appears to be prudent to have such a temporary mechanism in place should Direct Access re-open before adoption of a final Commission decision in R.09-10-032. Of course, with a more gradual phase-in period, there would be less need for such a mechanism. Nevertheless, DRA fully supports TURN's proposal.

III. CONCLUSIONS

In conclusion, DRA recommends:

- the Commission treat the first calendar year's DA enrollment as it is currently treated for DA-eligible customers, which requires customers to comply with switching rules;
- proportionally allocate 20% of permissible DA load for each calendar year to start complying with SB 695's cap requirement;
- reject the electric service providers (ESPs) proposals to front-load the DA implementation;
- deny IOUs' proposals to have a 60-day open enrollment season for this first year of DA implementation;
- adopt TURN's proposal to address local RA obligation shift caused load migration between service providers; and
- the Commission begin the next phase immediately and direct parties to further refine their proposals, provide more details associated with those proposals, and continue to engage in additional discussion to work out potential joint proposals that provide transparency to the rules and process so that there will be a smooth implementation of DA for both energy providers and customers.

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Respectfully submitted,

/s/ CHARLYN HOOK

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February 1, 2010

ATTACHMENT « A »

3 IOUs' Direct Access Open Enrollment Process Detail

	PG&E	SCE	SDG&E
Qualified customer	All DA eligible bundled residential and non-residential customers	All DA eligible bundled residential & non-residential customers	All DA eligible bundled residential customers & all bundled non-residential customers
Initial open enrollment (OE)	60 days from the start date authorized by CPUC	OE will begin on the Effective Date and end ninety (90) calendar days thereafter, or on June 30, 2010, whichever comes first. Effective Date will be 4/11/2010 or as otherwise set by CPUC.	60 days from the effective date adopted by the CPUC
3-Yr commitment to bundled during OE period	Waive remaining BPS term (if any) for current DA-eligible customers	Waive remaining BPS term for current DA eligible BPS customers, only.	Waive all remaining term commitments for customers with existing 3-year BPS commitments
6-Month advance notice during OE period	Reduce advance notice requirement from 6 months to 3-months (90 days) during the initial enrollment period.	Waive during OE only.	Suspend during Initial Transition Period (ITP)
Notice of intent (NOI)	Customer submits NOI (Three month advance notice)	Post on website that SCE is accepting NOIs. Customer submits NOI.	Customer or authorized agent submits NOI
NOI submission methods	Dedicated e-mail address; fax and/or US Mail	Establish e-mail box and a fax # that will transmit NOI to e-mail box.	e-mail (preferred option), US mail, fax or other acceptable means (UPS, FedEx)
NOI receiving process	E-mail or fax date/time received; US Mail – 8 am as the time on the day received by PG&E. In the event of over-subscription on a particular day: a) during the initial implementation period, prioritized based upon prior DA eligibility, and date/time stamp or b) after the initial implementation period, prioritized based	24-hr daily batches up to a 10% threshold (<i>i.e.</i> , soft cap) over set annual limit; prioritized according to date and time stamps in case of oversubscription.	Daily batches. NOIs submitted after 5:00p.m. on Fridays through 5:00p.m on Mondays treated as one daily batch. Soft cap set at 10% above established annual cap. NOIs prioritized based on date and time stamp if annual or maximum allowable cap is exceeded.

	PG&E	SCE	SDG&E
	on date/time stamp.		
Rescission period	3 days (consistent with the policy for the current six-month advance notice)	3 days (consistent with the policy for the current six-month advance notice)	
Review NOI	(1) The account's prior 12 months usage is compared to that year's available capacity under the cap. (2) If under the cap, confirmation letter and provide date to submit DASR by customer's ESP. (3) Flag the account as "DA Eligible" (4) If over the cap, customer is placed on wait list.	(1) Notify customer if its NOI is accepted within 20 calendar days of receipt.	(1) Notify customer that its NOI has been accepted or rejected within 20 calendar days. (2) Customer is placed on waiting list if NOI is not accepted due to annual cap limitation.
DASR Submittal	(1) Customer's ESP submit DASR during provided DASR window, customer is switched to DA. (2) Customer will be placed on TBS and billed TBCC if no DASR is submitted during designated DASR window and given another 60-day DASR window. (3) NOI is cancelled after the end of second DASR window (TBS) and account continues to be billed on TBCC for 6 more months, then the account is committed to a 3-yr minimum term on bundled service (consistent with current treatment under existing switching rules).	(1) Customer's ESP has to submit DASR during the 60-day window from the date the NOI acceptance letter was mailed to the customers to submit DASR. (2) Customer's NOI is void and account(s) will stay bundled if failed to submit DASR during set time. (3) DASR would be processed based on SCE's Rule 22.	(1) Customer's ESP has to submit DASR during the 60-day window from the date the NOI acceptance letter was mailed to the customer to submit DASR. (2) Customer forfeits its switching priority and remains on bundled service if DASR is not received prior to the end of the 60-day period. (3) DASR would be processed based on SDG&E Rule 25.

	PG&E	SCE	SDG&E
Waiting list	(1) Customer is placed on a waiting list if his account(s) exceeds available cap (on multi-account requests, customer may choose certain account(s) to be DA under the available cap space, remaining accounts place on wait list). (2) Wait list switches on a first-come first served basis as space opens up under the annual limit and/or new space is allocated in each succeeding year. (3) Customers may elect to be removed from the wait list by providing written notice to PG&E.	(1) Soft cap is used during OE period (based on daily batch up to a reasonable threshold over set annual limit) until overall cap is reached (2) NOIs not switched due to annual limits or overall cap will be on wait list (3) Wait list switch to first come, first served when space open up under the annual limits and/or overall cap	(1) Soft cap (daily batch) – applies during 1 st and 2 nd year (2) NOI received during 60-day NOI period but exceed cap would be on wait list. Waiting list remains active until all NOIs on the waiting list have been processed.(i.e., accepted with timely DASR submission or cancelled at customer’s request or due to no DASR submission (3) At the end of 60-day DASR submission period, remaining load associated with NOIs for which DASR was not received would be reallocated on a first come, first serve basis to NOI(s) pending on waiting list. (4) 6-month notices will not be accepted and will not be placed on waiting list if DA load is not available at the time 6-month notice is submitted.
Monitoring cap	Annual load associated with DA on the current month’s CPUC report is modified by adding the annual load of customer accounts whose NOIs are accepted and subtracting the annual load of those customers who returned to bundled service that month. Cap is assessed for every NOI submission but annual load would be updated monthly.	Update website if SCE is close to reaching cap; and/or indicate whether it exceeds cap and will place NOI on wait list. Continue monthly reporting of DA load to CPUC.	Continue modified monthly reporting of DA load to the CPUC. Post monthly updates to current DA load along with a message indicating whether or not 6-month notices are being accepted on website.

	PG&E	SCE	SDG&E
After Open enrollment	After initial enrollment period, switching rules revert back to current DA switching requirements.	Switching rules back to routine	Temporary suspension of the switching exemptions rules terminates

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of “**SUBSTANTIVE REPLY COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES ON ASSIGNED COMMISSIONER’S RULING REGARDING ISSUES ASSOCIATED WITH SENATE BILL 695 RELATING TO DIRECT ACCESS TRANSACTIONS**” in **R.07-05-025** by using the following service.

E-Mail Service: sending the entire document as an attachment to all known parties of record who provided electronic mail addresses.

U.S. Mail Service: mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Executed on the 1st day of February, 2010.

/s/ REBECCA ROJO

Rebecca Rojo

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