

**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)

**REPLY COMMENTS OF COMMERCIAL ENERGY OF CALIFORNIA
ON THE PROPOSED DECISION REGARDING INCREASED LIMITS FOR DIRECT
ACCESS TRANSACTIONS**

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For Commercial Energy of California

March 8, 2010

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

Rulemaking Regarding Whether, or Subject to
What Conditions, the Suspension of Direct Access
May Be Lifted Consistent with Assembly Bill 1X
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Pursuant to Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission (CPUC or Commission), Commercial Energy of California (Commercial Energy) submits its Reply Comments on the Proposed Decision Regarding Increased Limits for Direct Access Transactions (PD) issued February 9, 2010.

I. INTRODUCTION

As stated in its comments (filed March 1, 2010), Commercial Energy applauds the Commission's efforts in moving expeditiously to release a PD so that the Commission can adopt an implementation program for SB 695 that can commence in April of 2010, as specified in the legislation. As also stated in Commercial Energy's comments, it supports many of the key elements of the Direct Access programs as adopted in the PD. These Reply Comments are focused on several areas of major concern to Commercial Energy.

II. COMMENTS

A. Applicability of Six-Month Advance Notice Requirement

As Commercial Energy discussed in detail in its comments, the existing application of the six-month notice requirement is limited to those customers who returned to bundled service and

subsequently switch back to Direct Access service (or conversely, to those customers who are on Direct Access service and desire to return to bundled service). See, for example, PG&E Electric Rule 22.1 and D. 03-05-034 at 42-43. However, the Direct Access expansion that is presently under consideration is not limited to those customers who may be switching service back to Direct Access and will likely include customers who are opting for Direct Access service for the first time. Under the terms of the existing Direct Access rules, new customers are not subject to a six-month advance notice requirement.

While Commercial Energy understands parties' desire for even-handed treatment of new and other Direct Access-eligible customers and acknowledges the IOUs' planning concerns, Commercial Energy believes that the six-month advance notice requirement should be applied in a manner consistent with the existing rules. Namely, the six-month advance notice requirement should only apply to those customers who have returned to bundled service and are subsequently switching back to Direct Access service. Of course, during the OEW, the six month requirement would not apply to any customers, including the DA-eligible customers. Commercial Energy supports the exemption during the OEW period, and would prefer that the 6 month notice requirement not apply to any customers at any time, but for the purpose of this initial roll out period, Commercial Energy believes the highest priority is to re-open Direct Access with the minimum of changes to existing tariff rules or Commission orders. This approach is in line with the Commission's desire to address only those implementation issues that must be resolved in order to enroll customers in the expanded Direct Access provided under SB 695.

More importantly, such an approach will limit the potential for stranded Direct Access capacity. For example, the Joint Parties¹ have proposed a wait-list to maximize the potential to

¹ The Joint Parties include The Utility Reform Network, Southern California Edison Company, the California Alliance for Choice in Energy Solutions, the Alliance for Retail Energy Markets, the California State Universities, the Direct Access Customer Coalition, the Silicon Valley Leadership Group and the School Project for Utility Rate Reduction.

reach the first year's Direct Access cap (50% of the overall limit, as set forth in the PD). However, under the Joint Parties' proposal, the wait-list would close at the same time that the OEW closes. If customers signing up during the latter weeks of the OEW do not submit timely DASRs, any remaining space under the first year Direct Access cap would, under the Joint Parties' proposal, remain unfilled for up to six months after the close of the OEW. This is an unnecessary waste of program potential and may be avoided by simply limiting the application of the six-month advance notice rule to the specific circumstances provided for in existing tariffs. Customers new to the Direct Access program could enroll in the program at any time after the close of the OEW, up to the Direct Access cap set by the Commission for the first program year. Even if the Commission permitted this approach only for new Direct Access customers who were on the wait-list as of the close of the OEW, it could still serve to avoid squandering opportunities for customers to participate in a more competitive electric market.

The maximum cap for the expanded Direct Access program under SB 695 is relatively small. The procurement planning implications for each individual IOU should therefore be manageable. In addition, the four year phase-in schedule further protects IOUs from risks associated with procurement planning. Thus, allowing customers new to Direct Access to enroll in the program after the close of the OEW (up to the up to the Direct Access cap set by the Commission for the first program year) should not have a major effect on the IOUs' procurement planning.

Finally, this approach will not create any disparity between new and other Direct Access-eligible customers. Both types of customers will have the same opportunity to enroll during the OEW, and during years 2, 3, and 4 of the re-opening of Direct Access. Allowing new customers to continue to enroll after the close of the OEW without six-months advance notice is a simple and practical means of avoiding unused program space while complying with existing program rules.

B. Special Service Change Dates

The Joint Parties have proposed language regarding service change dates which states that, “Although Rule 22 . . . allows the IOU, the customer and the ESP to mutually agree to a different service change date for the service changes requested in a DASR, the IOUs may be unable to accommodate special service change dates during the OEW.” The proposed language appears to apply even to special service change dates that are not requested to take place until well after the close of the OEW.

Section 7.i of Appendix 2 of the PD would require IOUs to switch customers on the next scheduled meter read date following an IOU’s receipt of a DASR. There is, therefore, no logical reason to limit special service change dates that are requested to occur after the next scheduled meter read date following an IOU’s receipt of a DASR. However, the Comments of the Joint Parties suggest that the utilities should be given the ability to refuse to agree to specific switch dates, particularly during the OEW period. Commercial Energy does not believe that there should be any great difficulty in accommodating a special service change date requested to take place at least 30 days after timely submission of a DASR.

Ensuring mutually agreed-upon special service change dates is crucial. As stated in the Joint Parties’ own comments, scheduling special service change dates enables customers with multiple accounts and the ESPs who seek to serve them to switch all of the related accounts on the same date even if the existing meter read dates are different. Likewise, scheduling special service change dates allows aggregators to coordinate their electric procurement for customers’ accounts. Therefore, the language in Appendix 2 should be clarified to state that IOUs are obligated to accommodate special service change dates requested by a customer or ESP which would take place at least 30 days after timely submission of a DASR.

C. Local Resource Adequacy Obligations for 2010

Finally, while Commercial Energy supports the Appendix 3 Temporary Treatment for Local Resource Adequacy (RA) costs, which calculation will determine the cost of the resource to an ESP that does not self procure its RA capacity, it is critical for the Commission to explicitly state that an ESP which *does* self-supply its resource adequacy capacity does not have to reimburse the utility under the Appendix 3 calculation. This clarification is required to ensure fair and equitable treatment of ESPS with regard to local RA costs. This clarification would also be consistent with Public Utilities Code section 365.1, which requires that other electric providers have the same (*and not greater*) procurement obligations as IOUs.

III. CONCLUSION

Commercial Energy appreciates the opportunity to submit these Reply Comments and respectfully requests revisions to the PD and the relevant appendices that are consistent with the recommendations herein.

Respectfully submitted,

Dated: March 8, 2010

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CERTIFICATE OF SERVICE

I, Melinda LaJaunie, certify that I have on this 8th day of March 2010 caused a copy of the foregoing

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to be served on all known parties to R.07-05-025 listed on the most recently updated service list available on the California Public Utilities Commission website, via email to those listed with email and via U.S. mail to those without email service. I also caused courtesy copies to be hand delivered as follows:

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I declare under penalty of perjury that the foregoing is true and correct.

Executed this 8th day of March 2010 at San Francisco, California.

/s/ Melinda LaJaunie
Melinda LaJaunie

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