

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



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Order Instituting Rulemaking to Integrate and Refine  
Procurement Policies and Consider Long-Term  
Procurement Plans.

R.10-05-006  
(Filed May 6, 2010)

**OPENING BRIEF OF THE  
ALLIANCE FOR RETAIL ENERGY MARKETS  
ON THE LONG-TERM PROCUREMENT PLANS, TRACK II**

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Pursuant to Rule 13.11 of the California Public Utilities Commission (“Commission”) Rules of Practice and Procedure and the February 18, 2011 Ruling of Administrative Law Judge Peter Allen, the Alliance for Retail Energy Markets (“AReM”)<sup>1</sup> submits this Opening Brief in Track II of the Long-Term Procurement Plans (“LTPP”) Rulemaking (“R.”)10-05-006, regarding the investor-owned utilities’ (“IOUs”) plans to procure capacity and energy to serve their bundled utility customers. AReM focuses on the direct access forecasts incorporated into the IOUs’ bundled procurement plans. Specifically, AReM respectfully requests that the Commission direct the IOUs to reflect accurate projections of direct access load in their bundled load forecasts. Using inaccurate or outdated forecasts of projected direct access load in the bundled load forecast will result in over-procurement by the IOUs that not only will cause bundled customers to pay more than necessary for their energy and capacity, but also will result in the imposition of unnecessary stranded cost recovery on direct access customers.

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<sup>1</sup>AReM is a California mutual benefit corporation formed by electric service providers that are active in California's direct access market. The positions taken in this filing represent the views of AReM but not necessarily those of individual members or affiliates of its members with respect to the issues addressed herein.

**I. THE IOUs' BUNDLED PROCUREMENT PLANS MUST ACCOUNT FOR THE WELL-DOCUMENTED INCREASES IN DIRECT ACCESS LOAD PURSUANT TO COMMISSION DECISION AND STATUTE**

The Commission should strive to ensure that the IOUs' procurement is based on accurate estimates of bundled load so as to avoid over-procurement by the utilities in order to minimize potential claims for stranded cost recovery. Obviously, accurate estimates must reflect the impact on expected bundled load that is the result of existing statutes and Commission decisions. Most significant in this regard are Senate Bill ("SB") 695 and Commission Decision ("D.") 10-03-022, which re-opened direct access in California and specified the capped amount of direct access load for each IOU for each year of a four-year phase-in.<sup>2</sup> However, only Southern California Edison ("SCE") has elected to reflect these specified direct access limits in its bundled procurement plan.

The table below specifies the capped direct access load determined by the Commission in D.10-03-022 compared to the forecast in each utility's bundled procurement plan. As is evident, both Pacific Gas and Electric Company ("PG&E") and San Diego Gas and Electric Company ("SDG&E") are presenting forecasts that deviate from the Commission's decision by under-forecasting direct access load.

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<sup>2</sup> D.10-03-022, p. 7 and Appendix 2, p. 1.

	<b>Direct Access Cap in D.10-03-022 (GWh)</b>	<b>IOU Forecast of Direct Access Load in Bundled Plan for 2012 (PG&amp;E, SDG&amp;E) and 2015 (SCE) (GWh)</b>	<b>IOU Forecast of Direct Access Load in Bundled Plan for 2021 (GWh)</b>
<b>PG&amp;E<sup>3</sup></b>	9,520	6,084	6,084
<b>SCE<sup>4</sup></b>	11,710	12,607 (for 2015) <sup>5</sup>	13,220
<b>SDG&amp;E<sup>6</sup></b>	3,562	3,340	3,022

PG&E explains in testimony that its load forecast for bundled customers only removes the direct access load specified in the California Energy Commission’s (“CEC”) 2009 Integrated Energy Policy Report (“IEPR”), which it admits is “outdated.”<sup>7</sup> PG&E justifies this admittedly erroneous approach on the ground that it was mandated by the Commission in the standardized planning assumptions established in Appendix B of the *Administrative Law Judge’s Ruling Requesting Post-Workshop Comments, Updating Standardized Planning Assumptions, and Providing Lawrence Berkeley Report on Modeling Issues* issued December 23, 2010.<sup>8</sup> PG&E expresses concern that the additional and clearly-identified direct access load resulting from the re-opening of direct access pursuant to D.10-03-022 is “not reflected” in the 2009 IEPR<sup>9</sup> and is, therefore, excluded from the direct access forecast used in preparing its bundled plan. PG&E further acknowledges that this re-opening of direct access “may significantly impact the amount

<sup>3</sup> PG&E, Exhibit 100, Appendix A, Table PGE-2, line 7, Sheet No. 96.

<sup>4</sup> SCE, Exhibit 203, Table A-6, p. A-8. The table refers to this value as “Direct Access at ISO.”

<sup>5</sup> SCE has redacted the direct access energy values for years 2012 through 2014 in the public version of its energy table.

<sup>6</sup> SDG&E, Exhibit 304, Appendix A-2, p. A5. The table refers to this value as “Direct Access Loads, net of EE, DR and CHP.”

<sup>7</sup> PG&E, Exhibit 101, p. III-6.

<sup>8</sup> PG&E, Exhibit 101, p. III-5.

<sup>9</sup> PG&E, Exhibit 101, p. III-6.

of PG&E's bundled load."<sup>10</sup> SDG&E<sup>11</sup> seems to have adopted the same approach as PG&E, using the CEC's 2009 IEPR as the basis for its bundled customer procurement plan.<sup>12</sup>

In fact, SCE's bundled plan is the only one that incorporates the Commission's determination of direct access load in D.10-03-022. SCE explained that: "[i]n developing its bundled sales forecast, SCE assumes that the maximum load allowed under SB 695 will elect DA service and depart from bundled service."<sup>13</sup> Accordingly, AReM urges the Commission to require PG&E and SDG&E to revise their bundled plan load forecasts to achieve the same level of accuracy.

## **II. THE COMMISSION MUST ENSURE THAT ALL UTILITIES FORECAST BUNDLED LOAD ACCURATELY TO AVOID OVER-PROCUREMENT THAT WILL LEAD TO EXCESSIVE STRANDED COSTS**

The accuracy of direct access forecasts was a major issue in the previous LTPP proceeding (R.06-02-013).<sup>14</sup> Much of the discussion in that proceeding focused on the extent to which direct access load should be included in utility "system" load. However, in this proceeding, no such controversy should exist with respect to bundled load. The Commission has been clear -- the IOUs' bundled procurement plans are to identify the IOUs' *bundled* load to be served by the IOUs and should *exclude* known and expected direct access load. Specifically, the Order Instituting Rulemaking in this proceeding states that: "[w]e define "bundled" as pertaining to an investor-owned utility's (IOU's) load and resources in its role as a Load Serving Entity

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<sup>10</sup> PG&E, Exhibit 101, p. III-6.

<sup>11</sup> SDG&E, Exhibit 301, pp. RBA-11 and RBA-12.

<sup>12</sup> In fact, the CEC, in its final 2009 IEPR, agreed to prepare a supplemental analysis of bundled and direct access load forecasts to account for the effect of the SB 695 on the IOUs' bundled procurement plans. See, *2009 Integrated Energy Policy Report, Final Committee Report*, December 2009, CEC-100-2009-003-CTF, p. 50.

<sup>13</sup> SCE, Exhibit 200, p. 9.

<sup>14</sup> See, for example, D.07-12-052, pp. 100-101.

(LSE).”<sup>15</sup> Obviously, the IOUs are not the LSEs for direct access load and therefore direct access load should be *excluded* from the IOUs’ forecast of bundled load.

PG&E’s testimony confirms that, with the passage of SB 695, there is much greater level of certainty with respect to the amount of direct access load that they can expect to occur in their territory: “...with direct access being capped under recent California legislation, PG&E is able to more accurately forecast the amount of direct access load and only procure to meet its bundled customers’ needs in the out years.”<sup>16</sup> Nevertheless, PG&E fails to incorporate the capped direct access load in its bundled plan.

In fact, PG&E took a similar approach in failing to account for the known departing load of the Marin Energy Authority (“MEA”). MEA provided testimony pointing out that PG&E had clearly neglected to remove MEA’s known Community Choice Aggregation (“CCA”) load from PG&E’s bundled load forecast.<sup>17</sup> In replying to MEA’s testimony, PG&E takes the position that corrections to the bundled load forecast do not belong in Track II.<sup>18</sup> While agreeing that MEA’s concern was “legitimate,” PG&E refused to correct its bundled load forecasts, arguing that it “should not adjust these tables for every change in the assumptions that parties identify.”<sup>19</sup> PG&E concluded that Track I was the “appropriate place” to address MEA’s concern.<sup>20</sup> AReM strongly disagrees. While load forecasting issues may be germane to the Track I proceeding, they are essential to the Track II bundled procurement plans and must be addressed here.

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<sup>15</sup> *Order Instituting Rulemaking*, R.10-05-006, issued May 13, 2010, footnote 1, p. 2.

<sup>16</sup> PG&E, Exhibit 101, p. II-3

<sup>17</sup> MEA, Exhibit 1400.

<sup>18</sup> PG&E, Exhibit 103, p. III-1.

<sup>19</sup> PG&E, Exhibit 103, p. III-1.

<sup>20</sup> PG&E, Exhibit 103, p. III-1.

Obviously, the proposed changes that AReM requests are not “changes in the assumptions,” as PG&E argues. Rather, they are specific gigawatt-hour caps for direct access load in each IOU territory that were authorized by statute in 2009 and established by the Commission in 2010. Neither PG&E nor SDG&E has any valid justification for refusing to make the necessary modifications to its bundled load forecasts.

### III. CONCLUSION

AReM urges the Commission to require PG&E and SDG&E to revise their bundled plan load forecasts to account for the direct access load that has been clearly specified in D.10-03-022. Without such modifications, both PG&E and SDG&E will procure to meet load they do not serve, leading to over-procurement for their bundled load, increased costs for bundled customers, and increased costs for direct access customers that will be saddled with excessive and unnecessary stranded costs.

Respectfully submitted,



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