

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



**FILED**

08-15-12

02:58 PM

Order Instituting Rulemaking to Address Utility Cost  
and Revenue Issues Associated with Greenhouse Gas  
Emissions.

R.11-03-012  
(Filed March 24, 2011)

**COMMENTS OF THE DIRECT ACCESS CUSTOMER COALITION  
ON QUESTIONS REGARDING SENATE BILL 1018**

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**DIRECT ACCESS CUSTOMER COALITION**

August 15, 2012

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The Direct Access Customer Coalition<sup>1</sup> (“DACC”) provides this response to the *Administrative Law Judges’ Ruling Soliciting Comment From Parties On Impact Of Senate Bill 1018*, issued July 11, 2012 (“Ruling”), and in accordance with the electronic mail of Administrative Law Judge (“ALJ”) Melissa Semcer of July 20, 2012, which set this date for filing a response. The Ruling seeks a response from parties on six questions regarding the effect of Section 748.5 of the Public Utilities Code, which was added by Senate Bill (“SB”) 1018. The Ruling also permits parties to “address any and all issues of concern with the new Section 748.5.”<sup>2</sup>

**I. APPLICATION OF SB 1018 TO DACC’S PROPOSAL FOR ALLOCATION OF GREENHOUSE GAS AUCTION REVENUES**

As noted in the Ruling, new Section 748.5 of the Public Utilities Code dictates that the Commission allocate the investor-owned utilities’ (“IOUs”) revenues from the auction of greenhouse gas (“GHG”) allowances to residential, “small business,” and energy-intensive trade-exposed (“EITE”) customers with a portion of the revenues going to other uses. This required allocation conflicts with DACC’s proposal that would have

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<sup>1</sup> DACC is a regulatory alliance of commercial, industrial and governmental customers who have opted for direct access to meet some or all of their electricity needs.

<sup>2</sup> Ruling, p. 1.

allocated 100% of the GHG auction revenues to all customers.<sup>3</sup> However, DACC's proposed mechanism for distributing the auction revenues to customers is unaffected and remains the preferred approach. DACC's proposed mechanism is discussed in answer to Question 4, below.

Moreover, in implementing SB 1018, the Commission must ensure that all such required allocations to customers treat direct access customers of electric service providers ("ESPs") the same as customers of the IOUs, in accordance with the cap-and-trade regulations of the California Air Resources Board ("CARB"), which require "equal treatment" of direct access customers.<sup>4</sup> In other words, residential, "small business," and EITE direct access customers must receive their pro-rata share of GHG allocations comparable to their bundled customer counterparts.

## II. RESPONSE TO QUESTIONS

DACC provides a response to three of the questions posed in the Ruling. DACC has no comment at this time on the remaining questions, but reserves the right to reply to the comments of other parties.

**4) What distribution mechanism should be used to return revenues to small business customers? As one example, the GHG allowance auction revenues allocated to the "small business" class could be returned on an equal cents per kilowatt-hour basis. Assuming a return based on a methodology other than a volumetric return, should revenue be returned on a per business basis or on a per utility account basis (recognizing that some businesses may have multiple accounts)?**

Response: As discussed above, DACC's proposal for a mechanism by which the IOUs would distribute the GHG auction revenues to customers is unaffected by SB 1018 and

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<sup>3</sup> *Revised Proposal of the Direct Access Customer Coalition on Allocating Revenues from the Auction of Greenhouse Gas Allowances*, R.11-03-12, January 6, 2012.

<sup>4</sup> California Air Resources Board, Final Regulation Order, Cap-and-Trade Program, December 21, 2011, Article 5, Subarticle 8, § 95892(d)(4), p. 119.

should be adopted by the Commission to ensure competitive neutrality and compliance with CARB's regulations, which require "equal treatment" of all customers, including direct access customers.<sup>5</sup>

Specifically, DACC has proposed that the GHG auction revenues: (a) be refunded to customers, including direct access customers, via delivery rates; (b) be allocated to such delivery rates using the generation allocator, because GHG costs are recovered in the generation costs charged to customers (either the generation rate for bundled customers or generation charges to direct access customers from their electric service providers, as applicable); and (c) be provided directly to customers as a bill credit and listed as a specific line item in the delivery-portion of each customer's bill.<sup>6</sup> DACC urges the Commission to adopt this mechanism for distribution of GHG auction revenues.

**5) In regards to customer outreach, how should the Commission implement Section 748.5(b)? We note that some parties addressed this issue in proposals; however, those parties and others may wish to provide additional comment.**

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**c. What cost recovery mechanisms must be adopted to ensure cost recovery in rates pursuant to Section 454, as provided for in Section 748.5(b)? Should cost recovery come from a source other than greenhouse gas allowance revenues?**

Response: DACC reiterates that direct access customers have no need for such educational programs and certainly do not wish to pay for them.<sup>7</sup> Direct access customers procure power from ESPs, all of which bill their customers for their procurement costs. GHG costs are directly linked to procurement costs and the load-serving entity billing for the procurement costs should be responsible for "educating" the

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<sup>5</sup> Final Regulation Order, §95892(d)(4).

<sup>6</sup> DACC's Revised Proposal, January 6, 2012, *loc. cit.*

<sup>7</sup> See, *Comments of the Direct Access Customer Coalition on Proposals to Allocate Revenues from the Auction of Greenhouse Gas Allowances*, R.11-13-03, January 31, 2012, p. 7.

customer to the extent it is needed. Moreover, permitting the IOUs to “educate” direct access customers creates the potential for anti-competitive outcomes. However, the Commission is required to comply with SB 1018, which clearly authorizes “customer outreach.” Therefore, DACC recommends the following:

- The “customer outreach” program mandated by SB 1018 should be directed solely to residential customers. Only 0.1% of residential customers statewide have direct access service<sup>8</sup> and new residential customers are currently prohibited from electing direct access service pursuant to SB 695. Thus, this focus would minimize the potential for interference with GHG messaging by ESPs to their direct access customers.
- The provider of the customer outreach program should be obligated to deliver a message that is competitively neutral and ensures “equal treatment” of direct access customers.
- The costs of the outreach program should be borne by those who receive it. If the customer outreach is directed solely to the residential class, the cost of the outreach program should be deducted from the residential class’s share of the auction revenues, and not from the small commercial class’s share. Furthermore, under no circumstances should the outreach be paid for through general distribution rates.

**6) The statute stipulates that “The commission may allocate up to 15 percent of the revenues, including any accrued interest... for clean energy and energy efficiency projects established pursuant to statute that are administered by the electrical corporation and that are not otherwise funded by another funding**

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<sup>8</sup> Direct Access Load and Customers as of April 15, 2012, available on Commission web site at: <http://www.cpuc.ca.gov/PUC/energy/Retail+Electric+Markets+and+Finance/Electric+Markets/Direct+Access/thru2008.htm>

**source.” How do this cap and the limitation that the projects must be “established pursuant to statute” and not be “otherwise funded” affect or change proposals currently before us?**

Response: To the extent that the Commission authorizes using GHG auction revenues to fund “clean energy” and energy efficiency projects pursuant to SB 1018, that funding, or the projects or services made possible by that funding, must be made equally available to direct access customers so as to comply with CARB’s regulations that require “equal treatment” of all customers, including direct access customers.<sup>9</sup>

Respectfully submitted,



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August 15, 2012

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<sup>9</sup> Final Regulation Order, §95892(d)(4).