

MP1/lil 11/22/2010



FILED

11-22-10
03:09 PM

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 and Decision 01-09-060.

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

**ASSIGNED COMMISSIONER'S RULING
ADOPTING AMENDED SCOPING MEMO AND SCHEDULE**

This ruling adopts an amended scoping memo and revised schedule for Phase III of the proceeding.

A previous ruling, issued December 17, 2009, designated Phase III of this proceeding as a vehicle to implement the partial reopening of Direct Access pursuant to Senate Bill (SB) 695 (Stats. 2009, ch. 337). Among other things, SB 695 adds Section 365.1(b) to the Public Utilities Code, amending the previously effective suspension, and requiring the Commission to authorize prescribed increases in allowable Direct Access. In Decision (D.) 10-03-022, the Commission adopted limited measures to implement partial reopening of Direct Access by April 11, 2010. Other Phase III issues were deferred.

An amended scoping memo, issued on April 19, 2010, identified remaining Phase III issues. Today's ruling adopts a further amended scoping memo to incorporate issues relating to non-bypassable charges for Departing Load, referred to as the "power charge indifference amount" (PCIA). This ruling also adopts a schedule for resolving remaining Phase III issues.

Amended Scoping Memo

On September 23, 2010, various parties filed a joint motion seeking 1) a separate expedited phase in this proceeding to modify the methodology used to calculate Departing Load charges; 2) that any changes to the calculation apply to all applicable departing customers; and 3) notice and opportunity to intervene provided to stakeholders on the service lists in Rulemaking (R.) 02-01-011, R.03-10-003, and R.06-02-013.

The Joint Parties argue that the PCIA methodology has become unbalanced and unfair, to the detriment of non-bundled ratepayers. A key concern is whether the benchmark used to determine the Departing Load PCIA provides for bundled customer indifference. The Joint Parties argue that flaws in the PCIA methodology must be corrected to restore bundled customer indifference. At a minimum, Joint Parties seek revisions to account for the value of renewable resources, California Independent System Operator services, portfolio shape, and load factor.

The investor-owned utilities (IOUs), by response dated October 8, 2010, do not oppose review in this proceeding of issues raised by the Joint Motion, but believe the matter should be examined in conjunction with other Phase III issues. They believe that the method for determining the Departing Load PCIA is intertwined with other Phase III issues. The IOUs also believe that evidentiary hearing should be scheduled to resolve Phase III disputes

The Joint Parties, by reply filed on October 18, 2010, do not oppose evidentiary hearings for contested issues of fact, but still seek a separate phase to consider non-bypassable charges. They argue that the broader group of stakeholders affected by Departing Load issues should not be required to monitor myriad contested Direct Access issues unrelated to them. They also prefer workshops as

a means of addressing PCIA issues. Parties filed Prehearing Conference (PHC) statements on October 28, 2010, and a PHC was held on November 5, 2010.

I hereby grant the motion of the Joint Parties¹ filed September 23, 2010, and accordingly adopt an amended scoping memo to consider revisions to the PCIA methodology for Departing Load. This additional issue shall be examined in conjunction with the other pending issues in Phase III. The schedule shall be organized, however, so as to enable parties interested in PCIA issues to focus their time and resources only on those discrete issues relevant to their interests.

Adopted Procedural Plan for Phase III

The procedural plan for Phase III will be to address all remaining issues in a single Commission decision. Technical workshops will be scheduled as an initial vehicle for parties to seek consensus (or at least narrow differences) on Departing Load PCIA issues and possibly other Phase III issues. To the extent that disputes remain after workshops are concluded, parties will have the opportunity to submit written testimony in anticipation of evidentiary hearings. Evidentiary hearings will be only be conducted if, or to the extent that, cross examination of witnesses is deemed necessary.

A series of workshop sessions shall be scheduled as a forum to discuss the Departing Load PCIA methodologies, and potentially other unresolved Phase III technical disputes. The first two workshops shall focus on PCIA Departing Load issues. A third workshop session shall address other Phase III issues.

¹ The Joint Parties consist of the Direct Access Customer Coalition, California State University, Alliance for Retail Energy Markets, City and County of San Francisco, Marin Energy Authority, San Joaquin Valley Power Authority, California Municipal Utilities Association, Energy Producers and Users Coalition, California Large Energy Consumers Association, and California Manufacturers & Technology Association.

By November 30, 2010, interested parties shall file and serve statements of proposed workshop topics, including any preliminary proposals as to how the PCIA methodology applied to Departing Load should be modified. These statements shall provide a framework for developing workshop agendas with the goal of reaching consensus on disputed issues. Each workshop session shall be moderated by the Commission's Energy Division. After consideration of proposed topics, Energy Division will issue an agenda covering each workshop session, and serve notice of the workshop agenda on the service list. The planned dates and locations for each of workshop session are set forth below.

At the conclusion of the workshops, parties shall file comments on the status of workshop results in accordance with the schedule below, identifying areas of consensus versus remaining contested issues. To the extent that unresolved issues remain following the workshop sessions, parties may submit written testimony on any remaining disputed Phase III issues in accordance with the schedule below.

The issues for evidentiary hearing shall cover outstanding disputed Phase III issues as previously identified in the April 19, 2010 Amended Scoping Memo relating to:

1. The method for determining Departing Load PCIA for all customers subject to such charges (not otherwise resolved through workshops);
2. The Transitional Bundled Service rate components and calculation; and
3. Direct Access switching rules.

Parties representing Direct Access interests believe that resolution of issues Electric Service Provider (ESP) financial security requirements and switching rules are interdependent and should be considered together. Since the disputes

concerning ESP financial security requirements involve essentially legal issues, parties are directed to address their arguments on the ESP security issue in the form of legal briefs concurrently with their post-hearing briefs, rather than addressing this issue through prepared testimony.

As noted in the status report filed on November 15, 2010, for other Phase III issues, parties either reached a consensus position or agreed to seek resolution of remaining disputes through other procedural dockets. Accordingly, this ruling does not schedule any further pleadings relating to those issues. The adopted schedule for Phase III is presented below:

Adopted Schedule for Phase III

Event	Date
Statements on Workshop Topics Regarding PCIA Proposals Filed	November 30, 2010
First Workshop Session	December 7, 2010, at 9:30 a.m., in the Commission Courtroom, State Office Building, at 505 Van Ness Avenue, San Francisco, California.
Second Workshop Session	December 14 - 15, 2010, at 9:30 a.m., in the Commission Courtroom, State Office Building, at 505 Van Ness Avenue, San Francisco, California.
Comments on Workshop Issues Filed	January 10, 2011
Reply Comments on Workshop Issues Filed	January 24, 2011
Initial Testimony Served	January 31, 2011
Reply Testimony Served	February 25, 2011
Evidentiary Hearings	March 28 - 30, 2011, at 9:30 a.m., in the Commission Courtroom, State Office Building, at 505 Van Ness Avenue, San Francisco, California.
Post-Hearing Briefs and Legal Arguments on ESP Security Issues Filed	April 15, 2011
Proposed Decision	May 24, 2011

We anticipate the proceeding will be resolved by the dates as set forth above and in earlier scoping memos. In any event, we anticipate that the proceeding will be resolved within 18 months of this scoping memo, pursuant to Public Utilities Code Section 1701.5.

IT IS RULED that:

1. The motion of the above-referenced joint parties is granted for consideration of Departing Load non-bypassable charge issues within this proceeding to ensure that the charges are fair and balanced and consistent with bundled customer indifference.
2. The scope of Phase III is amended to incorporate consideration of possible revisions to the Departing Load non-bypassable charges and related methodologies for computing the charges to ensure fairness and bundled customer indifference.
3. The consideration of non-bypassable PCIA methodologies will be taken up concurrently with other Phase III issues, rather than in a separate phase. The procedural schedule shall sequence the non-bypassable charge issue, however, so as to enable parties to focus their limited resources in an expedited and efficient manner.
4. The Phase III schedule set forth above is hereby adopted.
5. A Phase III technical workshop shall be scheduled for December 7, 2010, starting at 9:30 a.m. and for December 14 and 15, 2010 starting at 9:30 a.m. All workshop sessions shall be held in the Commission Courtroom, State Office Building, at 505 Van Ness Avenue, San Francisco, California. The specific agenda, for each scheduled workshop session shall be served on parties by separate notice by Energy Division.

6. Evidentiary hearings for designated Phase III issues shall be scheduled for March 28 - 30, 2011, starting at 9:30 a.m., in the Commission Courtroom, State Office Building, at 505 Van Ness Avenue, San Francisco, California.

Dated November 22, 2010, in San Francisco, California.

/s/ MICHAEL R. PEEVEY

Michael R. Peevey
Assigned Commissioner

INFORMATION REGARDING SERVICE

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a Notice of Availability of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the Notice of Availability of the filed document is current as of today's date.

Dated November 22, 2010, at San Francisco, California.

/s/ LILLIAN LI

Lillian Li

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074 or TDD# (415) 703-2032 five working days in advance of the event.