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10-22-10
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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)

**ADMINISTRATIVE LAW JUDGE'S RULING
SCHEDULING PREHEARING CONFERENCE**

This ruling sets a prehearing conference (PHC) for November 5, 2010 at 10 a.m. at the Commission's Courtroom, State Office Building at 505 Van Ness Avenue, San Francisco, California to address the schedule for Phase III evidentiary hearings. The PHC will also address the motion of the Joint Parties¹ filed September 23, 2010, for review within this proceeding of the methodology to calculate non-bypassable departing load charges.

The Joint Parties sponsoring the motion seek 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 of non-bypassable departing load charges will apply to all applicable departing customers; and 3) with notice of

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.

establishment of this separate phase and an opportunity to intervene to the wide group of stakeholders on the service lists in Rulemaking (R.) 02-01-011, R.03-10-003, and R.06-02-013.

The Joint Parties believe that the current methodology to determine non-bypassable departing load charges has become unbalanced and unfair, and does not result in bundled customer indifference, to the detriment of non-bundled ratepayers. A key concern is that the market price benchmark used to determine non-bypassable departing load charges does not provide for bundled customer indifference. The Joint Parties argue that flaws in the methodology must be addressed and corrected to restore genuine bundled customer indifference.

At a minimum, Joint Parties seek review and revision of non-bypassable departing load charges to account for the value of renewable resources, California Independent System Operator (“CAISO”) services and portfolio shape and load factor.

The Investor-Owned Utilities (IOUs) jointly responded to the motion on October 8, 2010. A separate response in support of the motion was filed by Retail Energy Supply Association. The IOUs do not oppose a review in this proceeding of the issues raised by the Joint Motion, but disagree that a separate phase should be established. They believe the matter should be examined in conjunction with other issues in this Phase III of the proceeding since the method for determining non-bypassable departing load charges is intricately intertwined with the other issues being examined in Phase III. The IOUs also believe that evidentiary hearing should be scheduled to resolve Phase III disputes.

The Joint Parties filed a reply to the IOUs on October 18, 2010. The Joint Parties do not oppose evidentiary hearings if there are contested issues of fact, but still

seek a separate phase to consider non-bypassable charges. The Joint Parties argue that a much broader group of stakeholders, than just Electric Service Providers (ESPs) and direct access customers are affected by the departing load non-bypassable charge issue. They argue this separate group of parties have limited resources, and should not be required to monitor myriad contested issues unrelated to them.

If a separate phase is not created, the Joint Parties ask for a PHC to establish a schedule and process for consideration of non-bypassable charges that allows parties who are not affected by Phase III direct access implementation issues to focus their limited resources on the non-bypassable charge issues.

Discussion

A PHC is hereby scheduled for 10 a.m. on November 5, 2010, to discuss a schedule for evidentiary hearings, including both previously designated Phase III issues and the departing load non-bypassable charge issues as identified in Joint Parties motion. Parties shall file prehearing conference statements by October 28, 2010, setting forth a proposed schedule for evidentiary hearings to address the contested factual issues in this proceeding. Parties shall come prepared to discuss proposed schedules for evidentiary hearings addressing how departing load non-bypassable charge issues should be sequenced with other Phase III issues consistent with the goals of procedural efficiency and effective integration of issues.

IT IS RULED that:

1. A prehearing conference (PHC) is hereby scheduled for 10 a.m. on November 5, 2010 at Commission Courtroom, State Office Building 505 Van Ness Avenue, San Francisco, California to address the scheduling of evidentiary

hearings for Phase III issues including consideration of departing load non-bypassable charge issues.

2. Parties shall file prehearing conference statements by October 28, 2010, setting forth a proposed schedule for evidentiary hearings to address the contested factual issues for Phase III.

3. The motion of the above-reference joint parties for consideration of departing load non-bypassable charge issues within this proceeding will be addressed at the PHC.

4. Notice of this ruling shall be served on parties to this proceeding as well on the service lists in Rulemaking (R.) 02-01-011, R.03-10-003, and R.06-02-013.

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

/s/ THOMAS R. PULSIFER

Thomas R. Pulsifer
Administrative Law Judge

INFORMATION REGARDING SERVICE

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

/s/ CRISTINE FERNANDEZ
Cristine Fernandez

N O T I C E

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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.