

Decision 19-08-004 August 1, 2019

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to
Implement Senate Bill 237 Related to
Direct Access

Rulemaking 19-03-009

**DECISION REGARDING INCREASED LIMITS FOR
DIRECT ACCESS TRANSACTIONS**

Summary

This decision grants the Petition for Modification of Decision (D.) 19-05-043 filed on June 6, 2019, by Alliance for Retail Energy Markets, California Large Energy Consumers Association, Direct Access Customer Coalition, Shell Energy North America (US), L.P., and The Regents of the University of California.

Specifically, we modify D.19-05-043 to amend Ordering Paragraphs 3 and 4 to clarify the process for enrolling customers in the Direct Access expansion, directed in Senate Bill 237 (Stats 2018, Ch. 600).

1. Background

On March 14, 2019, the Commission issued Rulemaking 19-03-009, pursuant to Senate Bill (SB) 237,¹ which concerns Direct Access (DA) transactions. Among other things, SB 237 requires the Commission to issue a proposed decision, on or before June 1, 2019, that increases the allowable amount of gigawatthours (GWh) and apportions the increase to each service territory (DA expansion). To that end, on April 29, 2019, the Commission mailed a

¹ Stats. 2018, Ch. 600, amending Public Utilities (Pub. Util.) Code Section 365.1. All further statutory references are to the Pub. Util. Code unless otherwise specified.

proposed decision for comments, and on May 30, 2019, the Commission voted to adopt Decision (D.) 19-05-043.

2. Petition

In the petition, Alliance for Retail Energy Markets, California Large Energy Consumers Association, Direct Access Customer Coalition, Shell Energy North America (US), L.P., and The Regents of the University of California (Joint Petitioners) recommend revisions to two Ordering Paragraphs (OPs) of D.19-05-043.² The first revision concerns the enrollment schedule for the DA expansion. In D.19-05-043, among other things, the Commission established a process and schedule for enrolling customers in the DA expansion. One of the earliest deadlines is August 12, 2019, and requires each Investor-Owned Utility (IOU) to finish notifying customers who are eligible to participate in the DA expansion.³

As part of this requirement, Investor-Owned Utilities (IOUs) must to notify both the original round of eligible customers and the customers who are notified after customers in the original round decline to enroll in the DA expansion. However, Joint Petitioners argue, because the customers in the original round may decline DA services on September 3, 2019, the deadline for informing IOUs of their decision to join DA service, the IOUs will not have an opportunity to notify other eligible customers who are in the queue. Accordingly, Joint Petitioners recommend that the Commission revise OP 3 to require customers to inform each IOU of their choice to enroll in the DA expansion within 15 business days of receiving notification that they are eligible to enroll in the DA expansion. Joint Petitioners' assert that this recommendation

² See Petition for Modification of D.19-05-043 (Petition).

³ D.19-05-043 at 37, OP 3, Subsection 3.

is consistent with the current DA enrollment rules, which also provide that customers have 15 days to notify IOUs of their decision to switch to DA service.⁴

The second proposed revision concerns the reports that the IOUs will provide to Community Choice Aggregators (CCA). The reports will inform the CCAs of the customer load scheduled to depart CCA service to enroll in the DA expansion. The first report will be based on customers who notify an IOU of their intention to switch to DA service, and the second will be based on information in the Direct Access Service Request forms, which indicate that the customer has in fact elected to switch to DA service, as of the effective service date. Thus, Joint Petitioners assert that the OP 4 requires a two-step process for notifying CCAs. Accordingly, Joint Petitioners recommend that the Commission clarify that the initial report, due on September 10, 2019 is a “preliminary” report, and that the second report, due on February 10, 2020, is the “final” report.

3. Procedural Requirements Under Rule 16.4

Rule 16.4 of the Commission’s Rules of Practice and Procedure governs the process for filing and consideration of petitions for modification.⁵ Rule 16.4(b) requires that a petition for modification concisely state the justification for the proposed relief and propose specific wording for all requested modifications. The Petition contains concise statements justifying the proposed modifications and complies with the other requirements of Rule 16.4.

⁴ Petition for Modification of D.19-05-043 at 3-4 (citing Pacific Gas & Electric Company, Switching Exemption Rules, Rule 22.1; San Diego Gas & Electric Company, Switching Exemption Rules, Rule 25.1).

⁵ Hereinafter all references to “Rule” or “Rules” are to the Commission Rules of Practice and Procedure, Title 20, California Code of Regulations, Division 1, Chapter 1.

4. Discussion

We find that Joint Petitioners' proposed revisions to OPs 3 and 4 help clarify the enrollment process for the DA expansion. The Petition is consistent with Rule 16.4(b) of the Commission's Rules of Practice and Procedure, and no party opposes it.⁶ Accordingly, the Commission grants the Petition for Modification of D.19-05-043 and modifies OP 3, subsection 4 noted below. The new text is underlined.

(4) if a notified customer declines the opportunity to join the DA program, the IOU must notify the next eligible customer in queue for that IOU's service territory, and direct these customers to submit their decision regarding DA service to the IOU within fifteen (15) business days of such notification.

In addition, the Commission modifies OP 4 as follows:

By September 10, 2019, the IOUs shall provide to each affected Community Choice Aggregator (CCA) a preliminary report of the aggregate hourly peak demand and hourly load data for the latest entire year to date of 2019 and 2020 waitlist customers who chose to switch from that CCA's service to the Direct Access program. A final report shall be provided to each affected CCA by February 10, 2020.

5. Comments on Proposed Decision

The proposed decision of Commissioner Picker in this matter was mailed to the parties in accordance with Pub. Util. Code § 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. On July 18, 2019, PG&E and Joint Petitioners filed comments. Joint Petitioners filed reply comments on July 23, 2019.

⁶ On June 14, 2019, Advanced Energy Economy and Advanced Energy Buyers Group filed a joint response supporting the Petition.

6. Assignment of Proceeding

President Michael Picker is the assigned Commissioner and Christine A. Powell is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. The Commission adopted D.19-05-043 on May 30, 2019.
2. D.19-05-043 sets forth an enrollment schedule for the DA expansion.
3. The enrollment schedule requires IOUs to notify customers who are eligible to enroll in the DA expansion. The notification must occur by August 12, 2019.
4. A decision on this matter is needed before August 12, 2019, the deadline for IOUs to notify customers, as the notification will need to include instructions such as the date that notified customers must respond to the IOUs.
5. The final results of the DA expansion may differ from the results in the September 2019 report that is provided to the CCAs.
6. By providing two reports to the CCAs, the IOUs can reflect the final results of the DA expansion.

Conclusions of Law

1. An eligible customer should provide timely notification to each respective IOU of that customer's decision to enroll in the DA expansion.
2. Customers who are eligible to enroll in the DA expansion will be notified by the respective IOU. Requiring notified customers to provide their enrollment decision to the respective IOU within 15 days of being notified is reasonable because IOUs require an adequate amount of time to notify the next available customer, and the next available customer requires an adequate amount of time to provide a response to the IOUs.

3. After an eligible customer declines to enroll in the DA expansion, the next available customer should have an opportunity to enroll in the DA expansion, provided that the next available customer notifies the respective IOU by September 3, 2019, at 5:00 p.m.

4. Clarifying that the first report of aggregate load data that the IOUs will provide to the CCA is preliminary is reasonable as the information in that report is subject to change if a customer does not switch to DA service.

5. Clarifying that the second report of aggregate load data that the IOUs will provide to the CCAs as the final report is reasonable.

6. The requested modifications in the Petition for Modification of D. 19-05-043 are reasonable.

7. The requested modifications in the Petition for Modification of D.19-05-043 comply with Rule 16.4 of the Commission's Rules of Practice and Procedure.

8. Approving the amendment to OPs 3 and 4 and granting the Petition to Modify D.19-05-043 is reasonable.

O R D E R

IT IS ORDERED that:

1. The Petition of Alliance for Retail Energy Markets, California Large Energy Consumers Association, Direct Access Customer Coalition, Shell Energy North America (US), L.P., and The Regents of the University of California for Modification of Decision 19-05-043 is granted.

2. Decision 19-05-043 is modified as follows:

a. Ordering Paragraph 3, subsection 4, of Decision 19-05-043 is modified as follows:

(4) if a notified customer declines the opportunity to join the DA program, the IOU must notify the next eligible customer in queue for that IOU's service territory, and direct these customers to submit their decision regarding

DA service to the IOU within fifteen (15) business days of such notification.

- b. Ordering Paragraph 4 of Decision 19-05-043 is modified as follows:

By September 10, 2019, the Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company shall provide to each affected Community Choice Aggregator (CCA) a preliminary report of the aggregate hourly peak demand and hourly load data for the latest entire year to date of 2019 and 2020 waitlist customers who chose to switch from that CCA's service to the Direct Access program. A final report shall be provided to each affected CCA by February 10, 2020.

3. Within two (2) business days of the date that this decision is final, Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company shall file new or amended Tier 1 Advice Letters to incorporate the revisions directed in Ordering Paragraph 2 into their respective Direct Access Switching Exemptions Rules.

4. Phase 1 of Rulemaking 19-03-009 is concluded. This proceeding remains open to address the study for the Legislature in Phase 2.

This order is effective today.

Dated August 1, 2019, at San Francisco, California.

MICHAEL PICKER

President

LIANE M. RANDOLPH

MARTHA GUZMAN ACEVES

CLIFFORD RECHTSCHAFFEN

GENEVIEVE SHIROMA

Commissioners