

**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
(Filed March 14, 2019)

**JOINT RESPONSE OF ADVANCED ENERGY ECONOMY AND THE ADVANCED
ENERGY BUYERS GROUP TO ADMINISTRATIVE LAW JUDGE’S RULING
REQUESTING COMMENTS**

Coley Girouard
Principal
Advanced Energy Economy
1000 Vermont Ave NW, 3rd Fl
Washington, DC 20005
Tel: 202.309.0647
E-mail: cgirouard@aee.net

Caitlin Marquis
Director
Advanced Energy Buyers Group
133 Federal St, 12th Fl
Boston, MA 02110
Tel: 781.261.6047
E-mail: cmarquis@aee.net

*On Behalf of Advanced
Energy Economy*

*On Behalf of Advanced
Energy Buyers Group*

September 30, 2019

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Advanced Energy Economy (AEE) and the Advanced Energy Buyers Group (AEBG), on behalf of our collective member companies, are pleased to provide input on Administrative Law Judge (ALJ) Christine Powell’s September 20, 2019 ruling requesting comments on issues the Energy Division should consider in its study of the relevant Phase 2 issues. Both of our organizations supported passage of SB 237 as a tool to give nonresidential customers access to advanced energy through tailored solutions that meet their individual needs. We recognize the importance of a balanced approach to SB 237 implementation that protects the needs of all California electricity customers while maintaining the state’s progress toward improved affordability, decarbonization, and reliability. In these comments, we have focused on responding to the three questions identified in the September 20, 2019 ALJ ruling.

I. About Advanced Energy Economy and the Advanced Energy Buyers Group

Advanced Energy Economy (AEE) is a national organization of businesses dedicated to transforming public policy to enable a prosperous world that runs on secure, clean, and affordable energy. We are comprised of over 100 companies both large and small across the technology spectrum, including energy efficiency, demand response, natural gas, solar photovoltaics, solar

thermal electric, wind, storage, biofuels, electric vehicles, advanced metering infrastructure, transmission and distribution efficiency, fuel cells, hydro power, nuclear power, combined heat and power, and enabling software. Our membership also includes large purchasers of advanced technology and services who are looking to achieve their business sustainability goals.

The **Advanced Energy Buyers Group** (AEBG) represents the views of a coalition of large electricity customers, with member companies spanning the retail, manufacturing, and technology sectors. These companies are among the 71% of Fortune 100 companies and 43% of Fortune 500 companies that have established renewable and/or climate targets as part of our corporate sustainability commitments. AEBG members share a common interest in expanding our use of advanced energy, including renewable energy like wind, solar, geothermal, and hydropower; demand-side resources like energy efficiency, demand response, and energy storage; and onsite generation from solar, advanced natural gas turbines, and fuel cells. In 2017, members of the AEBG totaled over \$1 trillion in revenue and collectively consumed over 18 TWh of electricity, including over 11 TWh of renewable electricity.

The electricity use of the AEBG includes a significant collective footprint in California, and our comments reflect the perspective of large electricity users, and of businesses committed to increasing their own use of advanced energy, including renewable energy, energy efficiency, energy storage, electric vehicles, and demand-side management solutions. AEBG member companies have experience participating in the California market in many different ways: as customers of investor-owned utilities (IOUs), as direct access (DA) customers working with electric service providers (ESPs), as customers of Community Choice Aggregators (CCAs), as off-takers from large-scale renewable energy projects, and as hosts of behind-the-meter installations. While AEBG members have taken steps to meet our electricity needs in California with advanced

energy, the market currently provides limited opportunities for customer choice relative to many other states, restricting our options to procure renewable and other advanced energy resources to meet our needs and make progress on our sustainability goals.

II. Response to Issues to Consider as Part of the Phase 2 Study

1. What general factors should the Commission consider in this study? This could include comments on the scope of the study, assumptions about the market and participants, phase-in timelines, or thresholds that could impact state programs.

AEE and AEBG believe that the continued enablement of customer choice will not only help California meet its environmental objectives, but also maintain grid reliability and reduce overall costs for consumers. AEE and AEBG encourage the California Public Utilities Commission (CPUC) to give thoughtful consideration in this study on how to smoothly and swiftly implement a full reopening of the DA program for all interested nonresidential customers.

We want to emphasize that the language of SB 237 clearly directs the CPUC to provide recommendations on *how* DA expansion to all remaining nonresidential customers should occur, leaving to the Legislature the decision of *whether* further phase-ins should occur. This is an important distinction with implications for how the CPUC sets about forming the specific recommendations required by SB 237. To this end, the general factors that should be included in the study, as laid out in the ALJ ruling, include identifying how a further reopening could occur while maintaining progress toward the state's greenhouse gas (GHG) emission reduction, air pollutant and air contaminant goals, while also ensuring electric system reliability and protecting against undue cost shifting. In addition, the study should consider the ways increased customer choice and continued investment in innovation are important for the electricity system. AEE and AEBG provide a more thorough breakdown of the variables to consider in response to Question 2

below.

AEE and AEBG supported the CPUC's straightforward approach to Phase 1 implementation, which relied on existing protocols and procedures wherever possible, and believe any recommendations for Phase 2 should remain consistent with this approach. In addition, throughout this process, AEE and AEBG urge the CPUC to work closely with the other relevant state agencies and solicit input from all LSEs, California customers, and interested stakeholders.

2. What specific variables should the study examine? This could include comments on the type of analysis that should be performed, guiding principles or metrics used to determine the optimal reopening schedule for the further reopening of the DA program.

AEE and AEBG encourage the CPUC to establish a clear vision and goal as a starting point for the study. AEE and AEBG believe the overarching goal is for California to continue to be a national and global leader in the use of advanced energy resources and the adoption of innovative technologies by developing a dynamic electricity system that meets a diverse set of customer needs. Establishing this frame will help guide the entire process and ensure that the opening of the DA market is consistent with this goal. After establishing this frame, we recommend the study examine the following specific variables, the effect that reopening may have on them, how they might contribute to positive outcomes under an expanded DA market, and/or changes that may be necessary to ensure the smooth and successful implementation of SB 237. While we believe that it is important for the CPUC to consider the variables laid out below, a majority of these issues have already been considered through the *California Customer Choice Project* and the subsequent *Choice Action Plan and Gap Analysis* that was released in December 2018. Therefore, in order to meet the June 1, 2020 deadline for issuing recommendations to the Legislature, we believe it is

prudent for the CPUC to utilize the analysis already completed, where applicable, and not duplicate its own efforts. Taken together, the established vision and any existing and new analysis will enable the CPUC to determine the optimal schedule for the further reopening of the DA program.

Affordability. Studies have shown that competition has driven down prices. For example, a key finding in a recent report by Rice University’s Center for Energy Studies found that in Texas, rates in the competitive markets have done notably better than rates in the non-competitive portions of Texas, all other aspects being held equal.¹ This downward pressure on rates is caused by a variety of variables, one of the largest of which is that the entrance of more competitive players in the market, can bring to the table innovation and financial creativity. The CPUC study should consider the effect on ratepayer’s bills of increased competition to ensure that rates remain affordable.

Decarbonization. California has set among the most ambitious GHG emissions reduction and clean energy goals in the country and DA providers and other ESPs are currently complying with (or exceeding) all aspects of state renewable and climate goals. Many customers interested in DA, including members of the AEBG, have interest in reaching 100% clean energy on a more accelerated timeline than the state overall. The CPUC should address how the opening of the DA cap can accelerate this transition to a 100% clean energy economy by providing customers with additional clean energy options not currently available to them, if the proper market construct is in place.

Reliability. The Phase 2 study should include an analysis of the robust processes in place, and in development – including those at the CPUC, as well as at the CAISO – that are ensuring the

¹ https://www.bakerinstitute.org/media/files/research_document/7d32313b/CES-pub-TXElectricity-060717.pdf

state has sufficient resources to ensure reliability. Reliability is a statewide issue rather than a DA expansion issue, and growth of DA should be analyzed in the context of how it fits into the reliability processes established to accommodate greater customer choice.

Customer Interest. While past lotteries and the current DA queue show that demand for DA is high, the actual demand for DA from nonresidential customers is uncertain. This is in part due to the fact that at least some interested customers have opted not to participate in past lotteries given the low likelihood of success. In order to establish an implementation timeline and program structure for further DA reopening, the Phase 2 study should perform outreach to DA customers to seek feedback on the approach for future DA program growth. This analysis is crucial to determining the amount of load that will likely transition to DA after the cap is lifted.

Economic Development. One of the biggest value propositions of more customer choice is economic development. Large corporations are increasingly indicating that their siting decisions for new data centers or manufacturing plants are based at least in part on their ability to access renewable energy and market-based rates. In order to unlock these benefits, we suggest the CPUC consider how to fast-track the DA process for new customers and encourage a rate design model that holds marginal load customers responsible for complete cost recovery without unfairly burdening such customers with costs for investments and services they have not used.

Communication. The CPUC should ensure that the Phase 2 study consider the communication protocols, policies, and systems that are currently in place. Furthermore, it should ensure that they will ultimately enable IOU vendors and other third-party service providers, whose customers are participating in existing IOU programs specifically, to be notified when an end-

use customer's service is shifted to a non-IOU source or provider. Ensuring this communication and transparency will enable a smoother transition for all parties involved.

Public Purpose Programs. The CPUC should address any concerns it has regarding funding levels for public purpose programs. These programs are already non-bypassable and should not be adversely impacted by the expansion of customer choice; however, the CPUC should address any concerns it has regarding funding levels in the Phase 2 study.

3. Are there additional issues that need to be considered?

AEE and AEBG believe that while the following additional issues should not restrict or delay the DA reopening process, they should be considered by the CPUC outside of this proceeding in the context of longer-term reforms that can ensure a sustainable and smooth pathway in light of the changes currently underway.

Business Model Reforms. The current IOU rate structure primarily compensates the utilities for rate base additions/inputs (i.e., “steel in the ground”), not on outputs such as how well the IOU provides transmission, distribution and customer services. We believe that regulators should consider changes to current regulatory frameworks and utility business models as utilities potentially transition towards “wires only” entities to ensure their financial incentives align with state policy goals and consumer interests, such as facilitating customer choice. It is becoming increasingly necessary to consider additional utility business model changes, particularly restructuring/aligning incentives to achieve the desired outcomes while maintaining the long-term viability of the utility.

Rate structures. Sending the proper price signal to customers is of utmost importance to encourage efficient and cost-effective use of electricity. As a significant portion of rates are

broken down between the generation portion and the transmission and distribution portion of customer's bills, it is important that rates are aligned and that they send the proper price signals to customers. The CPUC should analyze in the Phase 2 study how moving forward in a coordinated fashion will derive the greatest benefits possible from the changes taking place.

Regional electricity markets. The CPUC should work closely with the CAISO to consider the impact and benefits of regionalization as it works to chart a path forward. Regionalization is a valuable option to explore to ensure greater reliability and affordability in a more competitive environment.

III. Conclusion

AEE and AEBG view expansion of DA as an important tool to meet the state's goals of affordable, reliable, and decarbonized electricity. We believe that the California electricity market will thrive in a more competitive environment. We appreciate the opportunity to provide the CPUC with these comments on the September 20, 2019 ALJ ruling and look forward to further participating throughout the Phase 2 process.

Respectfully Submitted,

/s/ Coley Girouard

Coley Girouard

Principal

Advanced Energy Economy

1000 Vermont Ave NW, 3rd Fl

Washington, DC 20005

Tel: 202.309.0647

E-mail: cgirouard@aee.net

***On Behalf of Advanced
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/s/ Caitlin Marquis

Caitlin Marquis

Director

Advanced Energy Buyers Group

133 Federal St, 12th Fl

Boston, MA 02110

Tel: 781.261.6047

E-mail: cmarquis@aee.net

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