

**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 REPLY COMMENTS OF ADVANCED ENERGY ECONOMY AND THE
ADVANCED ENERGY BUYERS GROUP ON THE ORDER INSTITUTING
RULEMAKING TO IMPLEMENT SENATE BILL 237 RELATED TO DIRECT
ACCESS**

Coley Girouard
Principal
Advanced Energy Economy
1000 Vermont Ave NW, 3rd Fl
Washington, DC 20005
Tel: 202.380.1950
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*

April 10, 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 reply comments in response to filings by other Parties on the California Public Utilities Commission’s (CPUC) March 18, 2019 Order Instituting Rulemaking to Implement Senate Bill 237 Related to Direct Access (hereafter “SB 237 OIR” or “OIR”). As explained in our initial comments and reiterated here, 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 continue to encourage timely and equitable implementation of SB 237 consistent with the state’s goals of increased affordability, decarbonization, and reliability. Specifically, we continue to support timely and fair implementation of the initial 4,000 GWh direct access (DA) expansion (the “first main requirement” of SB 237), and to encourage a robust and swift completion of the recommendations owed to the legislature regarding full DA expansion, due June 1, 2020 (the “second main requirement” of SB 237).

Please note that these reply comments reflect our organizations' initial reactions to only some of the many concerns or issues raised by other parties, and they do not discuss every item of interest to our organizations covered in the initial comment filings. Additionally, due to the timing of the hearing on April 9 and deadline for reply comments on April 10, these comments also do not incorporate our reaction or response to the discussion and comments made at the hearing.

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. AEE and its state and regional partner organizations, which are active in 27 states across the country, represent more than 100 companies and organizations that span the advanced energy industry and its value chains. Technologies represented include 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. Used together, these technologies and services will create and maintain a higher-performing energy system—one that among other things is reliable and resilient, diverse and cost-effective —while also improving the availability and quality of customer-facing services. AEE promotes the interests of its members by engaging in policy advocacy at the federal, state, and regulatory levels, by convening groups of CEOs to identify and address cross-industry issues, and by conducting targeted outreach to key stakeholder groups and policymakers.

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. Our 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. We 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 our perspective as large electricity users, and as businesses committed to increasing our own use of advanced energy, including renewable energy, energy efficiency, energy storage, electric vehicles, and demand-side management solutions. Our 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 offtakers from large-scale renewable energy projects, and as hosts of behind-the-meter installations. While we 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. Reply Comments

a. **AEE and AEBG Support CalCCA's Request that Non-IOU Providers be Given Access to Waitlist Information, Provided that Confidential Business Information Remains Protected.**

AEE and AEBG recognize that, historically, the DA waitlist has been maintained by IOUs, and that only IOUs have access to this information. Our organizations also acknowledge that the current lack of visibility into the waitlist poses challenges to CCAs, an issue raised by CalCCA in its initial comments. To address these challenges, our organizations would support a change to the current procedures that would allow CCAs to access relevant information regarding the DA queue; for fairness and to maximize planning efficiency, we recommend that any waitlist information shared with CCAs should also be shared with ESPs. However, we urge that any information shared beyond the IOUs be aggregated by customer class and completely anonymized, and that it not include any identifying information. Customers entering the DA lottery must have confidence that their information will not be used for any purpose other than allocating DA load. Only by ensuring that any shared data is first anonymized and aggregated will customers remain completely confident that their data is secure. Furthermore, aggregated data should give CCAs and ESPs all the information they need for planning purposes.

b. **AEE and AEBG Would Support Amendments to the DA Lottery Process, as Necessary**

Should the CPUC choose to utilize the June 2019 lottery to allocate some or all the 4,000 GWh DA expansion (an issue we discussed in our initial comments), AEE and AEBG would support adoption of the Direct Access Customer Coalition's (DACC) recommendations

regarding potential adjustments to the lottery process that would reduce delays and better align the upcoming lottery with the timeline for the 4,000 GWh expansion.¹

c. AEE and AEBG Acknowledge Resource Adequacy Concerns, but Note that Such Concerns are Adequately Addressed and Likely Inconsequential for the Initial 4,000 GWh expansion

Several commenters raised concerns related to resource adequacy (RA) and the potential for stranded assets as a result of customer switching between and among IOUs, CCAs, and ESPs. AEE and AEBG recognize and acknowledge these concerns; however, with respect to the initial 4,000 GWh DA expansion, we note that such concerns are very unlikely to emerge in practice. In addition to the existing practices and procedures to ensure RA and the opportunities for adjustment and planning under Staff’s proposed timeline for the 4,000 GWh expansion, any potential near-term RA gaps would be well within planning margins given the size of the initial expansion. Both the University of California Regents and the DACC contextualize the scale of the 4,000 GWh DA expansion in their comments, making clear that this initial expansion does not pose a significant concern.

As such, there is no need to phase in the initial 4,000 GWh over multiple years, or to implement any other protections on top of those that already exist. These or other additional considerations should be raised and resolved during the second phase of SB 237, when the CPUC prepares recommendations for full DA expansion for the legislature.

d. AEE and AEBG Are Concerned that CalCCA’s CCA-Specific Allocation Proposal Could Limit Customer Choice and May Have Unintended Consequences

The California Community Choice Association (CalCCA) proposed that the Commission protect against an allocation of the 4,000 GWh on any one CCA in excess of its fair share by

¹ As discussed on p. 3-5 of DACC comments.

“creating a fair not-to-exceed allocation of DA for each CCA to avoid disparate impacts on any one entity.”² AEE and AEBG hear CalCCA’s concerns, however, we are more concerned that if a CCA-specific cap is imposed it could restrict CCA customers’ ability to choose their own energy provider. In other words, placing a cap on the ability of CCA customers to depart for DA service could limit customer choice -- an outcome that runs counter to the intention of SB 237. Furthermore, as IOU caps are codified in state law, we believe that implementing a similar CCA-specific cap is a legislative rather than a regulatory decision. Ultimately, we believe that if the Commission grants CalCCA’s request that non-IOU providers be given access to waitlist information, provided that confidential business information remains protected, it should provide a path forward by helping CCAs plan for potential departing load.

e. AEE and AEBG Remain Committed to Implementation of the Second Main Requirement of SB 237 Consistent with Statutory Requirements, and Support Recommendations to Set a Timeline and Framework for this Requirement

As noted in our initial comments, given statutory deadlines set in SB 237, AEE and AEBG support the initial focus on the expansion of DA by 4 TWh, in advance of and separate from CPUC’s work on the second requirement, recommendations for expansion to all nonresidential customers. However, we continue to support timely completion of the second main requirement, starting immediately upon issuance of an Order in this proceeding. As such, we support the recommendation by AReM to establish a timeline for a scoping memo, and we also support the recommendation by CalCCA to institute a robust and public process for this second phase. Such a process should draw heavily from the significant work by the Commission and stakeholders to

² CalCCA Opening Comments p. 3

identify solutions to any challenges posed by customer choice through the Customer Choice Initiative, which concluded in December 2018.

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 while also encouraging economic development. Expedient and fair implementation of SB 237 will maximize the benefits of DA expansion. Our organizations appreciate the opportunity to provide input in this proceeding.

Respectfully Submitted,

/s/ Coley Girouard

Coley Girouard

Principal

Advanced Energy Economy

1000 Vermont Ave NW, 3rd Fl

Washington, DC 20005

Tel: 202.380.1950

E-mail: cgirouard@ae.net

***On Behalf of Advanced
Energy Economy***

/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@ae.net

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