

ADVANCED ENERGY BUYERS GROUP

the policy voice of advanced energy purchasers

February 4, 2019

Nidhi Thakar, Chief for Strategy and External Affairs
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Re: Implementation of SB 237 (2018) to Expand Direct Access

Dear Ms. Thakar,

The Advanced Energy Buyers Group (“AE Buyers Group”) is pleased to provide initial input on the implementation of SB 237 (2018) to expand California’s Direct Access market.¹ The AE Buyers Group supported passage of SB 237 during the 2018 legislative session because we strongly believe that full expansion of California’s Direct Access program to all nonresidential customers will accelerate progress toward California’s goal to drive its electricity system toward greater decarbonization, affordability, and reliability; create a level playing field among all nonresidential customers by giving them equal opportunities to control their energy choices; and support economic development in the state.

The AE Buyers Group represents the views of a coalition of large electricity customers, with member companies spanning the retail, manufacturing, and technology sectors. Our companies have 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 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

¹ This letter represents the consensus view of the Advanced Energy Buyers Group (information and membership available at <https://info.aee.net/ae-buyers-group>). However, this document does not necessarily reflect the position of any specific member of the AE Buyers Group, and these comments should not be attributed to any individual company or companies participating in the AE Buyers Group.

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.

In the attached, we have provided initial input to inform the CPUC's implementation of SB 237, starting with an overview of what our companies hope to achieve through expansion of California's Direct Access market and then outlining our specific recommendations. We look forward to working with you and the rest of the CPUC staff as this issue moves forward. Please do not hesitate to reach out with any questions.

Sincerely,

The Advanced Energy Buyers Group

<https://www.advancedenergybuyersgroup.org/>

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Feedback of the Advanced Energy Buyers Group on SB 237 (2018) Implementation

Why the AE Buyers Group Supports Expansion of Direct Access in California

The AE Buyers Group supported expansion of California's Direct Access (DA) market during the 2018 legislative session because DA is a key tool to meet the needs of existing nonresidential electricity customers and to encourage economic development in California. For members of the AE Buyers Group and other businesses, especially those tracking toward ambitious clean energy goals, full expansion of DA to all nonresidential customers would bring important benefits:

1. **Flexibility and control:** Members of the AE Buyers Group range across multiple sectors, and our operations in California include office buildings, manufacturing sites, retail stores, distribution centers, data centers, university campuses, and more. Our companies and other nonresidential customers have different load profiles, different opportunities for onsite generation and load management, different geographic spread across the state, and different appetites for financial and technology risk; we are also tracking toward aggressive renewable energy and sustainability goals, but at different scales and on different timeframes. These operational differences translate into unique electricity needs and energy management strategies. DA allows our companies to identify our unique needs, seek competitively-sourced solutions, and negotiate contracts that best suit our business—whether from a single provider or multiple, delivering a single bundled product or multiple technologies and services. In other words, DA gives our companies the same flexibility and control when it comes to our energy use that we already enjoy with respect to other key business inputs.
2. **Fairness and consistency:** The ability to control energy decisions is desirable for all the reasons described above, and California's capped DA offering puts some customers at a competitive disadvantage relative to others. The capped program also creates a process that is expensive, time consuming, and difficult for many companies to access, with low chance of success for increased DA participation. Full expansion of DA will create a level playing field for businesses in the state. In addition, many companies with large operations, including members of the Buyers Group, have only part of their load served through DA. These customers are currently served by a patchwork of different provider types across California, which would be vastly simplified by a complete shift to DA.
3. **Access to advanced energy options:** Being served by DA gives companies many more options to contract for the specific advanced energy resources they want to serve their needs. In particular, customers in California can only access long-term renewable energy contracts through DA, and they are only likely to do so if they have a sufficient portion of their load under the DA cap and sufficient confidence that their DA load is not at risk. Customers under DA can also competitively procure demand response, energy storage, and other cost-saving clean energy resources.

For businesses already operating in California, and for businesses considering expanding or entering into the state, the availability of customer choice is a key consideration. Expansion of the Direct Access market is therefore an important economic development tool, and should be considered as such.

Recommendations for SB 237 Implementation

The AE Buyers Group offers the following recommendations to ensure fair and timely implementation of SB 237. Our recommendations cover the two related but distinct requirements of SB 237: the issuance of an order to expand California's DA market by 4,000 GWh by June 1, 2019 (which we will refer to as "Part One"); and development of recommendations for full expansion of DA for all nonresidential customers due to the legislature by June 1, 2020 (which we will refer to as "Part Two"):

1. **The CPUC should complete Part One as quickly as possible to deliver benefits and market certainty without delay.** The AE Buyers Group encourages the CPUC to complete Part One as efficiently as possible while still taking input from all interested stakeholders. Specifically, we urge the Commission to issue an Order prior to the June deadline to enable opening of the full 4,000 GWh by June 1, 2019. The Buyers Group would support use of prior rulemakings to expedite the implementation process by leveraging work done on this issue in prior years should the CPUC determine that this approach is feasible.
2. **The CPUC should hold a new lottery to allocate the additional 4,000 GWh opened up for DA through Part One to ensure consistency and fairness.** Holding a new lottery is appropriate because it would be consistent with the CPUC's policy of holding a new lottery on an annual basis each time any available DA load is reallocated. There is no apparent justification to depart from this approach for allocation of the additional 4,000 GWh. Furthermore, a new lottery is key to ensure fair outcomes for those customers that *did not* participate in the most recent lottery. For such customers, their decision to not participate was made with the knowledge that the DA queue has been oversubscribed for many years and that very little, if any, new DA load would be made available through that lottery; for some customers, including customers who would place high value on participating in the DA market, the administrative burden of entering the lottery may not have been justified given the extremely low likelihood of being selected. Since the circumstances have changed substantially, a new lottery should be held. The AE Buyers Group emphasizes that the lottery for the new 4,000 GWh need not result in two lotteries in 2019, and indeed we strongly encourage the CPUC to hold a single lottery (preferably prior to the usual lottery date) to allocate both any available load under the existing DA cap *and* the additional 4,000 GWh made available by SB 237.
3. **The CPUC should move expeditiously to complete Part Two of SB 237 to maximize benefits and ensure fairness for *all* nonresidential customers.** While implementation of Part One is a key step to deliver the benefits of DA expansion to more customers, the full benefits will not be realized until all nonresidential customers have the same opportunities to control their energy choices. The CPUC should lean on prior work, especially the final *Customer Choice Gap Analysis and Action Plan*, to answer the questions posed by SB 237. Through the Customer Choice Project, the CPUC has already identified and begun work on important issues that will prevent any potential adverse outcomes under a full DA expansion to nonresidential customers.

4. **For full DA expansion to all nonresidential customers, the CPUC should give preference to a single expansion approach rather than a phased-in approach.** A one-time expansion would ensure that all nonresidential customers are treated fairly and equally, and would also reduce the administrative burden for customers that might otherwise have their load shifted onto DA service gradually as the expansion gets phased in.

The AE Buyers Group appreciates the CPUC's consideration of these recommendations, and welcomes additional opportunities to provide further input or clarifications to CPUC staff as SB 237 is implemented.