ADVANCED ENERGY ECONOMY
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ADVANCED ENERGY BUYERS GROUP
the policy voice of advanced energy purchasers

JOINT INFORMAL COMMENTS OF ADVANCED ENERGY ECONOMY AND THE ADVANCED ENERGY BUYERS GROUP

Re: California Public Utilities Commission Order Instituting Rulemaking to Implement Senate Bill 237 Related to Direct Access (Rulemaking 19-03-009)

Submitted January 21, 2020

Introduction

Advanced Energy Economy (AEE) and the Advanced Energy Buyers Group (AEBG), on behalf of our collective member companies, are pleased to provide informal comments on the discussion at the Commission's January 8, 2020 workshop ("the workshop"). 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 towards improved affordability, decarbonization, and reliability.

We applaud the Commission for coming to the conclusion, as stated at the workshop, that the majority of the variables laid out in the Phase 2 scoping memo 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. This was a point that we emphasized in our September 30, 2019 comments to the Commission.[1] We strongly believe that utilizing the analysis already completed, where applicable, is the most prudent approach and will enable the Commission to most efficiently meet the June 1, 2020 deadline for issuing recommendations to the Legislature.

In these informal comments, we have focused on responding to a few specific concerns from parties at the workshop as laid out below.

[1] Joint Response of Advanced Energy Economy and the Advanced Energy Buyers Group to Administrative Law Judge's Ruling Requesting Comments on relevant Phase 2 issues.

Customers Want Choice

Several stakeholders at the workshop expressed concerns that the customer perspective was being lost in the discussion. As organizations that represent large purchasers of advanced energy, we would be remiss to not emphasize this perspective. Stated simply, customers value choice and flexibility. The numbers bear this out, as customer demand for direct access (DA) continues to greatly exceed legislated availability. This is a point that we have reiterated multiple times in our comments in this proceeding and throughout the Customer Choice Project. Increasing customer choice, through a reopening of the DA market, will make the state a more attractive place to do business and open up new opportunities for California's nonresidential customers to meet their specific electricity needs while also driving innovation and economic development.

DA gives nonresidential customers, such as members of AEBG, the opportunity to manage their electricity needs through tailored solutions, while continuing to support state goals. In particular, customers in California can 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. A large and growing number of nonresidential customers have made clear that access to long-term renewable energy is a key tool to meet their sustainability goals; for example, 71 of the Fortune 100 have set renewable energy or energy-related sustainability goals, and C&I customers have signed agreements facilitating more than 22 gigawatts (GW) of renewable energy across the country to date, including more than 7 GW in 2019 alone.[2] Customers under DA can also competitively procure demand response, energy storage, and other cost-saving advanced energy resources. Furthermore, large customers are increasingly indicating that their siting decisions for new data centers or manufacturing plans are dependent, at least in part, on their ability to access renewable energy and market-based rates.

SB 237 was passed with this customer desire in mind and it established a requirement for the Commission to determine *how* DA should occur, not w*hether* it should occur. As such, the Commission should make a determination in this proceeding on a reopening schedule, with the legislative requirements in mind.

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[2] REBA: Corporate renewable energy buyers set new record in 2019, Renewable Energy World (October 2019), https://www.renewableenergyworld.com/2019/10/29/reba-corporate-renewable-energy-buyers-set-new-record-in-2019/#gref

There are Already Robust Processes in Place for All LSEs To Meet Regulatory Requirements

A few parties brought up concerns during the workshop around future DA expansion and its effect on existing regulatory requirements, including resource adequacy (RA), meeting the state GHG emissions goals as set out in the integrated resource planning (IRP) proceeding, and renewable procurement standards (RPS) compliance. AEE and AEBG believe that these concerns are widely unfounded, as laid out below.

Reliability and Resource Adequacy. The point was raised at the workshop that the expansion of DA will lead to more uncertainty when it comes to load forecasting and that increased disaggregation will affect reliability moving forward. We respectfully disagree. There are already robust statewide processes in place to ensure reliability. Furthermore, concerns over disaggregation generally is a separate issue than DA specifically. The Commission has been tasked with determining what impacts DA expansion may have on system reliability, rather than what impacts load migration may have generally. As Pacific Gas & Electric stated at the workshop, there is not a huge distinction between CCAs and DA when it comes to RA. The state is not limiting CCA expansion and other types of load migration, so why should they be limiting DA expansion? With the IOUs continuing their role maintaining the transmission and distribution system; the CPUC, CEC, and CAISO coordinating and implementing RA; and the CAISO controlling dispatch and market rules, there should be no change to reliability moving forward. However, if there are concerns about these processes, then that should be determined in another venue. Stated simply, reliability is a statewide issue rather than a DA expansion issue, and the growth of DA should be analyzed in the context of how it fits in the larger reliability processes established to accommodate greater customer choice.

RPS Compliance and Long-Term Contracting. There were concerns at the workshop that ESPs, to date, have only been focused on short term procurements and that ESPs are struggling to meet the state's RPS targets. The data shows that the majority of ESPs are on track to meet their goals. Specifically, DA providers have shown that they are meeting the long-term contracting requirements, even in the face of an uncertain market where the DA market is currently capped, effectively limiting the ability of DA providers to expand their customer base. As stated in the 2019 RPS Study,"99 percent of [ESPs] RPS contracting to date for Compliance Period 4 [2021 to 2024] has met the 65 percent long-term contracting requirement…[and] of the 13 ESPs that will be serving load in the 2021 – 2024 Compliance Period, 10 have procured enough long-term energy to meet the 65 percent long-term contracting requirement. [3]

GHG and Criteria Pollutants Emissions. Some parties expressed concerns over DA expansion and its potential effect on GHG emissions. We respectfully disagree. DA providers and other ESPs are currently complying with (or exceeding) all aspects of the state's decarbonization goals. In fact, 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. Therefore, we believe that lifting the DA cap has the potential to accelerate rather than hinder the state's ability to transition to a 100% clean energy economy by providing customers with additional clean energy options that not currently available to them.

Sufficient Consumer Protections Are Already in Place

Based on our experience in other markets, we strongly believe that expanded customer choice need not come at the expense of any customer or class of customers – in fact, customer choice can bring significant benefits to all customers in the form of lower costs and increased control and optionality. We recognize the importance of customer protections, and argue that adequate protections already exist. Strong registration requirements for ESPs include executing agreements with each IOU, payment of financial security and re-entry fees, proof of technical and operational ability, fingerprinting of principal officers, a Scheduling Coordinator at the CAISO, and extensive metering and billing compliance at the CAISO and CPUC. The Commission has also promulgated additional requirements for ESPs serving residential and small commercial customers to ensure such customers are protected,[4] which we believe are sufficient.

[3] P. 20, 2019 California RPS Annual Report, Submitted November 2019.
[4] California Code, Public Utilities Code - PUC § 394.5

Regarding potential cost impacts on other customers, an equitable, fair, and predictable exit fee on consumers who leave the IOU is already being addressed through the PCIA proceeding, and should not be relitigated here. Further, once consumers are with an alternate provider, structures are already in place for DA and CCA providers that allow consumers to set a term under which they will remain with the provider, with a nominal fee established for leaving before the contract term has expired.

Many technological advances have been deployed and proven to be effective in the last two decades with regards to improving communications with customers. Consumers are no longer limited in their ability to seek alternatives and learn about new products, services, and efficiencies. The CPUC should continue to ensure that there are communication protocols, policies, and systems put in place that 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 communication and transparency will enable a smoother transition for all parties involved.

Direct Access Reopening Schedule

At the workshop, Commission staff requested that parties provide a proposed DA reopening schedule in their informal comments. As filed under separate cover, AEE and AEBG support a schedule that begins new DA service for commercial and industrial (C&I) customers in 2022, phases-in DA over several years (at 9 TWh/yr), ultimately ends the existing lottery process, and aligns DA load migration with the forecasting and procurement activities required of LSEs for RA, IRP, and RPS. We believe that this schedule, as laid out in more detail in the separate letter, provides a reasonable glidepath for a DA reopening while ensuring reliability and the state's GHG and clean energy goals.

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 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@aee.net

On Behalf of Advanced Energy Buyers Group

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Appendix

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 offtakers 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.