

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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Order Instituting Rulemaking
Regarding Policies and Protocols for
Demand Response Load Impact
Estimates, Cost-Effectiveness
Methodologies, Megawatt Goals and
Alignment with California Independent
System Operator Market Design
Protocols.

Rulemaking 07-01-041
(Filed January 25, 2007)

**COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES
IN RESPONSE TO ADMINISTRATIVE LAW JUDGE'S RULING SOLICITING
COMMENTS ON PROPOSED DEMAND RESPONSE RULES**

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I. INTRODUCTION

On August 19, 2011, Administrative Law Judge Farrar issued a ruling in Phase IV of Rulemaking 07-01-041 (“ALJ Ruling”), soliciting comments on the proposed direct participation rules of Demand Response Providers (“DRPs”) in the California Independent System Operator’s (“CAISO”) wholesale market. Attachment A of the ruling included a draft Electric Rule No. 24 (“Proposed Rule 24”), which was developed by the Commission’s Energy Division. Specifically, the ALJ Ruling solicits comments on (1) the Draft Electric Rule 24, (2) Draft Demand Response Provider Registration Form, and (3) Draft Authorization to Receive Customer Information. In a subsequent e-mail ruling on August 23, 2011 ALJ Farrar extended the comment period to September 23, 2011, so this filing is timely.

II. DISCUSSION

DRA is pleased the Commission is moving forward to develop consumer protection rules as a condition of DRP participation in the California Independent System Operator (“CAISO”) wholesale markets. As DRA noted in its December 13, 2010 comments, Commission’s consumer protection role should not change whether the

consumer is involved with a load serving entity (“LSE”) or DRP.¹ The Commission confirmed this in Decision (D.) 10-12-060, which held that it is “cognate and germane to utility regulation to assert some degree of jurisdiction over DRPs.”²

DRA conditionally supports the direct participation of DRPs in the wholesale markets, provided proper rules are established that follow these core guiding principles: (1) utility customers are adequately protected, (2) utility ratepayers are held harmless from financial risk, (3) direct participation rules are transparent, and (4) full disclosure of any risks associated with direct participation is provided to all parties involved.³ Energy Division’s proposed Rule 24, found in Attachment A of the August 19th ALJ Ruling, addresses some of these core principles. However, DRA questions whether the proposal offers sufficient consumer protection measures, and notes the lack of enforcement provisions, which would provide the needed certainty that ratepayers do not bear a large portion of the risk for this new market.

A. General Comments on Draft Electric Rule No. 24

1. Definition of “Timeliness”

There are numerous references that certain activities and obligations under proposed Rule 24 are to be made in a “timely” fashion or manner. For example, Rule 24 provides, “It is both the new and existing DRP’s responsibility to ensure unenrollment in a timely fashion.”⁴ Also, Rule 24 states,

To the extent ordered by the CPUC, DRPs shall make all payments resulting from CPUC-authorized charges owed to PG&E/SCE/SDG&E for services specified under this tariff in a timely manner subject to applicable payment dispute provisions.

¹ *Comments of the Division of Ratepayer Advocates on Administrative Law Judge Farrar’s Ruling on Direct Participation Issues*, filed December 22, 2010, p. 1.

² *Order Modifying Decision (D.) 10-06-002, And Denying Rehearing Of Decision, As Modified D.10-12-060* [D.10-12-060], p. 7.

³ DRA Comments, filed December 22, 2011, p. 2.

⁴ ALJ Ruling, issued August 19, 2011, Attachment A, *Draft Electric Rule No. 24* (“Proposed Rule 24”), p. 3, Section A.2.c.

The only example of the measurement of “timeliness” is found in “Timeliness of Data Transfer,”⁵ which indicates that a reasonable period of time for a Meter Data Management Agent (“MDMA”) to transfer required meter data to a DRP is 24 hours. With input from the parties to provide further clarification, the Commission should state in the final decision what a reasonable time is in the context of all provisions that provide “timeliness” specifications. Since “timeliness” could vary with each obligation, indicating what a reasonable commercial time period is in the tariff may prevent future disputes at the Commission between the DRP, LSE or other entity.

B. Electric Rule 24, Section A: APPLICABILITY

1. Definition of “Event Based Demand Response”

DRA recommends clarifying the definition of “Event Based Demand Response” in Attachment A, Section A.1.b., as follows:

Current Language

EVENT BASED DEMAND RESPONSE: The load reduction or increase by retail customers in response to a day-ahead or day-of event signal.

DRA’s Proposed Language

EVENT BASED DEMAND RESPONSE: The load reduction or increase by retail customers in response to an (i.e., day-ahead or day-of, or longer) event signal. Examples of event based programs include, but are not limited to, Capacity Bidding Program (CBP), Demand Bidding Program (DBP) and dynamic pricing programs such as Critical Peak Pricing (CPP) program.

This change is necessary because PG&E’s PeakChoice Program allows customers to choose more than one day notification of events. The definition should also clarify that energy-only program such as Demand Bidding Program (“DBP”) and dynamic pricing programs such as Critical Peak Pricing (“CPP”) program are also event-based programs and fall under the definition.

⁵ Proposed Rule 24, p. 7, Section B.3.b.

2. Entities and Services Subject to Rule 24

DRA recommends clarifying the second paragraph in Attachment A, Section A.2.c concerning un-enrolling from IOUs' event-based demand response programs, as follows:

Current Language

A customer who participates in a PG&E/SCE/SDG&E event-based demand response program and chooses to enroll in any DRP DR service where PG&E/SCE/SDG&E is not the DRP, must un-enroll from any and all of PG&E/SCE/SDG&E's event-based demand response programs subject to any contractual or program tariff obligations.

PG&E/SCE/SDG&E will notify the customer who will be switched to an otherwise applicable rate schedule (OAS) when the un-enrollment from the PG&E/SCE/SDG&E demand response program becomes effective.

DRA's Proposed Language

A customer who participates in a PG&E/SCE/SDG&E event-based demand response program and chooses to enroll in any DRP DR service where PG&E/SCE/SDG&E is not the DRP, must un-enroll from any and all of PG&E/SCE/SDG&E's event-based demand response programs subject to any contractual or program tariff obligations. If the customer cannot un-enroll from any and all of PG&E/SCE/SDG&E's event-based demand response programs because of any contractual or program tariff obligations, the customer may not enroll with a new DRP until those contractual or program tariff obligations are satisfied. PG&E/SCE/SDG&E will notify the customer who will be switched to an otherwise applicable rate schedule (OAS) when the un-enrollment from the PG&E/SCE/SDG&E demand response program becomes effective.

DRA's proposed change is necessary to clarify that the customer's existing contractual or program tariff obligations have the priority over the customer's desire to switch to a different DRP. DRA's proposed change is also necessary to distinguish an "unlawful" barrier to enrollment, as described in Section B.5.e of Electric Rule 24, which states,

A DRP should not create any unlawful barriers to prevent a customer from leaving its DR programs or service. Such behavior may result in the CPUC's termination of the DRP's registration at the Commission or other regulatory actions against the DRP.⁶

If there is a valid reason to prevent un-enrollment, such as customer's contractual obligation to remain on the demand response program for a period of time (i.e., one year minimum enrollment), preventing un-enrollment those of such customer by the current DRP should not be viewed as creating an unlawful barrier under the Section B.5.e of Electric Rule 24.

C. Electric Rule 24, Section B: GENERAL TERMS

1. Formal Notification for Residential and Small Commercial Customers

Proposed Rule 24 requires that DRPs intending to enroll residential and small commercial customers in DR services at the CAISO are required to meet additional CPUC requirements before submitting customer accounts for PDR product at the CAISO.⁷ DRPs obtaining approval from the CPUC's Energy Division will receive a "standard form letter or electronic communication to be submitted to each customer explaining the DRP's terms and conditions of participating in the DR service."⁸ No form letter was provided in the ALJ Ruling or attachments. Based on the proposed tariff, it is unclear what or how this form letter/communication will adequately "explain the DRP's terms and conditions of participating in the DR service." With respect to privacy considerations, DRA wants to ensure that residential and small commercial customers, in particular, understand how their data would be used in a clear, unambiguous way. DRA requests that the Energy Division develop the standard form letter or electronic communication and allow parties to comment on its content. The form letter should

⁶ Proposed Rule 24, p. 10, Section B.5.e.

⁷ Proposed Rule 24, p. 12, Section B.12.

⁸ *Id.* at p. 13.

make customers acutely aware of the DRP's privacy policies, the roles of the DRP and LSE (if different entities), and customer dispute-resolution processes.

D. Electric Rule 24, Section C: ACCESS TO CUSTOMER DATA

1. Inclusion of Privacy Rules from Smart Grid Rulemaking 08-12-009

Currently, Section C qualifies its content by stating that: "Final provisions to be determined based on forthcoming Commission decision on customer privacy standards and protections in Smart Grid OIR, R. 08-12-009." On July 28, 2011, the Commission issued D.11-07-056. Attachment D of that decision adopted privacy rules in the Smart Grid Order Instituting Rulemaking, R.08-12-009.² The privacy rules address third-party access of customer information from either the customer or the IOU.¹⁰

Proposed Rule 24 acknowledges the Smart Grid rulemaking, and should update its provisions on "Access to Customer Data" in Section C.1.a., as follows:

Current Language:

The inquiring party must have customer authorization using PG&E/SCE/SDG&E Form 79-1095, Authorization to Receive Customer Information or Act Upon a Customer's Behalf to release such information to the inquiring party only (commonly referred to as the Customer Information Service Request or "CISR"). At the customer's request, this authorization may also indicate whether the customer information may be released to other parties as specified by the customer. The recipient agrees to abide by PU Code 8380.

DRA Proposed Language:

The ~~inquiring party~~ requestor must have written customer authorization using PG&E/SCE/SDG&E Form 79-1095, Authorization to Receive Customer Information or Act Upon a Customer's Behalf to release such information to the inquiring party only (commonly referred to as the Customer Information Service Request or "CISR"). At the customer's

² <http://docs.cpuc.ca.gov/Published/Graphics/140370.pdf>

¹⁰ *Decision Adopting Rules To Protect The Privacy And Security Of The Electricity Usage Data Of The Customers Of Pacific Gas And Electric Company, Southern California Edison Company, And San Diego Gas & Electric Company* [D.11-07-056], Attachment D, Section 1 "Definitions."

request, this authorization may also indicate whether the customer information may be released to other parties as specified by the customer. The ~~recipient~~ DRP agrees to abide by Public Utilities Code Section 8380, the CPUC's Rules Regarding Privacy and Security Protections for Energy Usage Data, and any other privacy and security rules established by the Commission.

Such additional clarifying language appropriately aligns the proposed Rule 24 with the current privacy rules adopted in R.08-12-009, as well as incorporates any additional rules that will be developed as part of the next phase in that rulemaking, which will determine the applicability of the current privacy rules to gas corporations, electric service provider ("ESP"), and Community Choice Aggregator ("CCA"). A prehearing conference ("PHC") was held recently on September 16, 2011 to implement this new phase.

2. Application of the Privacy Rules to Rule 24

There is some question as to how the Commission's privacy rules interact with proposed Rule 24 with regard to gaining access to customer information. Rule 24 allows access to customer data to third party aggregators who get customer consent via the Customer Information Service Request ("CISR").¹¹ At the customer's request, this authorization may also indicate whether the customer information may be released to other parties as specified by the customer. In D.11-07-056,¹² the Commission distinguishes between "primary purposes" and "secondary purposes" for the rationale of when a third-party is required to obtain written customer consent prior to the disclosure

¹¹ Proposed Rule 24, p. 12, Section C.1.a.

¹² D.11-07-056, Attachment D.

of “covered” customer information.¹³ As a “primary purpose,” the privacy rules include activities that:

[I]mplement demand response, energy management, or energy efficiency programs **operated by, or on behalf of and under contract with, an electrical or gas corporation, electric service provider, or community choice aggregator.**¹⁴

Therefore, an electrical corporation may disclose covered information without customer consent to a third party “for a primary purpose being carried out under contract with and on behalf of the electrical corporation disclosing the data.”¹⁵

In the case of a DRP, while the service it provides is demand response, the Commission should clarify that this service is not considered a “primary purpose” under the privacy rules because a third-party aggregator who intends to bid directly into the CAISO markets is not operated by, or on behalf of and under contract with an electrical corporation (such as PG&E, SCE, or SDG&E), gas corporation, ESP, or CCA. Unlike third-party DRPs involved in the current Commission-approved third-party-IOU bilateral DR contracts, the DRP in this instance is acting on its own behalf to provide DR service in order to bid it in directly into the CAISO markets. Thus, the Commission should require written customer consent to release confidential customer-specific information and usage data in *any* case where a third-party DRP intends to enroll a customer for the purpose of bidding that customer’s demand response directly into the CAISO markets. This is consistent with both the proposed Rule 24 and the current Privacy Rules.

Additionally, the Commission’s final decision should clarify that if a third-party DRP contracts with the IOU to have the IOUs serve as Scheduling Coordinator,

¹³ Under the privacy rules, “covered information” is any usage information obtained through the use of the capabilities of Advanced Metering Infrastructure when associated with any information that can reasonably be used to identify an individual, family, household, residence, or non-residential customer, except that covered information does not include usage information from which identifying information has been removed such that an individual, family, household or residence, or nonresidential customer cannot reasonably be identified or re-identified. *See* D.11-07-056, Attachment D, Section 1.b.

¹⁴ D.11-07-056, Attachment D, Section 1.c. (emphasis added).

¹⁵ *Id.*, Attachment D, Section 6.1.b., p. 8.

MDMA, or Meter Service Provider (“MSP”), such third-party DRP would still *not* be considered serving a “primary purpose” if that contract was executed for the purpose of the third-party DRP’s participation in the CAISO market. Contractual agreement with the IOU for the IOU to serve as Scheduling Coordinator, MDMA, or MSP does not equate to operating DR on behalf of and under contract with the IOU. DRA is concerned that entities may try to bypass the Commission’s requirements in the proposed Rule 24 for written customer consent.

E. Electric Rule 24, Section D: DRP DR SERVICE ESTABLISHMENT

1. Registration Requirements

DRA supports strong consumer protection rules, such as the requirement that non-IOU DRPs that enroll bundled service customers register with the CPUC, and a bonding requirement of \$25,000 for DRPs that serve residential and small commercial customers.¹⁶ As the Commission stated in D.10-12-060,

Developing consumer protections would be one means to mitigate against potential abuse. However, although FERC and CAISO may take some steps to try and mitigate market abuse, it is not clear whether those steps will include the necessary consumer protection for state IOU retail customers.¹⁷

Establishing registration requirements at the CPUC is not new. The Energy Division’s proposed Rule 24 registration requirement for DRPs is similar to that currently used to register ESPs for the provision of Direct Access (“DA”) service in the utilities’ Electric Rule 22. Developing effective, enforceable customer protection rules for third-party direct participation is absolutely necessary because Section B.7 of the proposed Rule 24, which limits liability of the IOUs for services provided by a DRP, and states:

To the extent the customer takes service from a DRP, the LSE or PG&E/SCE/SDG&E acting as either the UDC or the LSE has no obligations to the customer with respect to the services

¹⁶ Proposed Rule 24, p, 17, Section D.3.b.

¹⁷ D.10-12-060, p. 7.

provided by the DRP.¹⁸

Thus, registration requirements of *all* DRPs at both the CAISO and the CPUC are an indispensable first step in establishing consumer trust that security measures have been implemented to safeguard against potential bad actors and fly-by night third-party demand response providers.

a) Long vs. Short Form

DRA recommends the final Rule 24 attach both the “long registration form” and the “short registration form” to the rule. It is not clear the form currently included as the Attachment B to the ALJ Ruling is the long or short one.

b) Bonding Requirement

DRA supports the proposed bonding requirement of \$25,000 for DRPs that serve residential and small commercial customers.¹⁹ However, the provision “provide the CPUC a security deposit or financial guarantee bond in the amount of \$25,000 as specified in the registration form,” is vague and ambiguous. It is uncertain whether the bond posted to the CPUC should be in a similar manner and form as the security deposits and financial guarantee explained in Section G, Credit Requirements. If this is the case, DRA would be concerned that the minimum requirements are not sufficient to mitigate the risk to residential and small commercial ratepayers, should the need to release the bond arise. Also, there are no specific provisions to indicate how the amount was calculated and whether the amount available is sufficient to manage ratepayers’ exposure to risk.

c) Credit Requirements

The proposed rule requires third-party DRPs that solicit an IOU’s customers also establish credit worthiness by either submitting to a credit evaluation, or in the absence of

¹⁸ Proposed Rule 24, p. 11, Section B.7.

¹⁹ Proposed Rule 24, 17, Section D.3.b.

an evaluation, the posting a security deposit in the form of a cash deposit, letter of credit, surety bonds, or guarantee, with the IOU.²⁰

DRA strongly supports the demonstration of credit worthiness as a condition of DRP service. However, DRA questions whether some of the various financial instruments are adequate to demonstrate the DRP's creditworthiness. Specifically, DRA questions the minimum credit ratings for the credit evaluation of "Baa2 or higher from Moody's or BBB or higher from Standard and Poor's, or Fitch is deemed creditworthy, unless the UDC determines that a material change in the DRP's creditworthiness has occurred."²¹ The proposed rules also allow security deposits in the form of guarantees, with guarantors having a credit rating of "Baa2 or higher from Moody's or BBB or higher from Standard and Poor's, or Fitch."²² While this is a proposal raised by the IOUs' Electric Rule 24 proposal,²³ DRA does not believe this investment grade is sufficient to mitigate the risk posed to the IOU, since such rating demonstrates average or moderate creditworthiness.

In a recent proposed decision on the appropriate financial instruments for Energy Service Providers, it states,

Third party guarantors may pose counter-party risk to the IOU, which may be mitigated through collateral arrangements with the third party. Third party guarantors should at least have AA investment grade credit.²⁴

Likewise, the investment grade should be raised to at least AA, or the equivalent, in the case of DRP credit evaluations or when considering security deposits in the form of guarantees. The Commission should also provide examples of what a "material change,"

²⁰ Proposed Rule 24, p. 17, Section D.3.b; pp. 24-26, Section G.

²¹ Proposed Rule 24, p. 24, Section G.2.

²² Proposed Rule 24, p. 25, Section G.2.b.

²³ *Joint Compliance Filing Of Southern California Edison Company (U 338-E), Pacific Gas And Electric Company (U 39-E), And San Diego Gas & Electric Company (U 902 M) On Proposed Rules In Phase IV, Direct Participation*, filed May 22, 2011, Attachment A, Sheet 20, Section J.2.a.

²⁴ *[Proposed] Decision Adopting Direct Access Reforms*, R.07-05-025, issued August 23, 2011, p. 71.

in which a utility would have discretion to reject the reported investment ratings provided by the credit evaluations.

DRA also questions whether the security deposit, as calculated by the rules, is sufficient to adequately manage IOU risk. The security deposit is calculated as twice the estimated maximum of monthly revenues from the CAISO for a participating month of Demand Response Activities, where such estimate is based on the last twelve (12) months of historical activity.²⁵ DRA reserves the right to comment on whether such minimum requirements are sufficient for customer protection in reply comments.

d) Large Commercial and Industrial

The proposed Rule 24 also accommodates the Joint Parties'²⁶ concerns by providing a more minimal track for DRPs intending to serve only large commercial and industrial customers within the DRP registration process, which DRA supported in comments.²⁷ However, it is unclear whether DRPs intending to serve only large commercial and industrial customers would be similarly required to post a bond as part of a condition of service. The Commission should clarify this requirement, and if not, state the reasons why a bonding requirement is not necessary to mitigate those customers' financial risk.

e) Posting of Registered DRPs on CPUC Website

The proposed Rule 24 states the CPUC will post the list of registered DRPs on its website, that the CPUC will enforce all the rules for DRP registration, and that the CPUC may suspend or revoke DRP registration if it is determined that the DRP violated Rule 24 or terms and conditions outlined in the CPUC registration form.²⁸ DRA supports this provision.

²⁵ Proposed Rule 24, p. 24, Section G.2.b.

²⁶ EnerNOC, Inc., Energy Connect, Inc., the Alliance for Retail Energy Markets ("AReM") and the Direct Access Customer Coalition ("DACC").

²⁷ See *Comments of the Division of Ratepayer Advocates on Compliance Filings on Proposed Rules in Phase IV, Direct Participation in CAISO's Markets*, filed May 9, 2011, p. 3.

²⁸ Proposed Rule 24, p. 17, Section D.3.d.

Ratepayers should be informed consumers when considering their DRP options. DRA suggests, at a minimum, DRP registration information provided on the CPUC website include: (1) name and other fictitious business names it is doing business as (“DBA”) in California, (2) contact information and a link to the company website, (3) the date of registration, (4) history and current status of registration (i.e., registered, suspended, revoked), (5) prior violations and dates reinstated, and (6) complaints filed at the CPUC, civil or other administrative court, and whether it was resolved. Such information will be able to arm a potential DRP customer with additional information and knowledge of the entity prior to enrollment. Information of the CPUC’s website and registration list should also be noticed in the customer form letter provided by the Energy Division to the DRP upon successful registration.

f) Suspension/Revocation of DRP Registration

DRA supports inclusion of all of the acts listed in Section D.3.e., which discusses the CPUC’s ability to suspend or revoke DRP registration. However, DRA recommends clarifying Section D.3.e., as follows²⁹:

Current Language

The CPUC will also suspend or revoke a DRP registration if a civil or business court finds that the DRP has engaged in any of the following acts...

DRA Proposed Language

The CPUC will also suspend or revoke a DRP registration if a civil or ~~business~~ administrative court finds that the DRP has engaged in any of the following acts...

The term “business court” is vague, and should be clarified. DRA’s modification is appropriate, and addresses the concern that registration may be revoked upon a negative finding in other administrative forums, such as the Securities and Exchange Commission, the Federal Energy Regulatory Commission, or otherwise.

²⁹ Proposed Rule 24, p. 18, Section D.3.e.

F. Electric Rule 24, Section F: DISCONTINUATION OF SERVICE BY DRP

Section F.3.b. of proposed Electric Rule 24 states,

As of the effective date of the discontinuation of DR service by a DRP pursuant to this Section F, the Bundled Service customer will no longer be participating in DR services with the discontinued DRP. The customer shall thereafter be eligible and have the right at any time to enroll in another DRP's service pursuant to this Rule 24.³⁰

This provision is vague and ambiguous as to the "effective date." DRA recommends clarification of *when* the "effective date" will occur for the discontinuation of DR service by a DRP pursuant to this section. It is unclear whether the "effective date" occurs upon a discontinuation of service pursuant to a "Service Change"³¹ or upon notice by the DRP to the affected customer, the CAISO, or the CPUC.³²

G. Electric Rule 24, Section H: FINANCIAL SETTLEMENTS

This section in the proposed rules is still in development. DRA is not intimately familiar with the intricacies of communication necessary between the CAISO, the LSEs, and DRPs for successful direct participation demand response customers in the CAISO's markets. DRA will comment when more concrete proposals are provided by the various parties.

H. Electric Rule 24, Section I: COMPLAINT AND DISPUTE RESOLUTION PROCESSES

In addition to specific DRP regulatory oversight, it is absolutely necessary for the Commission to enforce such rules by establishing a procedure to hear and resolve consumer complaints similar to what is done today with the investor owned utilities and their customers at the Commission. Non-IOU DRPs should have to agree to submit to

³⁰ Proposed Rule 24, p. 23, Section F.3.b.

³¹ Proposed Rule 24, p. 22, Section F.1.

³² Proposed Rule 24, p. 22, Section F.2.

consumer complaint procedures at the CPUC as a condition of DRP registrations. As the Commission stated in D.10-12-060:

If we decide consumer protections are warranted, we expect that regulation would be limited to possible registration, and/or consumer protections of IOU residential and small commercial retail customers that receive DR the services from DRPs.³³

While the implementation of a registration requirement provides some safeguards against the prevention of consumer harm, Proposed Rule 24 does not provide adequate procedures to resolve disputes. The only complaint and dispute resolution process provided in draft Rule 24 is between an IOU and DRP in Section I.1. Energy Division added a placeholder for complaints and disputes between customers and a DRP, but offers no proposed language. DRA recommends developing language similar to Section I.1., regarding the availability to utilize the CPUC's Expedited Complaint Procedure as described in Rule 4.5 of the Rules of Practice and Procedure, be adopted in Section I.2., to describe the complaint and dispute-resolution process between a customer and a DRP. Establishing a process at the CPUC is especially important for residential and small commercial businesses that will likely be limited to contractual claims at the civil court, or be forced into binding arbitration provisions which may not be acceptable forums to hear these claims. Information of the CPUC process should also be noticed in the customer form letter provided by the Energy Division to the DRP upon successful registration at the CPUC.

III. CONCLUSION

DRA respectfully requests the Commission consider DRA's recommended modifications, as discussed above. DRA intends to review parties' comments carefully for any concerns they identify in their opening comments and provide any additional comments in reply. DRA is especially concerned, however, that the proposed Electric Rule 24 issued by Energy Division does not provide an adequate record regarding the

³³ D.10-12-060, p. 7.

resolution of the disputes raised by parties provided in written comments and at workshops. DRA recommends that the Commission hold another workshop in which Energy Division presents its findings and conclusions which led to the draft Rule 24 issued in the ALJ Ruling. A final decision should be issued discussing the merits of the parties' various positions as well as a resolution of each issue, before adoption of the final tariff. Parties may collaborate after a final decision is issued to develop final tariff language in conformance to the Commission's decision, which the IOUs can later submit for Commission adoption through an advice letter filing or comments in this proceeding.

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