



The ESP Handbook

Chapter 18 ***Direct Access Suspension & Related Decisions***

Version 5.0
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18.1. Background

As part of the State's response to the California energy crisis that began in 2000, ABX1 directed the California Public Utilities Commission (CPUC) to set a date for the "suspension" of direct access. On September 20, 2001, the Commission issued D.01-09-060, setting the effective date for suspension of the right of customers to acquire service from providers other than DWR and the utilities at September 20, 2001. Subsequently, the CPUC issued D.02-03-055, which confirmed the September 20, 2001 suspension date and articulated a general "standstill approach" which enabled current DA customers to preserve their direct access service while assuring that the overall direct access load would not increase. Pursuant to D.02-03-055, a customer must have a valid direct access contract with an Electric Service Provider (ESP) that was in existence on or before September 20, 2001 to be eligible for direct access. If the customer did not have a valid direct access contract, the customer would no longer be eligible to be served under direct access. Additionally, D.02-03-055 set forth the "rules" necessary for the utilities to follow when implementing the suspension. These rules were subsequently modified by Commission Decisions D.02-04-067, D.03-01-078, and D.03-04-057. These implementation rules are outlined below:

1. ESPs shall have provided by October 5, 2001 a list of names of all customers with direct access contracts in place as of September 20, 2001.

This rule states "AreM proposes that an independent third-party, such as a Certified Public Accountant (CPA), would submit a DASR verification to the UDC only for customers who were not on the October 5th or November 1st lists (but had a valid direct access contract) and for additional sites for customers already on the lists." The decision also states that because human error is possible, the Commission "will allow additions to the October 5th and November 1st lists for customers with a valid direct access contract as of September 20, 2001 (including additional meters, accounts, or sites as provided in Rules 5 and 6 below), using the AreM process, along with an affidavit signed by both the ESP and the customer stating under penalty of perjury that the contract date is correct. A separate affidavit, signed by the customer, must state under penalty of perjury that the amount of customer-specific aggregate direct access load for facilities that have been relocated or replaced within the customer's existing service territory that is related to the new meters, accounts or sites does not exceed that in effect as of September 20, 2001, and that the DA customer's load will not increase by virtue of such relocation or replacement of facilities." Please see Section 18.2 for information regarding the addition of a service account to the ESP list that was previously omitted due to human error.

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2. For the sole and limited purpose of submitting a list of those customers with a valid direct access contract in place as of September 20, 2001, and processing the initial DASRs for those customers not yet on DA service as of September 20, 2001, an ESP must (1) have in effect a valid ESP/UDC service agreement as of September 20, 2001, and (2) ESPs serving small customers must have in effect as of September 20, 2001 valid Commission registration as required by law.

“This requirement does not affect the UDC’s current and continuing obligation to process and execute new service agreements with any qualified ESP that wants to provide direct access service in a UDC’s service territory to existing direct access customers.”

3. Master agreements between ESPs and certain entities (other than the customers or end users of record) whose terms and conditions allow specific customers to elect direct access in the future (through execution of individual implementing agreements with customers), entered into on or before September 20, 2001 do not qualify as agreements for direct access service with customers.
4. Customers and accounts are allowed to switch from one ESP to another after September 20, 2001.

This rule states “Customers can also choose a new ESP and continue on direct access if they returned to bundled service after September 20, 2001, except as indicated in Rule 12.”

Please see Section 18.4 for changes permitted by D.03-05-034, otherwise known as the Switching Exemption Decision.

5. A direct access customer may relocate to a new location within its existing service territory, or rebuild at that customer’s existing location provided: (1) the replacement or relocation is in the normal course of business, and (2) that there is no net increase in that customer’s total direct access load from all such facilities that were eligible to be served by direct access within its utility-specific service territory between all of the original facilities that were eligible to be served by direct access as of September 20, 2001 and the replacement or relocation facilities. Modified February 11, 2004 by Decision 04-02-024.

“Consistent with the principle of attaining a standstill of direct access service, adding new locations (and thus new load) to direct access service should be permitted only to the extent that the customer- specific aggregate direct access load at those facilities that were replaced or relocated within the customer’s existing service territory does not exceed that in effect for the old those facilities as of September 20, 2001. As discussed above, it is reasonable and appropriate to prohibit increases in direct access

load in order to balance important regulatory goals. Rule 5 should not be construed, however, to prohibit load changes associated with normal usage variations on direct access accounts in effect as of September 20, 2001.”

Please see Section 18.5 for more information on this rule.

6. Unless expressly authorized by Rule 5 above, no customer is allowed to add a new or additional account to direct access service if that account involves installation of additional meters after September 20, 2001 or would require a new DASR to be submitted after September 20, 2001.
7. Deleted by D.03-04-057.
8. Direct access contracts may be assigned after September 20, 2001, to either a new ESP or a new retail end use customer representing approximately the same load at the same location.

This rule states, “We will allow assignment of contracts if permitted by the customer-ESP contract because this is consistent with the standstill principle and does not increase direct access load.” In addition, this rule also clarifies that renewals of contracts are also limited to the same load at the same location.

Please see Section 18.3 for the customer assignment notification process.

9. A customer who had direct access prior to September 20, 2001, but who became a bundled customer before September 20, 2001 can not return to direct access after September 20, 2001.
10. A direct access customer can change its identity (i.e. Jones Company to Acme Electronics) provided no other implementation restriction applies.

This rule is intended to cover name changes only. The purchase or acquisition of a business that results in a change in the legal identity or tax identification number must go through the customer assignment notification process (see Rule 8).

11. Community aggregators shall serve only direct access customers who chose community aggregation prior to September 20, 2001.

The CPUC has issued an Order Implementing Rulemaking (OIR) on Community Choice Aggregation (CCA) pursuant to AB117. The OIR will determine the process and procedures by which a City can

qualify as a Community Choice Aggregator. Rule 11 is not intended to interfere with the CCA OIR.

12. Returns to Bundled Service and Backbilling.

This rule clarifies that based on the rules above; some customers may be required to be returned to bundled service (e.g. customers or accounts not on an ESP list as of 10/5/01). In these cases, the customer should not be backbilled by SCE for the bundled service not taken by the customer.

18.2. DA-Eligible Affidavit Process

As part of the direct access suspension implementation Rule 1, additions to the ESP list are allowed for accounts that were previously omitted due to human error.

Please refer to the form in the ESP Direct Access Handbook, Chapter 3 titled "Declaration for Adding Service Accounts to ESP List."

This declaration must be submitted to SCE's Customer Choice Services Group at:

Electronic Communications Coordinator
Southern California Edison Company
6020 N. Irwindale Avenue, Suite I
Irwindale, CA 91702

This Declaration must be signed by the Customer, ESP, and be accompanied by an Independent Third-Party Declaration. The Independent Third-Party Verification may occur on the official letterhead of the third-party verifier in lieu of executing the Declaration however the letter must make the same declaration and use the same words as contained within the form in Chapter 3 Forms titled "Declaration for Adding Service Accounts to the ESP List."

This Declaration must be accepted by SCE before any "connect" DASR can be submitted for the referenced account numbers.

Upon review of the completed Declarations, SCE will notify the ESP in writing, or by email, within five business days that the Declarations have been accepted and will specify the customer name (one only per Declaration) and account number that has been added to SCE's list of customers eligible for direct access. The additions to SCE's list of customers eligible for direct access will be made so long as the SCE account number(s), customer name, and customer address provided to SCE are accurate.

Each party's declaration must be executed and may be submitted by fax to SCE at the number referenced below, provided originals are received by SCE within 10 calendar days.

Southern California Edison Company
Attn: Electronic Communications Coordinator
FAX: 626-812-7562

Switching Exemption Rules require customers to provide six-months advance notice before being able to transfer to DA service. This Six-Month Notice form is available on SCE's website (www.sce.com) as well as in chapter 3 of the ESP Handbook.

- SCE will contact customer and advise customer that Six-Month Notice to transfer to DA is required.
- SCE receives Six-Month Notice from customer. Customer will be able to transfer to DA six months from time form is received by SCE following standard DASR processing protocol.
- Customer will receive a reminder letter prior to the end of the six-month period advising them that their ESP has 20 days to submit a DASR.

See section 18.4 for further information regarding Switching Exemption.

18.3. Customer Assignment Notification

As part of the direct access suspension implementation Rule 8, direct access contracts may be assigned after September 20, 2001, to either a new ESP or a new retail end use customer representing approximately the same load at the same location.

Please refer to the form in the ESP Direct Access Handbook, Chapter 3 titled "Customer Assignment Notification." This Notification must be signed by the ESP and the new Customer.

This Notification must be submitted to SCE's Customer Choice Services Group at:

Electronic Communications Coordinator
Southern California Edison Company
6020 N. Irwindale Avenue, Suite I
Irwindale, CA 91702

This Notification must be accepted by SCE before any "connect" DASR can be submitted for the referenced account numbers.

Upon review of the completed Customer Assignment Notification, SCE will notify the ESP in writing, or by email, within five business days that the Notification has been accepted and will specify the current customer name, service address, account number(s), and meter number(s) that are being assigned. The Notification must also contain the new customer name, account number(s), and meter number(s). The new customer is eligible for direct access so long as the account number(s), customer name, and customer address provided to SCE are accurate.

If the current customer also wants to transfer ownership of an existing customer-owned meter at the same location, the customer may assign its meter ownership rights to the new customer by providing written notice to SCE on official company letterhead signed by an authorized representative of the company. This written notice should be submitted to SCE together with the Customer Assignment Notification.

Each party's declaration must be executed and may be submitted by fax to SCE at the number referenced below, provided originals are received by SCE within 10 calendar days.

Southern California Edison Company
Attn: Electronic Communications Coordinator
FAX: 626-812-7562

The Switching Exemption Rules will be applied to the assignment of contract process as follows (see section 18.4 for further information regarding Switching Exemption Rules):

- If current customer is in an eighteen-month bundled commitment, new customer will now be responsible for eighteen-month bundled commitment.
- If current customer is in a six-month notice, new customer will now be responsible for six-month notice.
- If new customer does not participate in the DA @ Time of Turn On process, the customer will be billed TBS Pricing until DASR is received by ESP.
- If no DASR is received after the 60 day "safe harbor," then customer will be committed for an additional six months on TBS then BPS for eighteen months.

18.4. D.03-05-034 Switching Exemption Decision.

D.03-05-034 established the rights and obligations for direct access customers switching between bundled service and direct access. This decision provides customers who were returned to bundled service after September 20, 2001 the option of switching back to direct access.

On December 4, 2003, the CPUC adopted Resolution E-3843 which implements rules allowing customers to switch between direct access and bundled service. These rules became effective on February 19, 2004.

In this decision, the CPUC adopted provisions for DA-Eligible customers electing:

- 1) Transitional Bundled Service (TBS)
- 2) Bundled Portfolio Service (BPS)

Transitional Bundled Service (TBS)

- Allows DA customers to return to bundled service on a transitional basis while switching from ESP to ESP, including the same ESP.
- TBS is limited to a 60-day period (also known as the “Safe Harbor”).
 - Customers electing the TBS option will pay the TBS Procured Energy Charge (Schedule PC-TBS).
 - Customers will also continue to pay any applicable DA CRS
 - Customers will retain their continuous DA status, where applicable.
- If SCE does not receive a connect DASR within the 60-day period, the customer will remain on TBS pricing for an additional six months, after which the customer will be returned to Bundled Portfolio Service (BPS) for a minimum of eighteen months.
- For accepted DASRs that require a meter change, the meter change must be completed no later than 60 days following the conclusion of the Safe Harbor period.
 - If a meter change is not completed within 60 days, SCE will revert the account to DA on the customer’s next scheduled meter read date.

Bundled Portfolio Service (BPS)

- DA customers who transfer to bundled service must remain for a minimum period of eighteen months.
- The eighteen-month minimum bundled service commitment is known as BPS.
- Customers must provide a six-month advance notice to SCE prior to becoming eligible for BPS.
 - Once received by SCE, customers have a three business-day rescission period after which advance notifications cannot be canceled.
 - During the six-month advance notice period before becoming eligible for BPS, customers may either continue on DA service or return to bundled service at TBS pricing terms.
- At the end of the initial eighteen-month BPS commitment, customers will have the option of switching back to DA service or remain on bundled service based on any subsequent rules.
- Customers electing to return to DA service at the conclusion of the eighteen-month BPS commitment period must provide six months advance notice to SCE when SCE's website indicates that additional DA load has become available.

18.5. Customer Relocation Affidavit Process

As stated earlier, Rule 5 of the DA Suspension rules states:

“A direct access customer may relocate to a new location within its existing service territory or rebuild at that customer's existing location provided: (1) the replacement or relocation is in the normal course of business, and (2) that there is no net increase in that customer's total direct access load from all such facilities that were eligible to be served by direct access within its utility-specific service territory between all of the original facilities that were eligible to be served by direct access as of September 20, 2001 and the replacement or relocation facilities.”

To confirm compliance with the rules that apply when DA load is relocated or replaced, the DA Customer Relocation/Replacement Declaration (also known as the Customer Relocation Affidavit) should be used. This affidavit consists of a declaration that must be completed by the ESP and a declaration that must be completed by the customer.

DA customers can relocate or replace DA load from an existing location to a new location provided that the “new location” is either: (1) the current site or sites after the facilities have been refurbished, reconstructed, or remodeled, or (2) a different site or sites from the current location(s) that has been newly acquired or constructed by customer, at which the customer intends to accommodate all or part of the relocated business and operations from the current location(s).

A new location may not include bundled service accounts that have been in the customer’s name for more than 90 days (please see the one-time exception explained below).

DA customers have the opportunity to relocate or replace DA load as long as it does not exceed the load limitations provided in its contract for DA service in place on September 20, 2001, and executed consistent with the CPUC’s DA Suspension rules.

If the new location is at a different site from the current location, customers must agree to one of these choices:

- Close its account at current location on an expected date;
- Return its accounts at current location to bundled service on an expected date;
- Split the load on the account(s) at current location to transfer part of the DA load from the current location to a new location(s)

Exemption from paying the DWR Components of the DA Cost Responsibility Surcharge will transfer to a relocation/replacement account only if each account at the current location(s) being combined for the relocation/replacements account qualifies for continuous DA service. If the customer elects to combine a number of accounts that do not all qualify as continuous DA, the relocation/replacement account will not qualify as continuous DA.

Direct access customers are required to keep appropriate records (e.g. Electric Bill Statements) from at least September 20, 2001, and make them available upon request to the Commission for:

- Discontinued or relocated facilities, including applicable meter and account numbers and the associated direct access load.
- Electric service at each new facility that represents a replacement or relocation of a facility that previously had been direct access service, including applicable meter and account numbers and the associated direct access load.

ESPs are responsible for processing the necessary DASR requests.

New "connect" DASRs for new sites related to relocations should not be submitted until after SCE has accepted the Relocation Affidavit and notified the ESP.

The turn-off request for the current location and the DASR for the new location may be processed during the same billing cycle even if the current location is scheduled later in the billing cycle month. The customer is responsible for contacting SCE to request the service turn-off at their current location while the ESP is responsible for submitting a "connect" DASR for the new location.

The replacement or relocation of facilities does not affect a direct access customer's "continuous direct access" (i.e. a customer who has taken direct access service continuously since February, 1, 2001) status, if applicable, for purposes of the application of the direct access cost responsibility surcharge (DA CRS).

SCE will allow direct access service for accounts established on a temporary for construction basis for a relocated or replaced facility, provided all of the policies outlined above **and** all of the conditions specified below are met:

- The customer submits a Relocation Affidavit indicating the replacement of the current account with the new account (not the temporary account) prior to turning off service at their current location/account.
- The temporary account must be established in the current customer's name (if the temporary service is in another name, e.g., a contractor's name, it will not be permitted).
- The temporary account has a meter and has an established SCE account number.

Non-Residential customers must submit a Relocation/Replacement Declaration ("Relocation Affidavit"). Please refer to the form in Chapter 3 titled "Direct Access Customer Relocation/Replacement Declaration."

This declaration must be submitted to SCE's Customer Choice Services Group at:

Electronic Communications Coordinator
Southern California Edison Company
6020 N. Irwindale Avenue, Suite I
Irwindale, CA 91702

The Relocation Affidavit must be signed by the customer and the ESP and must be accepted by SCE before any "connect" DASR can be submitted for the replaced or relocated account numbers.

Upon review of the completed Relocation Affidavits, SCE will notify the ESP in writing, or by email, within five business days that the Relocation Affidavits have been accepted so long as the UDC account number(s), customer name, and customer address provided to SCE are accurate and that there is no net increase in the direct access load to be served by the replaced or relocated account.

Each party's declaration must be executed and may be submitted by fax to SCE at the number referenced below, provided originals are received by SCE within 10 calendar days.

Southern California Edison Company
Attn: Electronic Communications Coordinator
FAX: 626-812-7562

18.6. DA Load Growth Affidavit Process

CPUC Decision, D 04-07-025, issued on July 16, 2004, removed certain limitation on DA usage. DA customers are no longer limited by historical usage levels and are now permitted to grow their DA load up to the maximum load limitations defined under the terms of their ESP service agreements, entered into on or before September 20, 2001. As a condition for permitting limited DA load growth under the adopted criteria, the CPUC further ordered that DA customers must affirm that their DA load does not exceed the contractual load limitations.

ADOPTED PRINCIPLES GOVERNING DIRECT ACCESS LOAD GROWTH

1. Load growth is permitted on existing DA accounts provided that the load growth does not result in customer's total load exceeding the contracted level of DA load defined by the terms of customer's DA service contract entered into consistent with the Commission's DA suspension decisions.
2. Utilities are not required to review, monitor, interpret or make recommendations regarding ESP/customer DA contracts.
3. An affidavit process will be developed to provide verification of the contracted amount of DA load and to attest to compliance with that load limit for customers with DA load exceeding a designated minimum load per customer.
4. The Commission's determination in the DA suspension decisions prohibiting **new** contracts and arrangements for DA service, and add-ons of new load after September 20, 2001, remains in effect.
5. The utilities should not be permitted to require customers to "split" existing DA accounts into a pre-DA suspension load portion (entitled to DA rates) and a post-DA suspension load growth portion (which would be required to pay bundled service charges). Thus, no second meter or split billing should be required on eligible DA accounts. The customer and the utility could,

however, by mutual agreement, install a second meter to split existing DA accounts between DA and bundled service.

6. DA load growth should not cause cost-shifting to bundled service customers.

7. To allow some degree of flexibility for customers, but to ensure that non-continuous DA load growth does not place a burden on bundled customers, a growth trigger of 15% is established for total non-continuous DA load growth. If, based on the utilities' monthly DA activity reports submitted to the Commission, aggregate DA load increases within a given utility's service territory more than 15% above DA levels in existence as of the date of this order, a party may file with the Commission requesting review of the growth trigger and re-evaluation of the DA CRS accrual rate. Because the Energy Division publicly reports DA load data only on a statewide basis, the Energy Division shall independently determine whether DA load growth in any specific utility service territory exceeds 15%. If utility-specific trigger, the Energy Division shall so notify the Commission. Otherwise, the DA CRS and cap will occur in the regularly scheduled DA CRS proceedings. In the event that the trigger is exceeded between regularly scheduled DA CRS proceedings, the utilities or the Commission may initiate earlier review.

8. Any future DA CRS adjusted for DA load growth would apply to all billable non-exempt DA load, not just the incremental DA load above the pre-suspension levels.

9. Continuous DA accounts (*i.e.*, exempt from DA CRS) should continue to be exempt from DWR components of DA CRS for all load on the accounts.

10. With respect to relocations and replacements of DA accounts addressed in Decision 04-02-024, such replacements and relocations shall be permitted as long as the customer's total DA load after a replacement or relocation does not exceed the contracted level of DA load defined by the terms of customer's DA service contract entered into consistent with the Commission's DA suspension decisions. We adopt proposed Alternative A of Principle 10. We decline to adopt Alternative 10 B, which proposed: With respect to relocations and replacements of DA accounts addressed in Decision (D.) 04- 02-024, such replacements and relocations shall be permitted so long as: (i) the customer closes its old account, and (ii) the customer's total non-continuous DA load as of the relocation or replacement does not exceed the actual level of load on all existing DA and DA eligible accounts (*i.e.*, accounts on the November 1, 2001, ESP lists) consistent with D.04-02-024 (*i.e.* D.04-02-024 permitted new DA accounts to be added "as long as there is no net increase [in load] across all eligible DA accounts.") (Decision at p.11.)

In 2005, the California Public Utilities Commission (CPUC) adopted important changes to the rules regarding load growth of Direct Access (DA) accounts. One of the more critical changes (adopted in CPUC Decision, D.05-03-025) is that the CPUC now requires all DA customers having at least one account with an electric demand exceeding 500kW to sign the DA Load Growth affidavit.

The affidavit to be adopted in this decision should conform with the load growth principles adopted in D.04-07-025, and should promote compliance with Commission decisions relating to the September 20, 2001, suspension of DA.

The affidavit format should be adopted to provide confirmation that load growth on existing non-continuous DA accounts does not result in customer's total load exceeding the contracted level of DA load defined by the terms of customer's DA service contract.

DA customers should be required to verify actual contract volumes in the affidavit (or to affirm that contract volumes are determined on a "full requirements" basis) and to attest that all DA accounts do not exceed the contracted level of load defined by the Agreement that was in effect as of September 20, 2001.

DA customers having at least one account with an electric demand exceeding 500kW will need to complete a Direct Access Customer Load Declaration. Please refer to the form in Chapter 3 titled "Direct Access Customer Load Declaration."

This declaration must be mailed to SCE at:

Electronic Communications Coordinator
Southern California Edison Company
6020 N. Irwindale Avenue, Suite I
Irwindale, CA 91702