March 9, 2011

Robert B. Weisenmiller
Chairman and Presiding Member
2011 Integrated Energy Policy Report Committee
California Energy Commission
1516 Ninth Street, MS-29
Sacramento, CA 95814-5512

Karen Douglas
Associate Member
2011 Integrated Energy Policy Report Committee
California Energy Commission
1516 Ninth Street, MS-29
Sacramento, CA 95814-5512

RE: Docket No. 11-IEP-1A
2011 Integrated Energy Policy Report -- Scope
Comments of the Alliance for Retain Energy Markets and the Direct Access Customer Coalition

Dear Chairman Weisenmiller and Commissioner Douglas:

The Alliance for Retail Energy Markets (AReM)[1] and the Direct Access Customer Coalition (DACC) submit these joint comments on the *Draft Committee Revised Scoping Order* (Draft Revised Order), dated February 23, 2011, for the 2011 Integrated Energy Policy Report (IEPR). As explained below, the Revised Order fails to explore or acknowledge the significant role that competitive retail markets and direct access customers have played and can continue to play in meeting California's challenging energy goals. AReM and DACC respectfully request that the Energy Commission modify the Revised Order to affirm and enhance this role in the 2011 IEPR.

[1] AReM is a California non-profit mutual benefit corporation formed by electric service providers that are active in the California's direct access market. This filing represents the position of AReM, but not necessarily that of a particular member or any affiliates of its members with respect to the issues addressed herein.

AReM and DACC have been active participants in regulatory and legislative activities in California for many years. AReM is a regulatory alliance of electric service providers (ESPs) that are active in California's retail direct access market as load-serving entities (LSEs). AReM's members are also active participants in the markets operated by the California Independent System Operator (CAISO), including buying, selling and scheduling of power and capacity on a wholesale basis. AReM has been operating since before the California retail market opened in 1998. DACC is a regulatory alliance of educational, governmental, commercial and industrial end-use customers that utilize direct access for all or a portion of their electric demand.

1. **The Competitive Retail Market Contributes Energy Innovation and Achievement to California.**

The members of AReM and DACC are active participants in the competitive retail market and have first-hand experience about its successes. They can testify to the substantial impacts and increased innovations brought forth by direct access, its customers and the ESPs that serve them in energy efficiency, demand response, distributed generation, and renewable generation, which are a direct result of the flexibility and opportunities afforded by a competitive retail market. Imposing command and control obligations and associated socialization of costs can only lead to missed goals, stymied creativity, and high costs for consumers. Direct access customers, with their ESP partners, have been leading the way in California and throughout North America and it is time for the California Energy Commission once again to embrace the competitive retail market as an effective means to innovate and augment its efforts to meet state policy goals.

2. The Energy Commission Has A History of Supporting Competitive Markets.

In previous IEPRs and Energy Action Plans (EAP), the Energy Commission has promoted the benefits of competitive markets and looked for ways to use them more effectively to meet California's energy goals. For example, in the 2005 IEPR, the Commission noted that the suspension of direct access hampered the ability of combined heat and power facilities to sell their excess power at the retail level.[2] In the Energy Action Plan II, the Commission and the California Public Utilities Commission (CPUC) jointly identified "actions necessary to meet California's future energy needs."[3] These included two "Key Actions" for California's electricity market structure:

(a) Promote the continued viability and efficient operation of the existing direct access market for retail electricity supply; and

(b) Develop rules to promote an effective core/non-core retail market structure, including mechanisms to guard against cost-shifting, preserve reliability, pursue energy efficiency goals, achieve RPS goals, and maintain the loading order for all load serving entities.[4]

In the 2008 EAP Update, the two Commissions affirmed that initiatives on energy market structure are underway, including the re-opening of the direct access market for retail competition. The Update describes this initiative as an activity "helping to moderate the cost pressures."[5]

In the 2009 IEPR, the Commission expressed concern that California's hybrid electricity market may be detrimental to competitive wholesale and retail markets, which could hurt innovation and raise costs for consumers. The Commission stated that such

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[2] *2005 Integrated Energy Policy Report*, November 2005, CEC-100-2005-007CMF, p. 3.
[3] *Energy Action Plan II – Implementation Roadmap for Energy Policies*, September 21, 2005, p. 1.
[4] *Ibid*, Key Actions Number 4 and 5, p. 9.
[5] *Energy Action Plan – 2008 Update*, February 2008, p. 16.

issues "deserve a fuller vetting, including an assessment of alternative market models that would better serve the goal of reduced costs to customers."[6] The Commission committed to evaluate the hybrid market structure and needed "market enhancements" in the 2010 IEPR Update.[7] While not included in the scope of that 2010 update, the original Committee Scoping Order for the 2011 IEPR reaffirmed the Commission's commitment, as described in the 2009 IEPR, to address electricity market structures in this proceeding.[8] Unfortunately, this long-standing commitment is now absent from the Draft Revised Order.

3. <u>The Competitive Retail Market Can Play A Key Role In Achieving California's Energy Goals.</u>

The Draft Revised Order emphasizes the need for immediate action to meet California's ambitious energy goals for energy efficiency, demand response, and renewable generation. Direct access customers have led the way in each of these areas. For example, it was ESPs who first sold "green" electricity to retail customers when the competitive retail market began in 1998 with residential consumers being the largest customer sector to embrace this innovative product. As a reminder, 1998 was long before the notion of a Renewable Portfolio Standard (RPS) had entered the regulatory world.

The University of California (UC), a member of DACC, has required an 18% renewable energy content from its ESPs since 2003. Several UC campuses are on active DR contracts with a third-party demand response provider. Moreover, UC is currently implementing a $300 million energy efficiency project portfolio across all campuses that will save at least 10% of its energy usage and reduce greenhouse gas (GHG) emissions by 150,000 metric tons of CO2e when the 2009-2012 program cycle ends. Another

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[6] *2009 Integrated Energy Policy Report*, December 2009, CEC-100-2009-003-CTF, pp. 11-12.
[7] *Ibid*, p. 12.
[8] *Committee Scoping Order*, 2011 IEPR, August 31, 2010, p. 3.

DACC member, Walmart Stores, Inc., has 50 solar projects (each supplying 20 – 30 percent of its facilities' electric needs) installed in California with three more currently under construction. It also has ten fuel cells installed with three more under construction, and a micro wind project as well. It is the flexibility and opportunities of the competitive retail market that has encouraged such programs to flourish.

Indeed, the benefits of competitive markets in bringing innovation, downward cost pressure and market efficiencies have been well documented.[9] Retail competition has spurred an explosion in new product offerings and services that were previously unavailable, and unthinkable, from traditional utilities. These include renewable electricity products, sustainable and carbon-neutral energy packages, numerous demand response offerings and energy efficiency services.[10] A recent study conducted by the NorthBridge Group concluded that, while retail markets are still evolving nationally, the success of these markets should be judged by the "new value-added services, market-based pricing and *efficient customer consumption decisions* that competition encourages." (emphasis added)[11]

Most recently, a White Paper by KEMA found that growth in fast-response energy storage and demand response markets are linked to changes in wholesale market rules that allow companies offering these services to compete.[12] In addition, the White Paper provided more evidence that competition in retail markets has driven retail

[9] See, for example, *Customer Choice in Electricity Markets: From Novel to Normal*, prepared for COMPETE Coalition, November 15, 2010.
[10] *Annual Baseline Assessment of Choice in Canada and the United States (ABACCUS) – Commercial and Industrial,* Energy Retailer Research Consortium, December 10, 2008, p. 15.
[11] *Embrace Electric Competition or its Déjà vu All Over Again*, The NorthBridge Group, October 2008, p. 61.
[12] *KEMA White Paper: Innovation in Competitive Electricity Markets*, prepared for COMPETE Coalition, February 24, 2011, p. vi.

suppliers to innovate to meet the customers' needs.[13] Texas, which has a well-established competitive retail market, now has "far more choices," including renewable energy choices, than consumers in any other market in the country.[14] In fact, the paper compared the retail markets in California and Texas and concluded that "[a] typical Texas consumer has more than 10 times the number of choices enjoyed by a typical California consumer."[15]

In fact, states with successful competitive retail markets, namely New York and Texas, have also experienced rapid growth in renewable generation. A recent report found that retail choice allows residential consumers to "vote" directly with their dollars and, consequently, competitive retail suppliers have responded with significant offerings of renewable and "green" products in both Texas and New York.[16]

Senate Bill 695, which was signed into law in October 2009, allowed retail customers to once again choose competitive markets beginning in 2010, but capped the total megawatts of direct access allowed. Customers responded to this new option with enthusiasm. In each of the three enrollment periods that have taken place,[17] customer demand filled the cap for available direct access in a few minutes. Obviously, customers desire the flexibility and benefits that direct access provides. With additional access to competitive retail markets, customers and their ESP partners will be better positioned to help California achieve its goals.

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[13] *Ibid.*
[14] *Ibid.*
[15] KEMA White Paper, p. 29.
[16] *Annual Baseline Assessment of Choice in Canada and the United States (ABACCUS) – Residential,* Energy Retailer Research Consortium, December 10, 2008, p. 19.
[17] Customer enrollment for 2010 took place in April 2010, for 2011 in July 2010 and for 2012 in January 2011.

4. **Conclusion.**

The State and this Commission have many ambitious energy goals to meet. Forging ahead without releasing the innovative power of competitive retail markets will diminish possibilities and impede success. AReM and DACC urge the Commission to modify the Revised Scoping Order to recognize retail competition as a critical component of California's energy future and recommend concrete steps to unleash its potential.

Respectfully,

/s/

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