The Alliance for Retail Markets\(^1\) (“AReM”) appreciates the opportunity to provide comments on the Draft Report entitled “Survey of Utility Resource Planning and Procurement Practices for Application to Long-Term Procurement Planning in California,” which was prepared by Aspen Environmental Group and Energy and Economics, Inc. as part of R.08-02-007. AReM’s review focused on the discussion in the report on retail markets and direct access.

**Comments**

The report mentioned in a number of places that direct access has been suspended in California. This is incorrect. Direct access has been suspended only for new customers. Customers with direct access contracts in effect at the time of the suspension continue to have the right to choose direct access. In addition, the references to the ongoing proceeding R.07-05-025 regarding the direct access suspension require some fine-tuning. Accordingly, in the next section, we provide a number of suggested wording changes to the text to correct these points.

Section 3 states that it addresses “deregulated jurisdictions.” The term “deregulation” is also used frequently in this section and in the report. Unfortunately, this term is misleading, because the wholesale and retail markets have never been completely deregulated. Instead, the more accurate term is “restructuring.”

Further, Section 3 discusses energy procurement in “deregulated jurisdictions” and provides information about the competitive retail markets in several states. However, nowhere in this section (or the report) is there a discussion about the retail market in California, including the numbers and types of customers in California who continue to choose competitive retail providers. For example, Section 3.2, entitled the “State of

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\(^1\) 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.
Retail Access” provides such figures about other states, but not California. If Section 3 is meant solely to discuss other states, that should be stated, and Section 3.5.5, which discusses the California Independent System Operator should be deleted. AReM believes, however, that both the report and the reader’s understanding would be improved if it included more details about California’s retail market to allow comparisons with the data provided on such markets for other states.

Lastly, the discussion of the driving force behind electricity “deregulation” in the second paragraph of Section 3.1 (p. 21), particularly as it relates to California, leaves out important elements. This paragraph states that “deregulation” was expected to do a better job of achieving an “optimal” mix of resources than would the central planning approach. We disagree that was the motivation for restructuring in California. In fact, the key driving forces in California were excess generation capacity and ratepayer costs far above the average. Also, retail customers were seeking the ability to choose competitive suppliers. Further, the Commission recognized that merchant generators transferred development risk to the investors from the ratepayers. These driving forces are clearly described in the initial restructuring document released in 1993\(^2\) and should be included in the discussion in Section 3.1.

**Suggested Corrections to Text**

We recommend the following changes to correct or clarify the discussion of direct access in the draft report. Additions are shown in underlining; deletions in strikeout.

*Section 1.4, 1st paragraph, 2nd and 3rd sentences, p. 10:*

California suspended retail access for new customers in the aftermath of the 2000-2001 energy crisis in order to ensure that all electric ratepayers would contribute to recovering the cost of long-term power purchase agreements signed by the California Department of Water Resources (“DWR”). Customers who had direct access contracts in effect as of the date of suspension, September 21, 2001, have retained the right to remain on direct

\(^2\) *California’s Electric Services Industry: Perspectives on the Past, Strategies (sic) for the Future*, CPUC, Division of Strategic Planning, February 3, 1993.
access, which currently constitutes about 9% of the retail load in the California IOUs’ service territories. Under current statute, retail access is to remain suspended until DWR “no longer supplies power”; the last DWR contract expires, expected in 2015.

Section 2.1, 2nd sentence, p. 13:

While retail access is currently suspended to new customers in California, …

Section 3.1, p. 21, 1st paragraph, 2nd sentence:

While direct access is currently suspended to new customers in California, …

Section 3.1, p. 22, 2nd paragraph, 1st sentence:

As discussed in the previous section, several components of California’s restructuring were suspended by the legislature in the aftermath of the energy crisis, including new Direct Access.

Section 3.2, p. 24, top partial paragraph, last sentence:

, while many of the small non-residential customers continue to be served by POLR despite efforts to promote competitive options competition among retail electric service providers.

Section 3.3.1, p. 25, bottom paragraph: This paragraph uses the term “ESP”, which is specific to California. It seems, however, that this paragraph is meant to describe POLR requirements in other states. Therefore, the term “ESP” should be replaced with the generic “competitive provider.” If it is meant to describe California, it must be corrected to describe the switching rules for direct access, which include notice to the IOU to switch to an ESP, the requirement to remain with the IOU for 3 years when switching to utility service with the first six months on a wholesale market rate tariff before the customer can move to a regular retail tariff.
Section 3.3.1, p. 26, 3rd paragraph, last sentence:

These forecasts must account for the effects of customer switching to a competitive retail provider an ESP, demand-side load reductions, and statewide renewable or emissions standards.

Section 3.3.2, p. 27, Table 3, Title:

Table 3: Procurement process for POLRs in restructured deregulated jurisdictions

Section 3.4, p. 28, 1st paragraph, 2nd sentence:

These statutes require LSEs, including both regulated LDCs and competitive retail providers ESPs, to serve a percentage of retail sales with renewable resources.

Section 3.4, p. 30, 1st paragraph, 1st sentence:

In Massachusetts, where POLR electricity is normally procured …. 

Section 3.5.5, p. 34, 2nd paragraph: Above we recommended either deleting this section or, if retained, adding additional discussion of California retail markets and procurement in other parts of Section 3. If retained, we recommend the following change to this section.

On an annual and monthly basis LSEs are also required to procure the CPUC also becomes involved in capacity to meet the requirements of the CPUC and other Local Regulatory Authorities for procurement through its Local Resource Adequacy and System Resource Adequacy requirements, and in accordance with AB 380.
Third, California IOUs currently rely on RFOs to obtain most of their energy and capacity needs. Fourth, California has not decided whether to implement capacity markets to meet the Resource Adequacy requirements nor has it investigated because California has not implemented auctions in which based markets for the IOUs to buy generation capacity or would sell off their its load obligations. Even if such markets existed Nonetheless, California’s practice of signing …

Appendix, Section A-2.8, p. A-13:

Currently, the ability of new customers to purchase electricity on a direct access basis is suspended, following the electricity crisis of 2000 2001 and 2001 2002. The Direct Access Rulemaking is investigated whether and how the direct access market should be reopened—the CPUC had the legal authority to reverse the current suspension on direct access consistent with Assembly Bill 1X—Decision 08.02.033 of this docket concluded that the CPUC does not have the authority at this time to reverse the suspension on Direct Access, yet also stated that the Commission remains committed to exploring pro-active alternatives whereby the legal conditions allowing for the lifting of the suspension could be satisfied.