

RULE NO. 21

DIRECT ACCESS RULE

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(Continued)

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RULE NO. 21

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The following terms and conditions apply to both The Utility Customers and electric Energy Service Providers who participate in Direct Access. Direct Access refers to any end-use Customer electing to procure its electricity, and any other CPUC-authorized energy services, directly from Energy Service Providers (ESPs) as defined in this Rule. ESPs who serve Residential or Small General Service accounts shall be registered with the State of California and meet any certification requirements established by the appropriate State agencies.

A. CUSTOMER SERVICE ELECTIONS

All Utility Customers will have the opportunity to acquire their electric power needs under two options.

(1) Default Utility Services

This service preserves traditional utility electric services, where The Utility performs all energy services for the End-Use Customer. All Customers who have not chosen to use direct access remain on default utility services. Customers may choose to return to default utility services after having elected direct access.

(2) Direct Access

This service election allows Customers to purchase electric power and, at the Customer's election, additional energy services from non-utility entities known as ESPs.

Direct Access Customers who are not defined as Residential or Small General Service, as defined in Section B, General Terms, will be required to have in place an Interval Metering, as defined below, at no expense to the Utility. Pursuant to D. 97-05-039, these Customers will be eligible to choose either the Utility or ESP to provide meter services. After 1998, the CPUC will extend meter service elections to remaining Customers. Meter service options are described in Section G, Metering Services.

Direct Access Customers, who have individual service accounts with a maximum demand between 20 and 50 kW are exempt from Interval Metering requirements through 1998.

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B. GENERAL TERMS

(1) Definitions

The definitions of principal terms used in this Rule are found either herein or in Rule 1, Definitions.

Aggregator: Any marketer, broker, public agency, city, county, or special district, that combines the loads of multiple End-Use Customers in facilitating the sale and purchase of electric energy, transmission and other services on behalf of these Customers.

Broker: An entity that arranges the sale and purchase of electric energy, transmission, and other services between buyers and sellers, but does not take title to any of the power sold.

Completed Application: An Application that satisfies all of the information and other requirements of this Tariff, including any required deposit.

Consolidated ESP Billing: Where the Energy Service provider presents a consolidated bill to the End-Use Customer which includes its own charges and the Utility's charges.

Consolidated Utility Billing: Where the Utility presents a consolidated bill to the End-Use Customer which includes its own charges and the Energy Service Provider's charges.

Direct Access Customer: An End-Use Customer, located within the service territory of the Utility, who purchases energy through an Energy Service Provider.

Direct Access (DA): Direct and indirect sales of energy to retail End-Use Customers.

Direct Access Service Request (DASR): Written, faxed, or electronic notification that a Customer has selected an ESP for purposes of receiving Direct Access Service.

Direct Transaction: Per Section 366(a) of the Public Utilities Code, Direct Transaction is synonymous for Direct Access.

Dual (Utility/ESP) Billing: Where the Energy Service Provider and the Utility bill the Customer separately for their own services.

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GENERAL TERMS (Continued)

Definitions (Continued)

Distribution System: Those transmission and distribution facilities owned, controlled, and operated by the Utility that are used to provide distribution services under this Tariff.

End-Use Customer: A Customer that takes final delivery of electric power and does not resell power.

Energy Service Provider (ESP): An entity that provides electricity (including Aggregators, Brokers, and Marketers, but excluding utilities) to an End-Use Customer.

Interval Data Recorder (IDR): A metering device that records consumption data intervals (i.e. 5 min. 15 min. 30 min.) from a meter and stores that data for use in determining load profile characteristics and peak demand requirements.

Marketer: Any entity that buys electric, transmission and other services from traditional utilities and other suppliers, and then resells those services at wholesale or to an End-Use Customer.

Metering Equipment: All metering devices, metering current transformers (CT) and metering voltage transformers (VT), meter equipment enclosures, mounting hardware, test switches and the associated wiring.

Meter Data Management Agent (MDMA): An entity that takes raw meter outputs, validates them using validation, editing, and estimating rules, adds corollary information needed to characterize the Customer, and makes complete Customer information available to others for use in various applications.

Meter Service Provider (MSP): An entity that provides metering service such as acquiring, installing, reading, maintaining and testing meters and their associated equipment.

Scheduling Coordinator (SC): The entity which performs the daily pre-scheduling functions of the ESP. The SC will have a contractual relationship with the Utility which defines the obligations of both parties and the payment arrangements. An ESP may act as its own Scheduling Coordinator by meeting certification criteria or may authorize a certified Scheduling Coordinator to act on its behalf.

Small General Service Customer/Applicant: A Direct Access Customer or Applicant who has a maximum peak demand of less than 20 kilowatts (kW).

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B. GENERAL TERMS (Continued)

(2) General Obligations of the Utility

(a) Non Discrimination

The Utility shall discharge its responsibilities under this Tariff in a neutral manner as to providers of all commodities and services which are subject to Customer choice. Unless otherwise authorized by the CPUC, the FERC, or the affiliate transactions rules, the Utility shall not:

(1) Represent that its affiliate(s) or Customers of its affiliate(s) will receive any different treatment with regard to the provision of the Utility's services than other, unaffiliated service providers as a result of affiliation with the Utility; or

(2) Provide its affiliate(s), or Customers of its affiliate(s), any preference (including but not limited to terms and conditions, information, pricing or timing) over non-affiliated suppliers or their Customers in the provision of the Utility's services.

(b) Requests for Utility Services

The Utility shall process requests for similar utility services, such as Direct Access Service Requests (DASRs), in the same manner and within the same period of time for its affiliate(s) and for all other market participants and their respective Customers.

(c) Timeliness and Due Diligence

Consistent with state law and CPUC decisions, the Utility shall exercise due diligence in meeting its obligations and deadlines under this Tariff so as to facilitate Customer choice as quickly as possible.

(d) Transmission and Distribution Service

Subject to the terms of any Service Agreement, applicable tariffs and applicable FERC rules and ESP's and Customer's compliance with their terms, the Utility will provide transmission and distribution services to the ESP for the ESP's delivery of electric power to Direct Access Customers under applicable tariffs.

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B. GENERAL TERMS (Continued)

(3) General Obligations of ESPs

(a) Timeliness and Due Diligence

ESPs shall exercise due diligence in meeting their obligations and deadlines under this Tariff so as to facilitate Customer choice as quickly as possible. ESPs shall make all payments owed to the Utility under this Tariff in a timely manner subject to applicable payment dispute provisions.

(b) Arrangements with ESP Customers

ESPs shall be solely responsible for having appropriate contractual or other arrangements with their Customers necessary to implement direct access consistent with all applicable laws, CPUC requirements and this Tariff. The utility shall not be responsible for monitoring, reviewing or enforcing such contracts or arrangements.

(c) Scheduling Coordinator (SC)

As a requirement of this Tariff, each ESP must be certified as a Scheduling Coordinator or must designate a certified Scheduling Coordinator as its scheduling entity. The Schedule Coordinator performs the daily pre-scheduling functions of the ESP. The SC will have a contractual relationship with the Utility that defines the obligations of both parties and the payment arrangements. ESPs shall disclose the identity of these Scheduling Coordinator(s) to the Utility.

An ESP may designate more than one Scheduling Coordinator to schedule energy on its behalf; however, there can be no more than one Scheduling Coordinator per service account.

(4) Transfer of Cost Obligations Between ESPs and Customers

Nothing in this Tariff is intended to prevent ESPs and Customers from agreeing to reallocate between them any costs for Direct Access services which are designated in this Tariff to be paid by either of them.

(5) Responsibility for Electric Purchases

ESPs will be responsible for energy purchases to meet the electric power needs of their Direct Access Customers and the delivery of such purchases to designated receipt points as arranged with the Utility through its Scheduling Coordinator.

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B. GENERAL TERMS (Continued)

(6) Utility Not Liable for ESP Services

To the extent the Direct Access Customer takes service from an ESP, the Utility has no obligations to the Direct Access Customer with respect to the services provided by the ESP. The Direct Access Customer must look to the ESP to carry out the responsibilities associated with that service.

(7) ESP Not Liable for Utility's Services

To the extent the Direct Access Customer takes service from the Utility, an ESP has no obligations to the Direct Access Customer with respect to the services provided by the Utility. The Direct Access Customer must look to the Utility to carry out the responsibilities associated with that service.

(8) Load Aggregation for Procuring Electric Power

Customers or ESPs may aggregate individually metered electric loads for procuring electric power only. Load aggregation will not be used to compute the Utility's charges or for Tariff applicability. The right of Direct Access Customers to physically aggregate by combining multiple accounts into a single metered account as permitted under CPUC-approved Tariffs is not restricted by this section.

(9) Split Loads Not Allowed

Customers requesting Direct Access services may not partition the electric loads of a service account among electric service options. The entire load of a service account must be nominated to only one of the electric service options available to Direct Access Customers.

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B. GENERAL TERMS (Continued)

(10) Residential and Small General Service Customers

All Residential and Small General Service Customers, except for agricultural and lighting Customers, are eligible for a 10% reduction in rates effective January 1, 1998. Service accounts of Residential and Small General Service Customers, are eligible for statistical load profiling effective January 1, 1998. Residential and Small General Service Customer accounts will not be eligible for meter services provided by non-utility parties until January 1, 1999.

For new Direct Access Customers without a history of electric use, the Utility will estimate new meter loads and use these estimates to evaluate the Direct Access Customer's eligibility for unbundled meter services and statistical load profiles.

(11) Interval Metering

"Interval Metering" shall refer to the purchase, installation and maintenance of an Interval Data Recorder capable of recording minimum data required. Minimum data requirements include (a) hourly data required for the Direct Access settlement process; or (b) data required to bill the Utility's distribution tariffs, including any communication systems needed to allow the Direct Access Customer access to meter read usage data.

(12) Statistical Load Profiles

The Utility will provide statistical load profiles, in place of Interval Metering, to permit the Utility or ESP to compute the bills for all Direct Access Customers who have service accounts that do not require, or are exempt from, Interval Metering as specified above. Statistical load profiles will not apply to service accounts where Interval Metering is in place and used for billing. Statistical load profiles will be applied as authorized by the CPUC.

(13) Master Metered Customers

Individual master metered Direct Access Customers who provide sub-metered tenant billings, may participate in Direct Access as a single account. A master metered Direct Access Customer may not partition the electric loads of a single master meter among several electric service options or providers. The entire load of a single master meter must receive service under one electric service option and provider.

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B. GENERAL TERMS (Continued)

(14) Service Fees and Other Charges

- (a) For Services for which the CPUC determines there are insufficient providers to ensure Customer choice ("Non-Discretionary Services"), service fees shall be established by the Utility based on incremental cost and shall be approved by the CPUC. Once approved, these fees will be included in the appropriate Utility rate schedule.
- (b) During the interim period between the start of Direct Access and a CPUC decision approving specific fees for Non-Discretionary Services, the Utility will charge the net incremental costs associated with providing Non-Discretionary services to a memorandum account pending the CPUC's decision regarding service fees. Should the Commission approve such fees, the Utility may seek to collect such fees as a Direct Access implementation charge under Section 376 of the Public Utilities Code.
- (c) For services for which there are sufficient providers to ensure Customer choice ("Discretionary Services"), service fees shall be established by the Utility via an advice letter effective thirty (30) days following filing of the advice letter and included in the appropriate Utility rate schedule.
- (d) The Utility may charge interim fees for the metering and billing services described in this Rule based on the incremental costs associated with providing these services as set forth in the appropriate Utility rate schedule. During the interim period between November 1, 1997 and CPUC decision regarding such fees, the Utility will track the fees and costs associated with providing these billing and metering services in a one-way memorandum account. If the service fees are approved by the CPUC, and such fees are lower than those included in the appropriate rate schedule, the fees previously charged will be reconciled against the approved fees and subject to refund.
- (e) Service charges approved by the CPUC such as service connection fees, special meter reading etc., and which are contained within or authorized by the Utility's Tariff are not affected by this Rule.
- (f) Fees for Direct Access services are described in the Utility's Tariff.
- (g) The Utility can recover the costs of Direct Access service only once (i.e., any cost recovered under one cost recovery mechanism—fees, charges, Direct Access implementation rates or existing rates—should not also be recovered through another mechanism).

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C. CUSTOMER INQUIRIES AND DATA ACCESSIBILITY (Continued)

New Customers will receive general information concerning their choices for electric services by contacting the Utility.

(2) Access to Customer Usage Data

For Customers initiating a request for electric service from the Utility, the Utility shall inform Customers of their ability to choose their electric provider and that the information described in Section C.(1) is available. The Utility shall also inform Customers of the toll-free number of its Business Call Center.

(3) Access to Customer Usage Data

The Utility will provide Customer-specific usage data to parties specified by the Customer, subject to the following provisions:

- (a) Except as provided in Section E, the inquiring party must have written authorization from the Customer to release such information to the inquiring party only. At the Customer's request, this authorization may also indicate if Customer information may be released to other parties as specified by the Customer.
- (b) Subject to Customer authorization, the Utility will provide a maximum of the most recent 12 months of Customer's usage data or the amount of data for that specific service account in a format approved by the CPUC. Customer information will be released to the Customer or their authorized agent up to two times per year per service account at no cost to the requesting party. Thereafter, the Utility will have the ability to assess a processing charge only if approved by the CPUC.
- (c) As a one-time requirement at the initiation of Direct Access, the Utility will make available a database containing a 12-month history of Customer-specific usage information with geographic and SIC information, but with Customer identities removed. The Utility may assess a charge only if approved by the CPUC.
- (d) By electing to take Direct Access service from an ESP, the Customer consents to the release to the ESP of 12 months of metering information required for billing, settlement, and other functions required for the ESP to meet its requirements and 12 months of historical usage data.

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C. CUSTOMER INQUIRIES AND DATA ACCESSIBILITY (Continued)

(4) Customer Inquiries Concerning Billing Related Issues

Direct Access Customer inquiries concerning the Utility's charges or services should be directed to the Utility to satisfy. Direct Access Customer inquiries concerning the ESP's charges or services should be directed to the ESP to satisfy.

(5) Customer Inquiries Related To Emergency Situations And Outages

(a) The Utility will be responsible for responding to all inquiries related to distribution service, emergency system conditions, outages and safety situations. Direct Access Customers contacting the ESP with such inquiries should be referred directly to the Utility. ESPs performing ESP Consolidated Billing must show the Utility's phone number on their bills for use in emergencies.

(b) It may be necessary for the Utility to shed or curtail Direct Access Customer load as provided by Commission tariffs. In such cases, the Utility will give both the affected Direct Access Customer and ESP as much notice as reasonably possible.

(c) The Utility will notify the Direct Access Customer and ESP of planned distribution system outages for maintenance work prior to commencement of such outages if feasible.

(d) The Utility will be responsible for implementing Commission-approved load curtailment programs, including providing notification to participating "non firm" Customers who are the Direct Access Customers of the ESP.

(e) The ESP will be responsible for notifying its Scheduling Coordinator of any notice received from the Utility under this section.

D. ESP SERVICE ESTABLISHMENT

The ESP must satisfy the following requirements before an ESP can provide Direct Access services in the Utility's service territory:

(1) All ESPs must submit an executed standard Energy Service Provider Agreement (Utility/ESP Service Agreement).

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D. ESP SERVICE ESTABLISHMENT (Continued)

- (2) The ESP must warrant to the Utility that the ESP has registered with the CPUC if it intends to serve Residential and Small General Service Customers and selected an Independent Verification Agent (IVA) for all transactions for which independent verification is required by law.
- (3) The ESP must satisfy the Utility creditworthiness requirements as specified in Section P, Credit Requirements.
- (4) The ESP must satisfy applicable CPUC Electronic Data Exchange requirements, including:
 - (a) ESP must complete all necessary electronic interfaces for the ESP and the Utility to communicate for DASRs, general communications and if providing meter services, to satisfy meter reading communications including communicating to and from Metering and Data Management Agent (MDMA) Servers for sharing of meter reading and usage data.
 - (b) The ESP must have the capability to exchange data with the Utility via the Internet. Alternative arrangements may be allowed if mutual agreement is made between the Utility and ESP.
 - (c) The ESP must have the capability to perform Electronic Data Interchange (EDI), and enter into appropriate agreements related thereto, if the ESP will be offering either Utility or ESP Consolidated Billing services.
- (5) If the ESP will be offering Consolidated ESP Billing Services, Meter Services or MDMA Services, the ESP must demonstrate the ability to perform the functions required by this Rule. The Utility will continue to provide those services until compliance testing has been completed. The ESP's failure to complete such compliance testing shall not affect its ability to provide electric power to Direct Access Customers.

E. DIRECT ACCESS SERVICE REQUEST (DASR)

- (1) Direct Access Service Requests (DASRs), may be submitted by fax, electronically, or in writing to the Utility by the Customer's authorized ESP, or the Customer if it is acting as its own ESP. The DASR process described herein is used for Customer's Direct Access elections, Customer initiated returns to default Utility service, and ESP initiated termination of a Customer agreement. ESPs must execute the Utility/ESP Service Agreement before submitting DASRs.

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E. DIRECT ACCESS SERVICE REQUEST (DASR) (Continued)

- (2) A separate DASR must be submitted for each service account. Upon request, the Utility will provide timely updates on the status of the DASR processing to the submitting ESP and Customer.
- (3) DASRs must identify the service account participating in Direct Access, including its billing and meter service elections. A DASR that does not contain this information is materially incomplete.
- (4) DASR forms will be available through electronic means (e.g., the Utility's website).
- (5) An ESP which is providing meter services must satisfy, and specify in the DASR process for each service account, the meter and data communications provisions that are contained on the DSAR form.
- (6) (a) For Residential and Small General Service Customers, a DSAR shall not be submitted to the Utility until three days after the verification required under PU Code Section 366.5 has been performed. It is the responsibility of the ESP to ensure that the requests of the Residential and Small Commercial Customers to cancel service pursuant to PU Code Section 395 are honored.
 (b) If a Customer cancels an agreement pursuant to PU Code Section 395, a DASR shall not be submitted for that Customer. If a DSAR has already been submitted, the submitting party shall, within 24 hours, direct the Utility to cancel the DASR.
- (7) The Utility will provide an acknowledgment to the ESP of receipt of the DASR within two (2) working days of the day the DSAR is received. The Utility will exercise best efforts to provide, within three (3) working days thereafter (and no later than five (5) working days), the ESP and the Customer with a DASR status notification informing them as to whether the DASR has been accepted, rejected, or deemed pending for further information. As of July, 1998, the Utility will provide this DASR status notification within 3 working days. If accepted, the switch date determined in accordance with paragraphs 12 or 13 of this section, will be sent to the ESP, the former ESP if applicable, and the Customer. If a DASR is rejected, the Utility will provide the reasons for the rejection. If a DASR is held pending further information, it shall be rejected if the DASR is not completed within 11 working days following the status notification.

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E. DIRECT ACCESS SERVICE REQUEST (DASR) (Continued)

- (8) In accordance with the provisions of Rule 3, the Utility has the right to deny the ESP's request for service if the information provided by the applicant is false, incomplete, or inaccurate in any material respect.
- (9) The Utility will begin accepting requests for Direct Access no later than November 9, 1997.
- (10) If a submitted DASR complies with the requirements of this Rule, the DASR will be accepted and scheduled for Direct Access implementation.
- (11) For a specific service account to qualify for priority queues in the processing of Direct Access requests if backlogs are experienced by the Utility, the ESP must warrant to the Utility that at least 50% of its electric power to that Customer will come from a state-certified renewable energy resource supplier meeting the requirements of PU Code Section 365(b)(2). In other cases, DASRs shall be handled on a first-come, first-served basis. Each request shall be time-stamped by the Utility. The Utility has no responsibility for verifying the Customer's or ESP's compliance with Section 365(b)(2).
- (12) If more than one DASR is received for a service account within a single DASR processing period (16th of the month until the 15th of the following month), only the first valid DASR received will be processed in that period. All subsequent DASRs will be rejected.
- (13) Accepted DASRs that do not require a meter change and that are received by the Utility on or before the 15th of the month, will be switched over no later than the next month's scheduled meter reading date for that service account.
- (14) Accepted DASRs that require a meter change by the Utility will be switched over to Direct Access on the date of installation. The Utility will endeavor to complete the meter change request within 15 days after acceptance of the DASR in the absence of a meter installation backlog. The Utility will provide notice of any current meter service backlog or the next available installation date.

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E. DIRECT ACCESS SERVICE REQUEST (DASR) (Continued)

- (15) Accepted DASRs that require a meter change by an ESP will be switched over to Direct Access on the date the meter is installed.
- (16) A maximum of twelve (12) months of Customer usage data, or the amount available for that Customer, will be sent from the Utility, or existing ESP currently serving that Customer, to the new ESP no later than five (5) days before the scheduled switch date.
- (17) In the event that any agency having jurisdiction over the Utility institutes a moratorium of the Utility's processing of Direct Access requests, the Utility will comply with such request and inform ESPs or Customers.
- (18) The Utility, ESP and Customer, on mutual agreement, may agree to a different service change date for the service changes requested in a DASR.
- (19) A DASR is submitted pursuant to the terms and conditions of the Utility/ESP Agreement and this Rule, and will also be used to define the Direct Access services that the ESP is providing the Customer.
- (20) Direct Access Customers returning to the Utility's bundled service will follow the same process and timing as DASRs to establish Direct Access service.
 - (a) ESPs requesting to return a Direct Access Customer to the Utility's bundled service will submit a DASR and be responsible for the continued provision of the Direct Access Customer's electric supply service, metering and billing services until the service change date. In this case, the ESP will also be responsible for paying any Commission-approved DASR charge.
 - (b) Direct Access Customer's requesting return to the Utility's bundled service may do so either by contacting their ESP or directly contacting the Utility. In this latter case, the Direct Access Customer will be responsible for paying any Commission-approved DASR charge.
- (21) The Utility may assess a charge for processing DASRs only if the DSAR is accepted, and only if such a fee is approved by the CPUC. This charge will be billed to the ESP unless the Direct Access Customer is requesting to return to the Utility's service, in which case the charge will be billed to the Direct Access Customer.

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E. DIRECT ACCESS SERVICE REQUEST (DASR) (Continued)

- (22) Following the removal of system limitations, a Customer moving to new premises may retain or start Direct Access immediately, and in any event no later than two days after a DASR has been submitted, provided that the applicable metering requirements have been met. Due to current system limitations, a Customer moving to new premises who wants to retain or start Direct Access must have the ESP submit a DASR to the Utility for the new premises no less than 10 business days before the Customer's scheduled start date at the new premises. This DASR will need a special 'new Customer' notation. If the DASR is received after that date or without the notation of 'new Customer', the Customer will receive the Utility's bundled service until the DASR is processed under the procedures set forth in Section E.(13).
- (23) Billing options (including designation of a billing agent) and metering options are requested through a submission of a DASR and cannot be changed more frequently than once per billing cycle.
- (24) The Utility will not hold the ESP responsible for any Customer unpaid billing charges prior to their switching to Direct Access. Unpaid billing charges will not delay the processing of DASRs and will remain the Customer's responsibility to pay the Utility. The Utility will follow current CPUC credit rules in the event of Customer non-payment, which includes the disconnection of service.

F. INDEPENDENT VERIFICATION

A request for a change in ESPs representing residential or small commercial Customers shall not be submitted by an ESP until three days after the provisions of Sections 366.5(a) or 366.5(b) of the P.U. Code have been satisfied. These provisions are not repeated herein.

The Utility may not accept a request from a residential or small commercial Customer to return to the Utility's provisioning of electric power unless the provisions of P.U. Code Section 366.5 have been satisfied.

(Continued)

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RULE NO. 21

DIRECT ACCESS RULE

G. METERING SERVICES

(1) Definitions

(a) Meter Services

Meter services have been proposed to be grouped into three packages for initial Direct Access implementation. These three packages are:

- Meter Ownership
- Meter Services (installation, maintenance, and testing)
- Meter Data Management Agent (MDMA) Services

These packages are subject to CPUC approval. These package services may be provided by the Utility or an ESP, and the parties may subcontract these services to third parties. An ESP may also subcontract with the Utility for the provision of any component service of any package, and the Utility may provide such service.

(b) Interval Meter

Interval meter is defined as a meter capable of reading and storing electric consumption data at specified time intervals of no greater than one hour as required for scheduling settlements with the Utility and any other data required to bill applicable Utility's rate schedules.

Utilities, ESPs, or Customers may own or lease interval meters used for billing purposes for Direct Access services, but shall (if leasing meters) continue to be responsible for the obligations of a meter owner under this section G. Potential and current transformers shall be considered part of the distribution system and shall remain the responsibility of the Utility.

(c) Eligible Direct Access Customers

Direct Access Customers who have individual service accounts and do not qualify for statistical load profiling must have interval meters prior to receipt of Direct Access service. ESPs may provide, install, read, and service interval meters for any Direct Access Customer with a maximum demand over 20 kW pursuant to CPUC regulations. For Direct Access Customers under 20 kW meter services will be unbundled on January 1, 1999, as approved by the CPUC, and all meter services will continue to be provided by the Utility until that date.

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RULE NO. 21

DIRECT ACCESS RULE

G. Metering Services (Continued)

(3) Installation

When the MSP installs a meter for a Direct Access Customer, the meter installer must be certified to perform meter installation. The MSP will install all Interval Meters in compliance with CPUC performance specifications. Within three (3) working days of installation, the MSP will provide the non-MSP (i.e., the ESP or the Utility as the case may be) with the results of the initial meter calibration test, the ending reading for the meter which was removed (if applicable), the starting reading for the new meter, and information on meter identification, voltage, meter constants and other parameters required under CPUC-approved standards. The Utility must receive a copy of the MDCR (Meter and Data Communications Request) worksheet at least five working days prior to the meter set. Joint meets will be required between the Utility and an ESP for the first 50 installations completed by the ESP, but not thereafter, providing the installations meet CPUC-approved standards. Also, joint meets will be required for the Utility's interval data recorder (IDR) meters if the ESP is unable to obtain the final meter reading. The Utility reserves the right to waive the joint meet.

When the Utility has reason to believe an ESP installation does not satisfy CPUC-approved standards, the Utility retains the right to perform on-site inspections subsequent to initial meter installations. The ESP shall be charged the costs of these subsequent inspections only to the extent approved by the CPUC and only if the inspections uncover any material noncompliance with CPUC-approved standards.

The Direct Access Customer may elect to have the ESP or the Utility remove an existing meter at the Direct Access Customer's premises. Except as provided in Section H(1)(a) above, the Utility will not require removal of a meter compatible with the Utility's current meter reading systems and meeting CPUC required specifications as a condition of a Direct Access Customer's return to bundled Utility service. The Utility and the ESP will coordinate the removal and installation of the new meter.

The MSP shall return any meter it removes to the owner in the same condition that the meter was in prior to removal within five (5) working days, or such other time as may be mutually agreed upon.

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RULE NO. 21

DIRECT ACCESS RULE

G. Metering Services (Continued)

(3) Installation (Continued)

Where telephone lines are required for the Utility to read the meter, installation of such lines is the responsibility of the Customer. Such installation must be completed before the Utility can schedule the meter installation work.

Prior to the initiation of a Commission program to certify meter installers, the ESP acting as a MSP may utilize meter installers that are agreeable both to the Utility and the ESP. In case of such an agreement, the ESP and the Utility shall notify the Commission of their agreement and the qualifications of the agreed upon meter installers.

(4) Calibration

Either party may test its own meters or those owned by its Customers in conformance to CPUC meter performance specifications. Either party may request the other party to test its meter. The party whose meter has been requested to be tested by the other party may require a \$50 deposit prior to such testing, The requesting party has the right to witness the testing. The requesting party will receive notification of the test date and written test results from the other party. If the meter is found to be within CPUC-approved standards, the requesting party shall pay the other party for all expenses related to the test.

The MSP shall be responsible for ensuring that all Interval Meters are calibrated in accordance with CPUC performance specifications. Records of calibrations will be provided to the appropriate parties within five (5) working days of a request to the other party.

(5) Testing of Meter Functions

The MSP will ensure that all meters used for billing purposes are functioning in conformance with CPUC regulations.

Records of meter function tests will be provided to appropriate parties, within five (5) working days of the request.

(6) Regular Meter Maintenance And Testing

The MSP, for all meters used for Direct Access billing purposes, is responsible for the routine maintenance of the meter, including, but not limited to, testing and record keeping, in accordance with CPUC regulations.

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RULE NO. 21

DIRECT ACCESS RULE

G. Metering Services (Continued)

(7) MDMA Services

Meter Data and Management Agent (MDMA) services will be performed in accordance with CPUC regulations and will be the responsibility of the party so indicated in the Direct Access Customer's DASR. MDMA obligations include but are not limited to the following:

- (a) Meter data for Direct Access Customers shall be read, validated, edited, and transferred pursuant to Commission-approved standards.
- (b) Regardless of whether the ESP or the Utility perform Meter Reading services both the Utility and the ESP shall have access to the MDMA server.
- (c) The MDMA shall provide ESPs (or their designated Scheduling Coordinators) and the Utility reasonable and timely access to Meter Data as required to allow the proper performance of billing, settlement, scheduling, forecasting and other functions.
- (d) The MDMA is required to keep the most recent 12 months of Customer consumption data for each DA Customer. Such data must be retained for a period of 36 months. Such data must be released on request to the Customer or, if authorized by the Customer, to any ESP or to the Utility.
- (e) Within five days after installation of the meter, the MDMA must confirm that the meter and meter reading system is working properly and that the billing data gathered is valid.
- (f) No more than 10 percent of service accounts read will contain estimated data.

(8) Failure to Comply With CPUC Requirements For Meters or Meter Services

- (a) Failure is defined as the circumstance wherein the apparent absence of appropriate usage data or testing, conducted by either party or a third party, reveals non-conformance with any applicable CPUC regulation governing meters or MDMA services.

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RULE NO. 21

DIRECT ACCESS RULE

G. Metering Services (Continued)

(8) Failure to Comply With CPUC Requirements For Meters or Meter Services (Continued)

- (b) Upon the occurrence of undisputed failure, the party responsible for the non-complying meter or MDMA service must make corrections within three (3) calendar days.
- (c) Failure to make corrections within three (3) calendar days will result in the following sequential series of actions and penalties:
 - (i) Whichever party is not the party responsible for the non-conformance may cure the defect at the other party's expense.
 - (ii) Upon a demonstrated pattern of non-conformance as defined below and failure to timely cure, the party not responsible for the non-conformance may give written notice of such non-conformance, and, after five (5) days, provide all meters and meter services required by the Direct Access Customer as determined by the DASR or as required to receive Utility bundled service.
 - (iii) Demonstrated pattern of non-conformance by an ESP is defined as more than one percent (1%) of the service accounts served by an ESP, or five (5) accounts, whichever is greater, are found to be non-conforming and are not cured during the first six months of Direct Access participation; more than one half of one percent (0.5%), or three (3) accounts, whichever is greater, are found to be non-conforming and are not cured during any six consecutive months thereafter.
- (d) The Utility may refuse to enter into a new Utility/ESP Service Agreement with any ESP which has a demonstrated pattern of non-compliance and has failed to cure as provided in Section G.8(c) above for a period of no more than six (6) months from the date of such a determination as defined herein. This provision shall not apply where the alleged demonstrated pattern of non-compliance and failure to cure is disputed and such dispute is pending before any agency or entity with jurisdiction to resolve the dispute.

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RULE NO. 21

DIRECT ACCESS RULE

G. UTILITY METER SERVICE OPTIONS AND OBLIGATIONS (Continued)

(8) Failure to Comply With CPUC Requirements For Meters or Meter Services (Continued)

(e) Whenever the ESP or the Utility becomes aware of any non-conforming meters or errors in the provision of meter services affecting billing, it shall promptly notify the Direct Access Customer and one another. Bills found to be in error due to non-conforming meters or errors in meter services may be corrected as follows:

(i) If either the Utility or the ESP is providing consolidated billing, either of them may adjust their charges pursuant to CPUC-approved rules, if such charges are affected by any non-conforming meters or erroneous meter service. In such circumstances the party providing the consolidating billing service shall cooperate with the other party to correct billing errors. The Utility will notify the affected Scheduling Coordinator.

(ii) If the Direct Access Customer is being billed under separate ESP/Utility billing, the ESP and the Utility shall be separately responsible for correcting billing errors in accordance with applicable CPUC rules.

(9) Charges for Metering Services

(a) The Utility may charge the Direct Access Customer or the ESP for the provision of metering services only to the extent such charges are authorized by the CPUC. The installation of interval metering shall be at the Direct Access Customer's expense.

H. UTILITY METER SERVICE OPTIONS AND OBLIGATIONS

(1) For Direct Access Customers who acquire Interval Metering, the Direct Access Customer may elect from the Utility's three grouped meter service options as described in Section G(1)(a). The costs of these groupings listed in section G(1)(a) will be provided in a separate schedule. The Utility shall offer at a minimum a tariffed service for each grouping listed in G(1)(a).

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RULE NO. 21

DIRECT ACCESS RULE

H. UTILITY METER SERVICE OPTIONS AND OBLIGATIONS (Continued)

- (2) As an alternative to (1)above, ESPs may subcontract to the Utility for any combination of the following unbundled meter services:
 - (a) Meters supplied by the Utility.
 - (b) Meter installations, testing, and maintenance.
 - (c) Meter Data Management Agent (MDMA) Services.

These unbundled meter services must be approved by the CPUC.

- (3) If the Utility installs the meter, the meter will be installed according to the implementation schedule for valid DASRs as set forth in Section E, Direct Access Service Request.
- (4) The Utility reserves the right to extend its normal installation period due to meter and installation personnel availability. Under these circumstances, the Utility shall apprise the Direct Access Customer of the specific reasons for the delay and the anticipated schedule for installation. The Utility shall work with the Direct Access Customer to find mutually agreed upon alternatives to provide metering and to expedite meter installations, if necessary. Such alternatives may include, but not be limited to, allowing the Direct Access Customer to have the meter installed by a non-utility supplier.
- (5) If the Utility provides meter maintenance services only, the Utility will be responsible for the accuracy, calibration, and other maintenance needs for the meter. The Utility's standards for meter maintenance will conform to the existing rules on such activities for all the Utility's Customers. Under this specific itemized service, the Utility will not be responsible for replacing a non-utility meter. Upon request and for a fee, the Utility may replace a faulty meter.
- (6) The MDMA shall read meters on the Utility's scheduled meter reading date, or on such other date as may be mutually determined by the MDMA and the Utility.
- (7) Upon the Direct Access Customer's request, the Utility will make available to the Direct Access Customer or the Direct Access Customer's ESP, the data obtained from the meter in a timely manner, as agreed between the Direct Access Customer and the Utility.

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RULE NO. 21

DIRECT ACCESS RULE

H. UTILITY METER SERVICE OPTIONS AND OBLIGATIONS (Continued)

(8) ESPs must provide the Utility with a notice (by any means acceptable to the Utility) to change their meter service election. Election changes will occur through the DASR process as specified in Section E.

I. GENERAL TERMS AND CONDITIONS FOR DIRECT ACCESS METERS AND METERING SERVICES

(1) As set forth in Section H, Direct Access Customers with loads in excess of 20 kW must have interval meters to receive Direct Access services. Direct Access Customers with individual service accounts with a maximum demand between 20 and 50 kW will be exempted from the requirement of an interval meter as a condition for receipt of Direct Access until January 1, 1999.

(2) The Utility requires that an ESP or ESP's meter operator install a unique meter number on each meter. This meter number is required to insure proper meter identification for billing and field personnel. The Utility will supply each ESP with a set of unique meter numbers to be installed on the ESP/Direct Access Customer/third party meter. This requirement maybe superseded once a statewide numbering system is developed.

J. METER READING DATA OBLIGATIONS

1) Accuracy For All Meters

- a) Meter clocks will be maintained by Pacific Standard Time within +/- three minutes of the National Time Standard.
- b) Usage data will be accurate unless otherwise indicated. Data known to be inaccurate or missing will be estimated and flagged as estimated.
- c) No more than 10% of the accounts will contain estimated data.
- d) All meter reading data will be validated following CPUC-approved requirements.
- e) The MDMA will provide an infrastructure that supports retrieval of all data currently available to a MDMA's client within a two-hour window.

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RULE NO. 21

DIRECT ACCESS RULE

J. METER READING DATA OBLIGATIONS (Continued)

2) Timeliness For Validated Meter Read Data

The following standards, once they have been adopted by the CPUC, shall be used to establish the time requirements for posting validated meter reading data on the MDMA server.

(a) Interval Meters:

- 1) ___% of all usage data must be available by _____ on the scheduled read date of the meter.
- 2) ___% by _____ day after the scheduled meter read date.
- 3) ___% by _____ day after the scheduled meter read date.

(b) Non-Interval (Monthly) Data

- 1) 90% of all monthly meter reads must be available by 6:00 AM on the 1st working day after the scheduled meter read date.
- 2) 9_ % must be available by 6:00 AM on the 2nd working day after the scheduled meter read date
- 3) 99.99% must be available by 6:00 AM on the 4th working day after the scheduled meter read date.

3) Retention and Format For Meter Reading Data

- a) Meter reading data will remain posted on the MDMA server for 3 days and will be recoverable for at least 3 years.
- b) Meter reading data posted to the MDMA server will be stored in the MDMA data exchange format as approved by the CPUC.

K. BILLING SERVICE OPTIONS AND OBLIGATIONS

(1) Introduction

An ESP has the right to select from three billing service options: (1) Consolidated Utility Billing, (2) Consolidated ESP Billing or (3) Separate Utility/ESP Billing. In the absence of an ESP's election of one of the three billing service options described below, option (3), Separate Utility/ESP Bills, will be the default billing service option.

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RULE NO. 21

DIRECT ACCESS RULE

K. BILLING SERVICE OPTIONS AND OBLIGATIONS (Continued)

(1) Introduction (Continued)

In addition, this Section states the Utility and ESP obligations for billing information and legal and safety notices in Section (4) herein.

(2) Consolidated Utility Billing

(a) Description

The Direct Access Customer's authorized ESP will send its bill to the Utility. The Utility will in turn send a consolidated bill, containing both the Utility and ESP charges, to the Direct Access Customer.

(b) Utility Obligations

(i) The Utility will calculate its charges and send the bill either by mail or electronic means to the Direct Access Customer. The Utility will include ESP charges on the bill. The Utility is not responsible for computing or determining the accuracy of the ESP charges on the bill.

(ii) The Utility's bill will include a summary of ESP charges and may provide any billing-related details of ESP charges, including the ESP's telephone number. The ESP bill may be printed with the Utility's bill, or electronically transmitted exactly as provided by the ESP.

(iii) The Utility will process Direct Access Customer payments and transfer amounts paid toward ESP charges to the ESP when the payments are received as specified in Section L.

(c) ESP Obligations

(i) The ESP may offer consolidated billing services to Direct Access Customers they serve once a billing service arrangement has selected in the Utility/ESP Service Agreement.

(ii) The ESP will submit the necessary billing information to facilitate billing services under this billing option according to the Utility's billing schedule and by service account.

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RULE NO. 21

DIRECT ACCESS RULE

K. BILLING SERVICE OPTIONS AND OBLIGATIONS (Continued)

(2) Consolidated Utility Billing (Continued)

(c) ESP Obligations (Continued)

(iii) The ESP will provide the Utility with a summary of ESP charges by electronic transmittal or other means acceptable to the Utility. The ESP may provide billing-related details of ESP charges on a separate page which will be included in the consolidated bill if transmitted with the summary charge. ESP charges which are not transmitted as required will not be included in the consolidated bill.

(d) Timing Requirements

(i) Bills under this option will be rendered once a month. Nothing contained in this Section shall limit the Utility's ability to render bills more frequently consistent with the Utility's existing practices. However, ESP charges will only need to be calculated based on monthly billing periods.

(ii) Except as provided in paragraph (d) (i) above, the Utility requires that ESP and Utility charges be based on the same billing period data to avoid any confusion concerning these charges.

(iii) ESP charges must be received by the Utility the day following the Utility's scheduled meter reading date according to the provisions in Section J, Meter Reading Data Obligations. If billing charges have not been received from the ESP by this date, the Utility will render the bill for the Utility's charges only, without ESP charges. The ESP must wait until the next billing cycle, or send a separate bill to the Direct Access Customer for ESP charges.

(3) Consolidated ESP Billing

(a) Description

The Utility will calculate and send its bill to the ESP. The ESP will send a consolidated bill to the Direct Access Customer. The ESP will be obligated to provide to the Direct Access Customer detailed Utility charges to the extent that the ESP receives such detail from the Utility. The ESP is not responsible for the accuracy of Utility charges.

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RULE NO. 21

DIRECT ACCESS RULE

K. BILLING SERVICE OPTIONS AND OBLIGATIONS (Continued)

(3) Consolidated ESP Billing(Continued)

(c) ESP Obligations (Continued)

(iii) The ESP will prepare the bill and include both ESP and, subject to Section (5), below, Utility charges. In addition, the ESP will process Direct Access Customer payments and handle its own collections responsibilities. Under this billing option, ESPs must pay all undisputed charges due to the Utility regardless of whether the Direct Access Customer has paid the ESP. The ESP must include all Utility charges on the ESP consolidated bill.

(iv) The ESP has no obligations regarding the accuracy of charges calculated by the Utility or for related disputes. Disputed charges will be handled according to CPUC procedures.

(v) Subject to the limitations of this Section and with the written consent of the Direct Access Customer, the ESP may offer Direct Access Customers customized billing cycles or payment plans which permit the Direct Access Customer to pay the ESP for Utility charges in different amounts for any given billing period than Utility charges to the ESP for that period. Such plans will not, however, affect in any manner the obligation of the ESP to pay Utility charges as billed by the Utility. Further, such plans must ensure that the charges as billed by the Utility are provided to the Direct Access Customer as soon as practicable and that the Direct Access Customer's payment of the Utility's charges is adjusted such that over a reasonable time, which shall not exceed one year, the Direct Access Customer pays no more than the Utility's charges as billed by the Utility. Upon request, the ESP shall identify to the Utility any service accounts with such customized billing arrangements and provide a summary description of the arrangement as it pertains to the Utility's charges.

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RULE NO. 21

DIRECT ACCESS RULE

K. BILLING SERVICE OPTIONS AND OBLIGATIONS (Continued)

(3) Consolidated ESP Billing(Continued)

(d) Timing Requirements

- (i) ESPs may render bills more or less frequently than once a month. However, the Utility will continue to bill the ESP each billing cycle period for the amounts due by the Direct Access Customer for that billing month, provided that with the ESP's approval, the Utility may bill more frequently consistent with Utility's existing practices.
- (ii) The Utility will convey the billing information by service account to the ESP the day following the Utility's scheduled meter read date according to provisions in Section J, Metering Reading Data Obligations. Meter reading data will be required on the same schedule as existing Utility billing cycles. If the Utility fails to provide its charges to the ESP by this date, the ESP may render the bill without the Utility's charges included, and the Utility will either wait until the next billing period or send a separate bill to the Direct Access Customer for those charges.
- (iii) The ESP is not required to estimate the Utility's charges if charges are not received nor to delay the ESP's billing.

(4) Separate Utility/ESP Bills

(a) Description

The Utility and the ESP will separately send their bills directly to the Direct Access Customer.

(b) Utility's Obligations

- (i) The Utility will calculate its charges, prepare and send the Utility's bill to the Direct Access Customer by electronic or other means. The billing method is the sole responsibility of the Utility and its Direct Access Customers.

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RULE NO. 21

DIRECT ACCESS RULE

K. BILLING SERVICE OPTIONS AND OBLIGATIONS (Continued)

(4) Separate Utility/ESP Bills (Continued)

(b) Utility's Obligations (Continued)

(ii) The Utility does not have any obligations regarding the accuracy of ESP charges or related payment disputes. Accurate and timely meter reading data must be shared between the ESP and the Utility.

(c) ESP Obligations

(i) The ESP will calculate its charges, prepare and send the ESP's bill to the Customer by electronic or other means. The billing method is completely independent of the billing method selected by the Utility.

(ii) The ESP has no obligations regarding accuracy of the Utility's charges or related payment disputes. Accurate and timely meter reading data must be shared between the ESP and the Utility.

(d) Timing

(i) Meter reading data is required by the Utility on the scheduled meter reading date which conforms to the Utility's existing billing cycles under this billing option.

(5) Billing Information and Inserts

(a) Identify Utility's and ESP Charges

The Utility's bill, at a minimum, will identify its charges as specified by the CPUC or its codes. If the Direct Access Customer elects the Consolidated Utility Billing option, the Utility's bill will identify, at a minimum, two sets of charges: one for Utility services and another for the ESP's energy services. The Utility will provide bills and notices both electronically or manually, depending upon the Utility's agreement with the ESP.

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RULE NO. 21

DIRECT ACCESS RULE

K. BILLING SERVICE OPTIONS AND OBLIGATIONS (Continued)

(5) Billing Information and Inserts (Continued)

(b) Required Legal and Safety Notices

All of the Utility's Customers, including Direct Access Customers, will receive mandated legal and safety notices. The Utility will be responsible for the creation of these notices. If the ESP is providing consolidated billing services, the Utility will make these notices available to the ESP for distribution to the Direct Access Customer or, at the ESP's request, in electronic format to the ESP for production and communication to electronically-billed Direct Access Customers.

(c) Utility's Obligations under Consolidated Utility Billing

The Utility will design, print and insert these notices in mailed Consolidated Utility Bills. The Utility may also enclose Utility-related bill inserts in Consolidated Utility Billing as permitted by CPUC regulations.

(d) ESP Obligations under Consolidated Utility Billing

The ESP may include any information directly related to the calculation or understanding of ESP charges directly in the bill but may not include any text on the separate detail page which is not specifically related to the charges or their explanation.

(e) Utility's Obligations under Consolidated ESP Billing

The Utility will design, print and deliver mandated safety and legal notices to the ESP in standard size if the ESP renders bills by mail. If the ESP renders bills electronically, the Utility will either provide the printed version or electronically transmit these notices to the ESP for communication to electronically-billed Direct Access Customers at the ESP's option.

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RULE NO. 21

DIRECT ACCESS RULE

K. BILLING SERVICE OPTIONS AND OBLIGATIONS (Continued)

(5) Billing Information and Inserts (Continued)

(f) ESP Obligations under Consolidated ESP Billing

The ESP will be required to inform their Direct Access Customers of any mandated legal and safety notices when billed by mail. At its discretion, the ESP may request that the Utility provide a separate mailing of such notices at a cost specified in this Tariff. For electronically-billed Direct Access Customers, the ESP may transmit such notices by mail or electronically at their option.

(g) Utility's Obligations under Separate Utility/ESP Bills

The Utility will continue to mail mandated safety and legal notices in its billing envelope and may use the billing envelope as it does in current practice for providing information to all Utility Customers, including Direct Access Customers, equally.

(h) ESP Obligations under Separate Utility/ESP Bills

The ESP has no obligation for mandated safety and legal notices under this option.

(6) Billing Adjustments for Meter Error and Billing Error

(a) Adjustment of Bills for Meter Error

Meter error is the incorrect registration of the Direct Access Customer's electrical usage resulting from a malfunctioning or defective meter. Meter error can result from a fast meter, a slow meter, or a non-registering meter. Meter error is defined in Rule 17, Meter Tests and Adjustments of Bills.

(i) Consolidated Utility Bill

If the Utility is providing Consolidated Utility Billing for a Direct Access service account affected by meter error, the Utility will adjust the bill for the Service Account, calculated as provided in Rule 17, to the extent those charges were affected by the meter error.

(Continued)

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Title

RULE NO. 21

DIRECT ACCESS RULE

K. BILLING SERVICE OPTIONS AND OBLIGATIONS (Continued)

(6) Billing Adjustments for Meter Error and Billing Error (Continued)

(a) Adjustment of Bills for Meter Error (Continued)

(ii) Consolidated ESP Bill

(a) If an ESP is providing Consolidated ESP Billing for a Direct Access Service Account affected by meter error, the Utility will transmit adjusted Utility charges, calculated as provided in the Rule 17, to the ESP. The Direct Access Customer will be solely responsible for obtaining refunds of ESP electric power overcharges attributable to a fast meter from its current and prior ESPs as appropriate.

(b) Within fifteen (15) days after the Utility transmits the adjusted charges for a slow or non-registering meter, the ESP may either:

Pay the Utility the adjusted charges in accordance with the Utility/ESP Service Agreement, and assume responsibility for issuing a bill reflecting the adjusted charges to, and collecting the adjusted charges from the Direct Access Customer, or

Submit a DASR to the Utility to change the affected Direct Access service account to the separate Utility/ESP billing option. After approval of the DASR requesting such change, the Utility will have the responsibility for issuing an adjusted bill to the Direct Access Customer and collecting amounts owing from the Direct Access Customer in accordance with this Rule and Rule 17.

(iii) Separate Utility/ESP Billing

The Utility will adjust its bill for meter error pursuant to Rule 17. The Direct Access Customer will be solely responsible for obtaining refunds of both current and prior ESP electric power overcharges attributable to a fast meter from its current and prior ESPs, as appropriate.

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RULE NO. 21

DIRECT ACCESS RULE

K. BILLING SERVICE OPTIONS AND OBLIGATIONS (Continued)

(6) Billing Adjustments for Meter Error and Billing Error (Continued)

(b) Adjustment of Bills for Billing Error

(i) Billing error is defined in Rule 17, Meter Tests and Adjustment of Bills

(ii) A Direct Access Customer shall not be entitled to a credit adjustment for a billing error involving the failure of the ESP and/or the Direct Access Customer to notify the Utility of changes in the Direct Access Customer's connected load, equipment or operation, or failure of the ESP or Direct Access Customer to take advantage of any noticed rate option or condition of service for which the Direct Access Customer becomes eligible subsequent to the date of application for Direct Access service.

(iii) The Utility will adjust its bills under the separate Utility/ESP or Consolidated Utility Billing options for billing error pursuant to Rule 17. The Utility will adjust its bill to the ESP under the Consolidated ESP Billing option for billing error pursuant to Rule 17. Within fifteen (15) days of the adjusted bill's transmittal by the Utility, the ESP may either assume responsibility for the adjusted charges or submit a DASR to change the affected Service Account to the separate Utility/ESP billing option.

(7) Unauthorized Usage of Energy

(a) Unauthorized energy use is defined in Rule 17, Meter Tests and Adjustment of Bills.

(b) Once evidence of unauthorized energy use is detected the investigations of unauthorized use of energy may be conducted by the Utility in accordance with Rule 17, regardless of ownership of the meter or provision of billing or metering services. Direct Access Customers, ESPs, and their agents are required to immediately report and preserve evidence, in accordance with applicable State law, of any unauthorized use and to cooperate in such investigations.

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Title

RULE NO. 21

DIRECT ACCESS RULE

L. PAYMENT AND COLLECTION TERMS

(1) Under Consolidated Utility Billing

- (a) The Utility will prefer but not require electronic payment services for electronically-billed Direct Access Customers. The Utility will accept cash, check or electronic payments under this billing option. The Utility is required under D.97-05-039 to pay the ESP the amounts paid to the Utility for ESP charges only after the payment is received. Payments will be transferred to the ESP specifying the amount paid by each specific service account or group of service accounts if the Customer is Summary Billed.
- (b) Upon receipt of the Utility's payment, the ESP is responsible for promptly and accurately posting the payment to the Direct Access Customer's service account. The ESP will also be responsible for any follow-up inquiries either with the Utility or Direct Access Customer if there is question concerning the posting of that payment amount.
- (c) The Utility must remit payments to the ESP only for the amounts paid by the Direct Access Customer for payment of ESP charges. Payments are due on or before the later of:
 - (i) 17 days after the bill was rendered to the Direct Access Customer, or
 - (ii) The next business day after the payment is received from the Direct Access Customer.
- (d) The Utility will not forward any amounts owed to the ESP that have not been received from the Direct Access Customer. The Utility will process payments, post the Utility charges paid to Direct Access Customer service accounts, and transfer funds owed the ESP to the ESP. On the billing statement for the following month, the Utility will debit to the ESP any amounts resulting from returned payments and assess returned payment charges (i.e., a charge for each returned payment) to the appropriate Direct Access Customers.

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RULE NO. 21

DIRECT ACCESS RULE

L. PAYMENT AND COLLECTION TERMS (Continued)

(1) Under Consolidated Utility Billing (Continued)

- (e) The ESP has no payment obligations for Direct Access Customer payments under Consolidated Utility Billing services. However, the ESP must remit payment for any charges, approved by the CPUC, for services provided them by the Utility within the terms of service as specified in the Utility/ESP Service Agreement with the Utility. Sundry charges will be considered past due 30 days after the date the bill is rendered. The ESP is required to settle any disputes of ESP charges with the Direct Access Customer.
- (f) The Direct Access Customer is obligated to pay the Utility for all Utility and ESP charges consistent with existing tariffs
- (g) The Direct Access Customer must notify the Utility of any disputed Utility charges; otherwise, any outstanding balance will be handled as a late payment. Direct Access Customer disputes of ESP charges must be directed to the ESP, and disputes of Utility charges must be directed to the Utility.
- (h) If the Direct Access Customer disputes any of Utility's charges, it shall nevertheless pay the amount billed; provided, however, that the Direct Access Customer may, at its election, pay that portion of the charges that the Direct Access Customer disputes to the CPUC in accordance with Rule 10. If the Direct Access Customer disputes any ESP charges, the provisions of its agreement with the ESP shall control. The Utility will forward to the ESP amounts paid to cover ESP charges.

(2) Under Consolidated ESP Billing

- (a) Upon receipt of the ESP's payment, the Utility will be responsible for promptly and accurately posting the payment to the Direct Access Customer's account. The Utility will also be responsible for any follow-up inquiries with the ESP if there is question concerning the payment amount.

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RULE NO. 21

DIRECT ACCESS RULE

L. PAYMENT AND COLLECTION TERMS (Continued)

(2) Under Consolidated ESP Billing (Continued)

- (b) The ESP is required by D.97-05-039 to pay amounts owed to the Utility for the Utility's charges whether or not the Direct Access Customer has paid the ESP. Payment is due in full from the ESP within 17 days from the date the Utility charges are rendered to the ESP regardless of whether the Direct Access Customer has paid.
- (c) The Utility has no payment obligations for Direct Access Customer payments under consolidated ESP billing services. However, payments of any charges, as determined by separate agreement between the ESP and the Utility, for services provided by the ESP will be considered past due 30 days after the sundry bill is rendered to the Utility.
- (d) The Direct Access Customer is obligated to pay the ESP for all Utility and ESP charges according to the terms established between the ESP and the Direct Access Customer.
- (e) If any charges are disputed, the Direct Access Customer must notify the ESP of the disputed amount. Disputes of ESP charges must be directed to the ESP, and disputes of the Utility's charges, except disputes pertaining to the ESP's estimate of the Utility's charges, must be directed to the Utility.
- (f) If the ESP disputes any of the Utility's charges, it shall nevertheless pay the amount billed; provided, however, that the ESP may, at its election, pay that portion of the charges that the ESP disputes to the CPUC in accordance with Rule 10. If the Direct Access Customer disputes any Utility charges, it shall address such dispute through the ESP, and may pursue the dispute in accordance with Rule 10.

(3) Under Separate Utility/ESP Bills

- (a) The Utility is responsible for payment of miscellaneous charges imposed by the ESP, as per their service agreement with the Utility for Direct Access services, but the Utility has no payment obligations with respect to Direct Access Customer charges.

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RULE NO. 21

DIRECT ACCESS RULE

L. PAYMENT AND COLLECTION TERMS (Continued)

(2) Under Consolidated ESP Billing (Continued)

- (b) The Utility has no payment or collection obligations to the ESP for Direct Access Customer payments of ESP charges. However, the Utility must remit, within 30 days, payment of any charges due the ESP for services provided by the ESP in accordance with the service agreement. A late payment penalty may be assessed on past due charges.
- (c) The ESP has no payment or collection obligations to the Utility for Direct Access Customer payments of Utility charges. However, the ESP must remit, within 30 days, payment of any charges, approved by the CPUC, due to the Utility for services provided by the Utility. If authorized by the CPUC, a late payment penalty may be assessed on past due charges.
- (d) The Direct Access Customer must remit payment in full to the Utility for its charges due within the terms of sale as provided for in CPUC rules.
- (e) If the Direct Access Customer disputes any Utility charges, it shall nevertheless pay the amount billed; provided, however, that the Direct Access Customer may, at its election, pay that portion of the charges that the Direct Access Customer disputes to the CPUC in accordance with Rule 10. If the Direct Access Customer disputes any ESP charges, the provisions of its agreement with the ESP shall control.

M. LATE OR PARTIAL PAYMENTS, AND UNPAID BILLS

(1) Under Consolidated Utility Billing

- (a) The Utility is responsible for collecting the unpaid balance of all charges from Direct Access Customers, sending notices informing Direct Access Customers of unpaid balances, and taking the appropriate actions to recover the unpaid amounts owed the ESP.
- (b) Partial payments by Direct Access Customers will be allocated first to the Utility's charges for which delinquency may result in disconnection, and then the balance prorated between ESP and Utility charges.

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RULE NO. 21

DIRECT ACCESS RULE

M. LATE OR PARTIAL PAYMENTS, AND UNPAID BILLS (Continued)

(1) Under Consolidated Utility Billing (Continued)

- (c) Undisputed overdue balances owed to the Utility will be considered late and subject to the Utility's late payment procedures.
- (d) CPUC rules will apply to late or non-payment of the Utility's charges by the Direct Access Customer.

(2) Under Consolidated ESP Billing

- (a) The ESP is responsible for collecting both unpaid ESP and Utility charges, sending notices informing Direct Access Customers of unpaid ESP and Utility balances, and taking appropriate actions to recover the amounts owed. The will not assume any collection obligations under this billing option.
- (b) The Utility will hold the ESP liable for any late payments or unpaid bills. Unpaid undisputed overdue balances owed the Utility will be considered late and subject to late payment fees and procedures and the provisions of Section O.
- (c) The Utility will apply the same terms applicable to Small General Service accounts under default Utility services to service accounts utilizing Consolidated ESP Billing services. The Utility will notify the ESP if payment of Utility's charges has not been received within 17 days of the date delivered to the ESP

(3) Under Separate Utility/ESP Billing

- (a) The Utility and the ESP are responsible for collecting their respective unpaid balances, sending notices to Direct Access Customers informing them of the unpaid balance, and taking appropriate actions to recover their respective unpaid balances. Direct Access Customer disputes with ESP charges must be directed to the ESP, and disputes with the Utility's charges must be directed to the Utility.

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RULE NO. 21

DIRECT ACCESS RULE

M. LATE OR PARTIAL PAYMENTS, AND UNPAID BILLS (Continued)

(3) Under Separate Utility/ESP Billing

(b) Late payment of the Utility's charges by Direct Access Customers will be handled in accordance with applicable CPUC rules.

N. INVOLUNTARY SERVICE CHANGES

(1) Service Changes

The Direct Access Customer may have service of electricity, billing, or metering from an ESP changed involuntarily in the following circumstances:

- (a) The ESP has been decertified by the CPUC or receives a CPUC order that otherwise prohibits the ESP from serving that Direct Access Customer;
- (b) The ESP has materially failed to meet its obligations under the terms of the Utility/ESP Service Agreement (including applicable tariffs) so as to constitute an event of default and the Utility exercises a contractual right to terminate the agreement;
- (c) The ESP has materially failed to meet its obligations under the terms of the Utility/ESP Service Agreement (including applicable tariffs) so as to constitute an event of default and the Utility exercises a contractual right to change billing options;
- (d) The ESP has materially failed to meet its obligations under the terms of the Utility/ESP Service Agreement (including applicable tariffs) so as to constitute an event of default and the Utility exercises a contractual right to change metering options;
- (e) The ESP ceases to perform by failing to provide schedules through a Scheduling Coordinator wherever such schedules are required.
- (f) The Direct Access Customer fails to meet its Direct Access requirements and obligations under the Utility's Rules and Tariff.

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RULE NO. 21

DIRECT ACCESS RULE

N. INVOLUNTARY SERVICE CHANGES (Continued)

(1) Service Changes (Continued)

(g) Notices of involuntary service changes or termination in Direct Access will be sent to the ESP and to each Direct Access Customer under contract as described in this section and to the CPUC.

(2) Change of Service Election In Exigent Circumstances

In the event the Utility finds that an ESP or the Direct Access Customer has materially failed to meet its obligations under this tariff or Utility/ESP Service Agreement such that the Utility seeks to invoke its remedies under this section (other than a termination of ESP consolidated billing or metering) and the failure constitutes an emergency (i.e. the failure poses a substantial threat to the reliability of the electric system or to public health and safety or the failure poses a substantial threat of irreparable economic or other harm to the Utility or the Direct Access Customer) or the failure relates to ESP's unauthorized energy use, then the Utility may initiate a change, or, in some cases, terminate a Direct Access Customer's service election, or an ESP's ability to provide certain services under Direct Access. In such case, the Utility shall initiate the change or termination by preparing a DASR, but the change or termination may be made immediately notwithstanding the applicable DASR processing times set forth in this Rule. The Utility shall provide such notice and/or opportunity to cure the problem to the ESP and/or the affected Direct Access Customer as is reasonable under the circumstances of the emergency, if any is reasonable. The ESP or the affected Direct Access Customer shall have the right to seek an order from the CPUC restoring the Direct Access Customer's service election and/or the ESPs ability to provide services. Unless expressly ordered by the CPUC, these provisions do not disconnect electric service provided to the Direct Access Customer.

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RULE NO. 21

DIRECT ACCESS RULE

N. INVOLUNTARY SERVICE CHANGES (Continued)

(3) Change of Service Election Absent Exigent Circumstances

In the event the Utility finds that an ESP has materially failed to meet its obligations under this tariff or Utility/ESP Service Agreement, such that the Utility seeks to invoke its remedies under this section (other than a termination of Consolidated ESP Billing, or metering), but the failure does not constitute an emergency as defined in this section, or involve ESP's unauthorized energy use, the Utility shall notify the ESP and the affected Customer of such finding in writing stating specifically:

- (a) the nature of the alleged non-performance;
- (b) the actions necessary to cure it;
- (c) the consequences of failure to cure it and the remedy the Utility proposes to invoke in the event of a failure to cure; and
- (d) the name, address and telephone number of a contact person at the Utility authorized to discuss resolution of the problem.

The ESP shall have 30 days from receipt of such notice to cure the alleged non-performance or reach an agreement regarding it with the Utility. If the problem is not cured or an agreement is not reached following this 30 day period, the Utility may initiate the DASR process set forth in this Rule to accomplish the remedy set forth in the notice; provided that the Utility shall suspend the exercise of such remedy if, before the end of the cure period, the ESP has filed an application with the CPUC requesting an order from the CPUC that the ESP is entitled to continue the Utility/ESP Service Agreement and the Utility is not entitled to exercise the remedy it has identified in its notice. The status of the ESP shall not change pending the CPUC's review of the Utility's request provided that an emergency, as described in Section N.1 does not arise. Unless expressly ordered by the CPUC, these provisions do not disconnect electric service provided to the Customer. The Utility's action to defer the exercise of its remedies in accordance with this section does not constitute a waiver of any rights.

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RULE NO. 21

DIRECT ACCESS RULE

N. INVOLUNTARY SERVICE CHANGES (Continued)

(d) Upon termination of Consolidated ESP Billing pursuant to this section, the Utility may deliver a separate bill for all Utility charges which were not previously billed by the ESP. The ESP or the affected Direct Access Customer shall have the right to seek an order from the CPUC restoring the ESP's eligibility to engage in Consolidated ESP Billing.

(e) At any time not less than six (6) months after termination of Consolidated ESP Billing pursuant to this section the ESP's eligibility to engage in consolidated billing services shall be reinstated upon a reasonable showing by the ESP that the problems causing revocation of it consolidated billing right have been cured, including payment of any late charges and re-establishment of compliance with credit requirements under section P.

(5) Termination of ESP Metering Services

The Utility will terminate an ESP's eligibility to provide metering services in the Utility's service territory if the ESP fails to comply with industry-accepted standards approved for the Utility by the CPUC for metering services. The Utility shall provide the ESP with 15 days written notice prior to such termination. The ESP or the affected Direct Access Customer shall have the right to seek an order from the CPUC restoring the ESP's eligibility to provide metering services.

(6) Burden of Proof Before CPUC

In any case before the CPUC the party bearing the burden of going forward and the party bearing the burden of proof shall be established in the manner normally established at the CPUC.

(7) Action in the Event of Termination

Upon termination of ESP Direct Access services pursuant to this Rule the Direct Access Customer will be returned to default Utility services, unless the Direct Access Customer has previously selected another ESP under the procedures set forth in section E. The Direct Access Customer shall thereafter have the right at any time to select another ESP pursuant to section E.

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RULE NO. 21

DIRECT ACCESS RULE

N. INVOLUNTARY SERVICE CHANGES (Continued)

(8) Prohibition

The Utility is prohibited from using any of the involuntary service changes in an anti-competitive manner.

O. SERVICE DISCONNECTIONS AND RECONNECTIONS

(1) Consolidated Utility Billing

(a) The Utility will notify the Direct Access Customer of the Utility's right to disconnect electric service for the non-payment of the Utility's charges pursuant to Rule 8. The Direct Access Customer, and not the Utility is responsible for contacting the ESP in the event it receives notice of late payment or service termination. If a Direct Access Customer has been disconnected, and is not reconnected within two days, the Utility will promptly notify the ESP. To the extent authorized by the CPUC, a service charge may be imposed on the Direct Access Customer if a field call is performed to disconnect electric service.

(b) The Utility will not disconnect electric service to the Direct Access Customer for the non-payment of ESP charges. In the event of non-payment of ESP charges by the Direct Access Customer, the ESP may submit a DASR requesting transfer of the service account to bundled Utility service according to section E.

(c) The Utility will reconnect electric service for a CPUC-authorized service fee when the criteria for reconnection have been met.

(2) Consolidated ESP Billing

(a) The Utility will not disconnect electric service to the Direct Access Customer for either the non-payment of ESP charges by the Direct Access Customer, or the non-payment of Utility charges by the ESP. In the event of non-payment of ESP charge by the Direct Access Customer, the ESP may submit a DASR requesting transfer of the service account to bundled Utility service according to section E.

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RULE NO. 21

DIRECT ACCESS RULE

O. SERVICE DISCONNECTIONS AND RECONNECTIONS (Continued)

(2) Consolidated ESP Billing (Continued)

- (b) If an ESP fails to pay in full the charges that the Utility has transmitted to it by the applicable past due date, the provisions of Section N.(4)(b) of this Rule shall govern.
- (c) In accordance with CPUC rules, the Utility has the right to disconnect electric service to the Direct Access Customer for the non-payment of prior Utility closing bills or any past due charges by the Direct Access Customer, and evidences of safety violations, energy theft, or fraud by the Direct Access Customer. If a Direct Access Customer has been disconnected, and is not reconnected within two days, the Utility will promptly notify the ESP. To the extent authorized by the CPUC, a service charge may be imposed on the Direct Access Customer if a field call is performed to disconnect electric service.
- (d) The Utility will reconnect electric service for a CPUC-authorized service fee when the criteria for reconnection, as specified in Rule 11, have been met.

(3) Separate Utility/ESP Bills

- (a) In accordance with CPUC rules, the Utility may disconnect electric service to the Direct Access Customer for the non-payment of Utility charges by the Direct Access Customer, but the Utility will not disconnect electric service to the Direct Access Customer for the non-payment of ESP charges. If a Direct Access Customer has been disconnected, and is not reconnected within two days, the Utility will promptly notify the ESP. In the event of non-payment of ESP charges by the Direct Access Customer, the ESP may submit a DASR requesting transfer of the service account to bundled Utility service according to Section E. In the event of non-payment of Utility charges, and to the extent authorized by the CPUC, a service charge may be imposed on the Direct Access Customer if a field call is performed to disconnect electric service.
- (b) The Utility will reconnect electric service for a service fee when the criteria for reconnection, as specified in Rule 11 have been met.

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RULE NO. 21

DIRECT ACCESS RULE

P. CREDIT REQUIREMENTS

(1) Under Consolidated Utility Billing

If the Utility performs consolidated billing services, the Utility may require the ESP to establish its creditworthiness through evaluations, deposits, or other security in the manner described in Section P.(2), to cover CPUC-approved charges incurred as a result of Direct Access participation. Creditworthiness only applies to the Utility's charges billed directly to the ESP.

(2) Under Consolidated ESP Billing

If the ESP performs consolidated billing services, the Utility will require the ESP to establish its creditworthiness to cover CPUC-approved charges incurred as a result of Direct Access participation. The ESP may establish its creditworthiness through any one of the following. Upon the establishment of such creditworthiness, the Utility upon request will refund, in accordance with CPUC requirements, the Direct Access Customer's security deposits then being held to secure payment of those energy services being assumed by the ESP.

(a) Credit Evaluation

An ESP with a demonstrable current credit rating of Baa2 or higher from Moody's or BBB or higher from Standard and Poor's, Fitch or Duff & Phelps, is deemed to be creditworthy unless the Utility determines that a material change in the ESP's creditworthiness has occurred. The Utility requires ESPs to complete a credit application including financial information reasonably necessary to establish credit. The creditworthiness evaluation may be conducted by an outside credit analysis agency, determined by the Utility, with final credit approval granted by the Utility. This evaluation will be completed within 10 business days. Credit reports will remain strictly confidential between the credit analysis agency and the Utility. A credit application processing fee, as approved by the CPUC, may be charged to offset the cost of determining the ESP's creditworthiness.

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RULE NO. 21

DIRECT ACCESS RULE

P. CREDIT REQUIREMENTS (Continued)

(2) Under Consolidated ESP Billing (Continued)

(b) Security Deposits

The ESP may submit and maintain a cost-based security deposit in lieu of submitting to or being qualified under a creditworthiness evaluation. The amount of the security deposit required to establish credit will be twice the estimated maximum monthly bill for the Utility's charges, where such estimate is based on the last 12 months of historical usage. The initial value of the security deposit will be estimated by the ESP to cover its expected Customer base and will be adjusted as necessary from time to time to meet the security requirements based on changes in the ESP's Customer base. Security deposits may be in the form of (1) cash deposits, (2) letters of credit, defined as irrevocable and renewable issued by a major financial institution acceptable to the Utility, (3) surety bonds, defined as renewable and issued by a major insurance company acceptable to the Utility, or (4) guarantees, with guarantors with a credit rating of Baa2 or higher from Moody's or BBB or higher from Standard and Poor's, Fitch or Duff & Phelps, unless the Utility determines that a material change in the guarantor's creditworthiness has occurred, or, in other cases, through the credit evaluation process described above.

Security deposits must be posted with the Utility prior to the ESP's participation in Direct Access. Security deposits posted with the Utility which are in excess of outstanding unpaid bills owed to the Utility will be returned to the ESP within approximately 60 days after the ESP has terminated Consolidated ESP Billing services in the Utility's service territory. While the ESP is conducting Consolidated ESP Billing, deposits cannot be used as payment for past due bills in order to avoid or delay the switch to separate Utility/ESP billing resulting from the ESP's non-payment of bills owed to the Utility.

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RULE NO. 21

DIRECT ACCESS RULE

P. CREDIT REQUIREMENTS (Continued)

(2) Under Consolidated ESP Billing (Continued)

(e) On-going Maintenance of Credit

To assure continued validity of established unsecured credit, the ESP shall promptly notify the Utility of any material change in its credit rating or financial condition. The ESP shall also furnish evidence of an acceptable credit rating or financial condition, as set forth above, to the Utility upon request. In the event the Utility determines that the ESP's, or the ESP's guarantor's, creditworthiness has materially changed, as set forth above, and the ESP does not rectify or provide a security deposit commensurate with the change in creditworthiness, then the Utility may revert to separate Utility/ESP billing.

(f) Re-establishment of Credit

An ESP whose Consolidated Billing service option has been terminated, revoked, or suspended under this section may re-establish its creditworthiness by the provision of a security deposit, or by any other manner described in this section following a six-month period.

(3) Under Separate Utility's/ESP Bills

If the ESP performs separate billing services, the Utility may require the ESP to establish its creditworthiness through evaluations, deposits, or other security in the manner described in this section to cover CPUC-approved charges incurred as a result of Direct Access participation. Creditworthiness only applies to Utility charges that are billed directly to ESP.

(4) Additional Documents

The ESP shall execute and deliver all documents and instruments (including, without limitation, security agreements and Utility financing statements) reasonably required from time to time to implement the provisions set forth above and to perfect any security interest granted to the Utility.

(Continued)

Issued by

Advice Letter No. <u>291-E</u>	<u>Anne E. Eakin</u>	Date Filed	<u>February 2, 1998</u>
	Name		
Decision No. <u>97-10-087</u>	<u>VP, Regulation</u>	Effective	<u>March 11, 1998</u>
	Title		

TF6 R21-55e Resolution No. _____