

Stipulation Regarding Record and Waiver of Evidentiary Hearings

A.12-03-002, A.12-03-003, A.12-003-004

Customer Data Access Applications

February 15, 2013

WHEREAS, on March 5, 2012, Pacific Gas and Electric Company (PG&E) filed Application (A.) 12-03-002, San Diego Gas & Electric Company (SDG&E) filed A.12-03-003, and Southern California Edison (SCE) filed A.12-03-004 pursuant to Decision (D.) 11-07-056, *Decision Adopting Rules to Protect the Privacy and Security of the Electricity Usage Data of the Customers of Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas & Electric Company* (Privacy Decision).

WHEREAS, Ordering Paragraph eight of the Privacy Decision mandated the following:

Within six months of the mailing of this decision, Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas and Electric must each file an application that includes tariff changes which will provide third parties access to a customer's usage data via the utility's backhaul when authorized by the customer. The three utilities should propose a common data format to the extent possible and be consistent with ongoing national standards efforts. The program and procedures must be consistent with policies adopted in Ordering Paragraphs 6 and 7 and the Rules Regarding Privacy and Security Protections for Energy Usage Data in Attachment D of this decision. The application should propose eligibility criteria and a process for determining eligibility whereby the Commission can exercise oversight over third parties receiving this data. The three utilities are encouraged to participate in a technical workshop to be held by the Commission in advance of the filing date. The applications may seek recovery of incremental costs associated with this program.

WHEREAS, on April 9, 2012, the Division of Ratepayer Advocates (DRA), Marin Energy Authority (MEA) and the Alliance for Retail Energy Markets (AReM) filed protests in A.12-03-002. In addition The Technology Network (TechNet) filed a response in A.12.03-002.

Also on April 9, 2012, DRA and ARcM filed protests in A.12-03-003 and A.12-03-004. TechNet filed responses in A.12-03-003 and A.12-03-004. On April 9, 2012, DRA also filed a Motion for Consolidation in each of the three proceedings, and on April 17, 2012, Administrative Law Judge (ALJ) Sullivan consolidated the three applications into one proceeding.

WHEREAS, on April 19, 2012, SDG&E filed a reply to the protests in A.12-03-003. On April 19, 2012, SCE filed a reply to the protests in A.12-03-004.

WHEREAS, multiple motions for party status were filed in April, 2012 (Technology Network (TechNet)); in June, 2012 (EnerNOC, City and County of San Francisco, Open Energy Network, and Distributed Energy Consumer Advocates); and in July, 2012 (Pacific Bell Telephone); all of which were granted by ALJ Sullivan;

WHEREAS, on May 14, 2012, a prehearing conference was held in San Francisco to address issues concerning the management of this proceeding, including proposals pertaining to the scheduling of the proceeding.

WHEREAS, ALJ Sullivan preliminarily determined that hearings may be necessary. However, at the PHC, parties committed to exploring whether it was possible to settle the outstanding issues in the proceeding.

WHEREAS, on May 25, 2012, the *Assigned Commissioner's Ruling and Scoping Memo* was issued, determining the scope of the proceeding to include all issues related to the implementation of a backhaul program to provide third parties access to a customer's usage data based upon the consent of the customer. In addition, the scope of the proceeding includes all issues presented in the applications and the refined issues growing out of the parties' protests and the PHC. At the PHC, the principal issues identified fell into the following categories:

1. Cost – Whether the costs that are associated with the implementation of these

programs are reasonable?

2. Pricing – What are the pricing issues for this service? What pricing issues arise concerning Community Choice Aggregators and Electric Service Providers?

3. Timing – What is the appropriate schedule for resolving the issues in this proceeding? Do all three utilities need to proceed at the same schedule, or can utilities that are ready proceed to act? Is coordination needed across these three applications?

4. Other Proceedings – What is the relationship between this proceeding and other tariff filings and rules development, particularly those arising from D.11-07-056?

5. Third Parties – What policies should apply to third parties receiving the data? What procedures should the Commission adopt to ensure third-party compliance with privacy safeguards adopted by the Commission? Is the self-certification process proposed by SCE adequate and is it reasonable?

WHEREAS, the *Assigned Commissioner's Ruling and Scoping Memo* adopted the parties' proposal to meet informally in June and part of July "on narrowing and hopefully even eliminating any differences on the issues" The utilities would then "facilitate a report on the discussions that would be filed by the end of July." The *Assigned Commissioner's Ruling and Scoping Memo* also adopted the parties' proposal for a short period for comments and replies (on the report).

WHEREAS, on July 30, 2012, following their informal meetings and discussions with parties, the utilities filed their *JOINT IOU REPORT ON THE INFORMAL ALL-PARTY DISCUSSIONS REGARDING THE ISSUES IDENTIFIED IN THE ASSIGNED COMMISSIONER'S RULING AND SCOPING MEMO* ("Joint IOU Report"), representing the consensus recommendations of the parties regarding certain issues in the

proceeding, as well as areas of remaining disagreement.

WHEREAS, on August 21 and 28, the parties filed their opening and reply comments on the Joint IOU Report.

WHEREAS, as a result of their informal discussions and formal pleadings in the record of the proceeding, the parties wish to stipulate to admission of evidence in the record and avoid the need for formal evidentiary hearings,

NOW, THEREFORE, the undersigned parties agree as follows:

1. The parties agree that all pleadings filed by the parties to date in the proceeding, including the applications, protests and responses to the applications; the motions for party status; the Joint IOU Report; and opening and reply comments to the Joint IOU Report, are admitted into evidence and included in the record of the proceeding without objection.
2. The parties agree that, in addition to the above, the transcript of the May 14, 2012 PHC and the testimony served in connection with each IOU application are all admitted into evidence and included in the record of the proceeding without objection.
2. The parties agree that, while contested issues remain and must be resolved by the Commission in its decision on these applications, formal evidentiary hearings on the issues identified in the *Assigned Commissioner's Ruling and Scoping Memo* (cost, pricing, timing, other proceedings, and third parties) are unnecessary and that the stipulated record and comments heretofore filed or to be filed as noted below are sufficient for purposes of issuing a Proposed Decision (PD) on the merits. The

parties agree that DRA and all other parties may file a round of briefs/comments on the remaining contested issues, including 1) cost of implementation, as impacted by 3) below; 2) whether the IOUs' consent forms comply with the Privacy decision, 3) whether Community Choice Aggregation/Direct Access providers should pay for data – and whether, therefore, a proposed PG&E settlement with them should be disapproved; and 4) whether an IOU may cut off third party access to data for violating the rules protecting data privacy, and the mechanics of such process, according to the following schedule:
Opening Comments: March 13, 2013; Reply Comments: March 29, 2013.

3. The parties agree that the Assigned ALJ may, after considering the foregoing record and round of comments due in March 2013, thereafter issue a PD on the merits of the applications based on the stipulated record evidence. The parties reserve in full their rights to file comments on the PD in accordance with Rule 14.3 of the Commission's Rules of Practice and Procedure.

DATED: February 15, 2013

PACIFIC GAS AND ELECTRIC COMPANY

SOUTHERN CALIFORNIA EDISON
COMPANY

SAN DIEGO GAS & ELECTRIC
COMPANY

DIVISION OF RATEPAYER
ADVOCATES

ALLIANCE FOR RETAIL ENERGY

MARIN ENERGY AUTHORITY

MARKETS

THE TECHNOLOGY NETWORK

ENERNOC, INC.

OPEN ENERGY NETWORK

DISTRIBUTED ENERGY CONSUMER
ADVOCATES