

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking Pursuant to Enhance
the Role of Demand Response in Meeting the
State's Resource Planning Needs and Operational
Requirements

R.13-09-011

(Filed September 19, 2013)

**REPLY OF THE DIRECT ACCESS CUSTOMER COALITION
AND ALLIANCE FOR RETAIL ENERGY MARKETS
TO PROPOSALS FOR DEMAND RESPONSE PROGRAM IMPROVEMENTS FOR
BRIDGE FUND YEARS (2015-16)**

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The Direct Access Customer Coalition¹ (“DACC”) and Alliance for Retail Energy
Markets² (“AREM”) submit this reply to the proposals filed by parties on March 3, 2014
regarding demand response (“DR”) program improvements. This reply is in accordance with
date set forth in the *Assigned Commissioner and Administrative Law Judge’s Ruling Providing
Guidance for Submitting Demand Response Program Proposals* (“Ruling”) issued by California
Public Utilities Commission President Michael R. Peevey and Administrative Law Judge Kelly
A. Hymes on January 31, 2014.³

¹ DACC is a regulatory alliance of educational, commercial, industrial and governmental customers who
have opted for direct access to meet some or all of their electricity needs. In the aggregate, DACC
member companies represent over 1,900 MW of demand that is met by both direct access and bundled
utility service and about 11,500 GWH of statewide annual usage.
² The Alliance for Retail Energy Markets is a California non-profit mutual benefit corporation formed by
electric service providers that are active in the California’s direct access market. This filing represents the
position of AREM, but not necessarily that of a particular member or any affiliates of its members, with
respect to the issues addressed herein.
³ Ruling, p. 5.

In these reply comments, DACC and AReM address cost allocation matters as well as providing comments on several of the proposals made by parties, including the Office of Ratepayer Advocates (“ORA”), Pacific Gas & Electric Company (“PG&E”), Southern California Edison Company (“SCE”), San Diego Gas & Electric Company (“SDG&E”), and EnerNOC Inc., Johnson Controls Inc., and Comverge Inc. (collectively, “Joint DR Parties”).

I. COST ALLOCATION FOR THE UTILITIES’ 2015-16 DR PROGRAMS SHOULD BE SUBJECT TO THE COST ALLOCATION DETERMINATION IN PHASE TWO.

Both PG&E and SDG&E propose that their 2015-16 DR program costs should continue to be allocated the same way that their 2012-14 DR program costs have been allocated, *i.e.*, primarily through Distribution rates.⁴ SCE’s proposal is silent on cost allocation for its 2015-16 DR program costs. PG&E and SDG&E fail to point out that cost allocation has been identified as a “Foundational Issue” in Phase Two of this proceeding and that the record on this Foundational Issue has already begun to be developed.⁵ While a proposed decision has been issued on the Foundational Issue of Bifurcation,⁶ additional guidance on the next steps regarding two other Foundational Issues – cost allocation and the use of back-up generators – is expected shortly. Thus, a Commission determination in Phase Two on the cost allocation Foundational Issue is reasonably anticipated before the end of the Bridge Funding period in 2016. Accordingly, the Commission’s determination, whatever that may be and whenever that may be, should immediately apply to the utilities’ cost recovery for their 2015-16 DR programs.

⁴ PG&E proposals, p. 16 and SDG&E proposals, pp. 22-23.

⁵ *Joint Assigned Commissioner and Administrative Law Judge Ruling and Scoping Memo* (“Scoping Memo”), R.13-09-011, p. 9 and Attachment 1, Section 2, pp. 2-3.

⁶ *Decision Addressing Foundational Issue of the Bifurcation of Demand Response Programs*, R.13-09-011, proposed decision issued February 21, 2014.

methodology and/or new negotiations on the pricing of the contract, as being paid based on all event hours, rather than the highest performing hours, will create a significantly different revenue expectation.

3. *ORA proposes to change the dispatch notification for SCE's AMP from 1 hour to 30 minutes.*¹²

DACC and AReM see significant problems with this proposal. First, changing SCE's AMP notification from 1 hour to 30 minutes would impact a significant number of customers who would be unable to perform, with such shorter notice time, given their unique operational constraints. Additionally, original AMP agreements were approved and negotiated with a 1-hour notice requirement. Thus, changing to a 30-minute notification should result in higher customer incentives and renegotiations of the contract terms, including the price. Overall, DACC and AReM would not support this change to the existing program, but would not object if SCE added a new 30-minute notification program with appropriate incentives.

B. ORA proposes to increase the transparency of the IOUs' administration of DR Programs through additional reporting.

In its proposals, ORA expresses concern that the utilities are underutilizing the DR programs for which the ratepayers are paying, even when the triggers for dispatching the resources have been met.¹³ To address these concerns, ORA asks that the utilities provide weekly reports to ORA and the Energy Division with additional data and information to show when and how the utilities are dispatching DR resources, including details about when dispatch events have been called and how much of the overall dispatch availability has been used. DACC

¹² ORA, pp. 5-6.

¹³ ORA, p. 6.

IV. RESPONSE TO SCE'S PROPOSALS.

SCE does not propose any modifications to its CBP and AMP programs.¹⁶

Unlike PG&E, SCE has not negotiated any revisions to its AMP contracts with aggregators to improve their current AMP program. DACC and AReM agree with the Joint DR Parties and ORA that SCE and aggregators should work collaboratively to make beneficial changes and achieve a negotiated agreement to amend AMP contract terms, including potential modifications to commitment levels and pricing impacts, and implement those changes in timely manner.¹⁷

Specifically, the Joint DR Parties have noted that improvements can and should be made to better align contract payment and performance and the latitude afforded for annual and monthly nominations, similar to those approved for PG&E in D. 14-02-033.¹⁸ DACC and AReM are supportive of such changes. DACC and AReM also concur with the Joint DR Parties' proposal that parties should report to the Commission by July 1, 2014 on the status of such discussions.¹⁹

DACC and AReM note that, to the extent SCE enters into discussions on enhancements to its AMP contracts discussed above, and if modifications are made to the AMP program, such changes should also be considered for CBP program modifications. This will help keep AMP and CBP -- both aggregator-managed programs -- consistent, similar to what PG&E achieved in their recent contract modifications.

V. RESPONSE TO SDG&E'S PROPOSALS.

SDG&E proposes several modifications to its CBP program, including:

- **Adding a 30-minute product paying 15% higher than other Day-Of options available.**

¹⁶ SCE, p.3.

¹⁷ Joint DR Parties, p.4; ORA, p. 3.

¹⁸ Joint DR Parties, p.4.

¹⁹ Joint DR Parties, pp.4-5.

- **Removing 20kW minimum size requirement to include smaller customers.**
- **Adjustment to the penalty structure to make it less complicated.** 쁡□η

SDG&E has proposed several modifications to its CBP programs. ²⁰ DACC and AReM support all of these modifications, as they should help increase program participation and provide customers with more options. However, while DACC and AReM support SDG&E’s proposal to add a new 30-minute product option to its CBP program, we are concerned that paying only 15% higher than the current day-of incentives might not be enough to attract customers to this new product. The 30-minute notification time is significantly shorter than the 2-hour notification available for the current day-of CBP option. Consequently, a large number of customers might need to make some costly system modifications to comply with this requirement and thus might not find it economical to opt for the 30-minute option compared to the current 2-hour option. Therefore, DACC and AReM propose that SDG&E increase the incentive for this new product to the maximum possible level that still allows the program to meet the cost-effectiveness criteria. 쁡□η

VI. GENERAL COMMENTS ON EXTENDING EXISTING AGGREGATOR CONTRACTS.

Since the outset of the discussion about Bridge Funding for 2015-16, DACC and AReM have not objected to the Commission’s approach to extend the current utility DR programs for the 2015-16 time period, rather than conduct time-consuming evaluations of the effectiveness of current programs and new contract solicitations, given the focus on making important and foundational changes to the demand response framework in California. However, in evaluating the proposals that have been submitted for modification to the existing contracts for the Bridge Period, it is clear that, particularly with respect to SCE, it is not a simple matter to just extend

²⁰ SDG&E, pp. 19-20.

existing aggregator contracts. As noted above, changing terms and conditions of existing contracts may well alter the value proposition inherent in the original contract, such that it is reasonable for the utility to expect to pay more (or less) than the current price, depending on just what the modifications are, or to adjust the monthly commitment levels embedded in the contracts, while keeping the contracts cost-effective as per the CPUC's guidelines used during 2012-14 program cycle.

When this process of finalizing any changes to the contracts for the Bridge Funding period is completed, each aggregator can then discuss with the utilities whether each is willing to extend the contracts as is or not. Both parties must have the right to decline any extension of the existing contract.

Finally, given the possibility that some existing contracts may not be extended, the decision on this matter should specify what will happen in that event. Specifically, the Commission should state whether the utilities will be allowed -- or required -- to solicit new requests for offers for the 2015-2016 time period. 쉘 □ η

VII. CONCLUSION.

DACC and AReM respectfully request as follows:

- PG&E's and SDG&E's proposals to continue current cost allocation for their DR programs through December 31, 2016 should be rejected. 쉘 □ η
- Cost allocation for all of the utilities' 2015-16 DR programs should be subject to the Commission's determination in Phase Two of this proceeding on the Foundational Issue of cost allocation. 쉘 □ η
- The utilities should be required to immediately adopt in rates the modifications to

their cost recovery specified in such Phase Two decision. 쉘 □ η

- ORA's proposal to receive reports about the utilities' dispatch of DR Resources is not objectionable, so long as the data is treated confidentially. 쉘 □ η
- SCE should work collaboratively with aggregators to amend AMP contracts, as suggested by Joint DR Parties and ORA. 쉘 □ η
- SDG&E' proposed modifications to CBP are reasonable except that increased incentive payments for the 30-minute product should be considered to promote customer participation.

Respectfully submitted,



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