

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

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

Rulemaking 13-09-011  
(Filed September 19, 2013)

**REPLY COMMENTS OF PACIFIC GAS AND ELECTRIC COMPANY  
(U 39E) ON THE PROPOSED DECISION OF ADMINISTRATIVE  
LAW JUDGE HYMES ADDRESSING FOUNDATIONAL ISSUE OF  
THE BIFURCATION OF DEMAND RESPONSE PROGRAMS**

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**I. INTRODUCTION**

Pursuant to Rule 14.3 (d) of the Commission's Rules of Practice and Procedure, Pacific Gas and Electric Company (PG&E) replies to parties' opening comments dated March 13, 2014 on the Proposed *Decision Addressing Foundational Issue of the Bifurcation of Demand Response Programs* (PD) dated February 21, 2014.

PG&E replies to opening comments of the California Independent System Operation (CAISO); the Sierra Club; EnerNOC, Inc., Johnson Controls, Inc., and Comverge, Inc. filing together as the Joint DR Parties; the California Large Energy Consumers Association (CLECA); the Center for Energy Efficiency and Renewable Technologies (CEERT); Southern California Edison Company (SCE); and San Diego Gas & Electric Company (SDG&E).<sup>1/</sup>

**II. PARTIES AGREE THAT BIFURCATION IS PREMATURE AND ORDERING PARAGRAPHS 1 AND 4 SHOULD BE DELETED.**

Parties overwhelmingly cite a lack of evidence to support key provisions of the PD, particularly OP 1 and OP 4, and recommend processes to obtain the appropriate evidence. Many parties' opening comments question whether it is appropriate to bifurcate existing demand

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<sup>1/</sup> The California Energy Storage Alliance (CESA) filed comments proposing terms of a permanent load shifting (PLS) program. To the extent that the comments are out of scope and do not address the PD, they should be disregarded. PG&E does not agree with the comments, but does not address them further.

response (DR) programs at this time. Parties highlight a general lack of evidence and criteria to categorize DR programs as Load Modifiers or Supply Resources and a misplaced need to bifurcate so quickly. Given such a strong reaction by a wide array of parties, the Commission should delay bifurcating existing DR programs until evidence can be presented on all of the outstanding issues pertaining to bifurcation. As part of developing a full evidentiary record, the parties can propose explicit criteria to determine how an existing or new DR program could be categorized.

The Sierra Club questions whether the evidentiary record in this proceeding supports bifurcating existing DR programs, and suggests that proceeding in this manner is legally dubious. The Sierra Club states:

The PD's definition limiting supply resources to 'those that can be scheduled and dispatched into the CAISO energy markets', taken together with Table 2 and Ordering Paragraph 4, could be interpreted to prematurely decide important issues that the PD itself acknowledges must be 'reviewed, addressed, explored, analyzed, and resolved' before implementing California's new vision for demand response. If that interpretation is correct, we believe that the combination of the PD's supply resource definition and Ordering Paragraph 4 directly contradict the views expressed in the Commission's September 25, 2013 Order Instituting Rulemaking (OIR) in this proceeding, and therefore constitute legal error. (Sierra Club, p. 3.)

The Joint DR Parties similarly note that the PD has not proceeded consistently with the opening paragraph of Section 5.1 of the September 25, 2013 *Order Instituting Rulemaking* (OIR). The Joint DR Parties explain:

The process to date in this Rulemaking, however, has *not* included a review and analysis of current DR programs or a discussion as to whether or how to bifurcate them. There also has not been any criteria developed as to how to distinguish between demand-side and supply-side DR resources, and no examination has been conducted as to whether there is an optimal mix of DR resources maintained. This is exactly the type of examination that should have occurred, but has not." (Joint DR Parties, pp.6-7)

CLECA similarly observes:

There is an insufficient record for the ordered bifurcation of existing programs to be reasonable; indeed, the dearth of analysis of the existing programs renders the ordered bifurcation arbitrary. The law requires Commission decision to be supported by findings of fact [citation omitted] and for those findings to be supported by ‘substantial evidence in light of the whole record.’ [citation omitted] There is not substantial evidence in the record, however, on the existing programs. The criteria for deciding which programs should be placed in Supply Resources or which in Load Modifiers are unclear; indeed, the proposed definitions for the categories have not been adopted prior to the proposed bifurcation. [citation omitted] (CLECA, p. 3.)

CEERT similarly questions the appropriateness of bifurcating existing DR programs and recommends the removal of OP 4:

The Proposed Decision must also be modified to eliminate Ordering Paragraph 4, which prematurely divides up existing DR programs between load modifiers and supply resources. A full evaluation of which programs would be classified as load modifiers and those that would be classified as supply resources has not been performed, and these classifications are not supported by the record. It is essential that this paragraph be removed from the Final Decision and this determination should be made as part of the intensive workshops described above. (CEERT, p. 8.)

Although SCE acknowledges that outstanding issues pertaining to bifurcation are not necessarily barriers to adopting bifurcation in concept, it clearly asserts that these issues must be resolved to categorize existing programs as Load Modifiers or Supply Resources. (SCE, p. 2.) SCE also correctly notes that there is no urgency to categorize existing DR programs. In D.14-01-004, the Commission approved the extension of existing DR programs through 2016 so it is unclear why they must be categorized now when doing so will have no impact on how they operate vis-à-vis the CAISO market until 2017. SCE states:

The PD acknowledges several unresolved issues with bifurcation, such as resource adequacy, market integration costs, and jurisdiction of resources, but explains that these issues ‘do not create a barrier to adopting bifurcation.’ The existence of these issues may not create a barrier to adopting the concept of

bifurcation, but it would be premature to categorize existing programs until the issues are resolved and the impacts further understood. Additionally, because the PD does not result in any specific actions for the utilities to take related to bifurcation, there is no urgency to categorize the programs at this time. As such, SCE recommends removal of OP 4 from the PD. (SCE, p. 2.)

SDG&E properly identified the root of the problem when it pointed out that parties were never asked to provide comments on potential barriers to DR market integration:

In Attachment 1 to the Joint Ruling, parties were asked to respond to a number of questions. None of these requested specific categorization of DR programs as Supply or Load Modifying Resources, nor were parties asked to comment on the extent to which any of the existing DR programs, if classified as Supply Resources, would be able to be cost effectively integrated into the CAISO market, be able to create resource adequacy value, and meet local distribution reliability needs.” (SDG&E, p. 3.)

SDG&E further states, "As a result, SDG&E submits that it is premature to classify these as 'Supply Resources.'" (*Ibid.*)

The lack of evidence needed to support bifurcating current DR programs pertains to all outstanding issues associated with bifurcation. Because parties were never asked to provide information that would inform how to bifurcate existing or new DR programs, there is no evidence on which the Commission can base a decision to bifurcate existing DR programs. Most parties see the need to remove or replace OP 1 and OP 4, consistent with PG&E’s opening comments. They also see the need for a well-defined process to obtain the evidence needed to determine how to bifurcate DR programs.

PG&E agrees with the CAISO that there is insufficient evidence in the record to support the PD’s contention that the cost of integrating DR into the CAISO market acts as a barrier to entry. The CAISO calls into question statements in the PD that integrating DR into the CAISO’s market is prohibitively costly. (CAISO, pp. 4-7.) The CAISO’s statement supports PG&E’s proposal to develop a more robust evidentiary record before assigning existing DR programs to one of the two categories proposed in the PD. (PG&E, pp. 2-4.)

As SDG&E states, additional work remains to be done to determine what DR programs

should be integrated into the CAISO market. “The need for additional analysis of the ability of existing DR programs to be classified and serve effectively and cost-effectively as Supply Resources is apparent from the discussion set forth throughout the rest of the PD, which make it clear that the programs that would be classified as ‘Supply Resources’ are currently not able to be scheduled and dispatched in CAISO markets.” (SDG&E, p. 3.)

The Commission should develop an evidentiary record on all of the issues that will impact how existing and new DR programs should be treated in the context of bifurcation. This should include developing a clear set of criteria that will guide whether a DR program should be categorized as a Load Modifier or Supply Resource.

### **III. CONCLUSION**

PG&E respectfully requests the PD be revised to delete Ordering Paragraphs 1 and 4 and make other changes requested in PG&E's Opening Comments. PG&E further requests the Commission schedule proceedings to establish an evidentiary record regarding bifurcation.

Respectfully Submitted,

By: \_\_\_\_\_  
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