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Subject:

As described below, I deny the motion by the Office of Ratepayer Advocates (ORA) to require Pacific Gas and Electric Company (PG&E) and Southern California Electric Company (SCE) to disclose and make public the data in the columns, "Date of Event" and the "Percentage of Available Hours Used," as shown in the tables included in Attachment A of ORA's *Opening Comments On Proposals For Revisions To Demand Response Program For Bridge Fund Years*. However, I approve the motion of ORA to file under seal the entire confidential Attachment A.

Pursuant to Rule 11.1 of the Commission's Rules of Practice and Procedure, on March 3, 2014, ORA filed a motion for leave to file under seal the confidential Attachment A of its *Opening Comments On Proposals For Revisions To Demand Response Program For Bridge Fund Years* (Motion). In addition, ORA requests that PG&E and SCE be required to disclose and make public the data in the columns, "Date of Event" and the "Percentage of Available Hours Used," as shown in the tables included in Attachment A. ORA contends that the "Date of Event" can provide valuable information to determine whether programs were dispatched appropriately and the "Percentage of Available Hours Used" provides information regarding the realistic usage of the agreements compared to their availability. In response to the ORA motion, two objections were filed.

First, PG&E and SCE (together, the Joint Utilities) filed a joint response opposing the release of the "Date of Event" and "Percentage of Available Hours Used" data, explaining that "on an aggregator specific basis, these two pieces of information are confidential and market-sensitive for the individual aggregator."¹ The Joint Utilities contend that maintaining confidential treatment of this information does not make it unavailable for ORA or any non-market participants. The Joint Utilities conclude that the dates of events and the percentages of available hours used for individual aggregators do not need to be public to serve the purposes identified by ORA. The Joint Utilities do not oppose the request to file under seal the entire confidential Attachment A.

Second, EnerNOC, Inc., Johnson Control, Inc., and Comverge, Inc., (together, the Joint Demand Response Parties) filed a joint response contending that the motion to disclose information in the two columns should be denied based on a

lack of justification from ORA regarding 1) why the data in the columns “Date of Event” and “Percentages of Available Hours Used” is not market-sensitive, 2) how the public interest would be served by disclosing the data, or 3) how any public benefit would outweigh the potential competitive harm from disclosing the data in the two columns. The Joint Demand Response Parties do not oppose the request to file under seal the entire confidential Attachment A.

The information contained in the two columns, “Date of Event” and “Percentage of Available Hours Used” is market-sensitive. ORA did not provide any justification regarding why the information should no longer be considered market-sensitive. Furthermore, ORA has access to this data without public disclosure and other non-market participants could access the information under a non-disclosure agreement. There is no justifiable reason to publicly disclose the data in the columns, “Date of Event” and the “Percentage of Available Hours Used,” as shown in the tables included in Attachment A of *The Office Of Ratepayer Advocates’ Opening Comments On Proposals For Revisions To Demand Response Program For Bridge Fund Years*. The request by ORA to publicly disclose this information is denied.

ORA’s unopposed motion to file under seal Attachment A in its entirety is reasonable and, therefore, is granted.

The Docket Office shall formally file this ruling.

Kelly A. Hymes

Administrative Law Judge

California Public Utilities Commission

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Facts are stubborn things; and whatever may be our wishes, our inclinations, or the dictates of our passions, they cannot alter the state of facts and evidence. –

John Adams

1. Joint Response of Pacific Gas and Electric Company and Southern California Edison Company to Motion of the Office of Ratepayer Advocates, March 13, 2014 at 2.