

**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)

**COMMENTS OF THE DIRECT ACCESS CUSTOMER COALITION
AND ALLIANCE FOR RETAIL ENERGY MARKETS ON PHASE ONE
PROPOSED DECISION ON DEMAND RESPONSE PROGRAM IMPROVEMENTS
AND 2015-2016 BRIDGE FUNDING BUDGET**

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May 5, 2014

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The Direct Access Customer Coalition¹ (“DACC”) and Alliance for Retail Energy Markets² (“AREM”) submit these comments on the Proposed Decision (“PD”) issued on April 15, 2014 in Phase One of this rulemaking by Administrative Law Judge (“ALJ”) Kelly A. Hymes, regarding demand response (“DR”) program improvements for the investor-owned utilities (“IOUs”) and the 2015-2016 Bridge Funding budget. These comments are timely filed and served pursuant to Rule 14.3 of the Commission’s Rules of Practice and Procedure. DACC and AREM address two issues raised by the PD: (1) clarifying the need for confidential treatment of data associated with the new DR reporting requirements; and (2) identifying the

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.

steps the IOUs must take if the Aggregator Managed Portfolio (“AMP”) contracts are not extended through the Bridge Funding years of 2015 and 2016.

I. THE PD SHOULD BE MODIFIED TO REQUIRE CONFIDENTIAL TREATMENT OF DATA INCLUDED IN DR REPORTING

The PD adopts a proposal submitted by the Office of Ratepayer Advocates (“ORA”) requiring the IOUs to provide weekly reports to ORA and the Energy Division to describe when a DR program was economic to dispatch but the utility decided to use a non-DR resource instead.³ The PD notes agreement with the IOUs’ concerns about confidentiality and duplication of utility reporting requirements and requires a process for the IOUs, Commission Staff, ORA and other interested parties to develop an agreed-upon reporting template.⁴ The PD further provides a draft template in an Appendix as a “starting point” for the discussions.⁵ DACC and AReM do not oppose these new reporting requirements, provided the data submitted by the IOUs to ORA and Energy Division and data that is ultimately published maintain confidentiality – *i.e.*, as DACC and AReM explained in their reply comments on DR Program Improvements, such public disclosure is acceptable, so long as any aggregator- and/or customer-specific data is kept confidential.⁶

However, although the PD expresses concern about confidentiality of data, it does not require that the reporting template or process of public release address those concerns. In addition, the draft template included in the appendix to the PD requires submission of specific data by the IOUs about aggregators and customers. Accordingly, DACC and AReM request that

³ PD, pp. 15-16.
⁴ See also, PD, Finding of Fact 25, p. 39.
⁵ PD, p. 16 and Attachment A.
⁶ *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)*, R.13 -09-011, March 13, 2014, pp. 6-7.

extended. Should that occur, there would be a significant gap in the level of DR resources that are expected to be available the 2015 through 2016 time period.

There could be many reasons why either party to an existing AMP contract – the utility or the aggregator – may be unwilling to make the type of modifications necessary to result in an agreement that both parties are willing to execute. Whatever the reason may be, DACC and AReM believe that providing some clarity now to the consequences of not extending the current contracts will be beneficial to all parties, and will preclude potential unintended outcomes or contentiousness at precisely the time that quick action will be needed to back-fill the contracts that are not being extended. For instance, it would be highly unfortunate, if the inability to extend the existing AMP contracts were to lead the utilities to request some emergency procurement authority to put costly new resources in place, instead of taking steps to secure new DR resources consistent with established cost-effectiveness criteria.

To forestall such an outcome, DACC and AReM respectfully request that the PD be modified to specify that, in the absence of successful AMP contract extensions, the utilities will be required to conduct fast-track RFPs to secure AMP-like DR resources for the 2015-2016 time period. Because one of the underlying premises for contract extensions was that the extended contracts would continue to meet the cost-effectiveness thresholds set for the 2012-2014 programs, DACC and AReM believe that it would be appropriate that similar thresholds apply to a new RFP, if one is needed.

To ensure that there is sufficient time to conduct new RFPs, should that be necessary, the final decision should require that the utilities report to the Commission no later than July 15, 2014 regarding whether or not contract extensions have been agreed upon. An extension to this

deadline should be granted only if both the utility and the contractual counterparties ask for an extension (because they both agree that they are close to reaching agreement). Should the July 15th report indicate that agreement on contract extensions is not likely to be achieved, the utilities should conduct an RFP no later than September 1, 2014 pursuant to which all qualified DRP providers could offer AMP-like service, in accordance with the established cost-effectiveness guidelines. This sort of RFP competition will ensure that customers are getting the best DR deal possible for the 2015-2016 time period. In Attachment A, DACC and AReM provide proposed modifications to the PD to effectuate this change. 썈□η

III. CONCLUSION.

DACC and AReM respectfully request as follows:

- The PD should be modified to clarify that the new reporting requirements must be designed to protect the confidentiality of the underlying data. 썈□η
- The PD should be modified to set forth the steps the IOUs must take to procure DR resources from third-party DR Providers if the AMP contracts are not extended for 2015 and 2016. 썈□η

Respectfully submitted,



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ATTACHMENT A

RECOMMENDED MODIFICATIONS TO PROPOSED DECISION

Modifications to Conclusions of Law

24. It is reasonable to require SCE **and PG&E** to continue to negotiate with ~~its~~ **their** AMP program contractors for contract extensions through 2016.

Modifications to Ordering Paragraphs

2. Within 30 days from the issuance of this decision Pacific Gas and Electric Company, San Diego Gas & Electric Company and Southern California Edison Company (jointly, the Utilities) shall organize and meet with the appropriate Commission Staff, the Office of Ratepayer Advocates, and any other interested stakeholders to develop an agreed-upon reporting template for providing weekly exception reporting, using the draft reporting template in Attachment A as a starting point. All stakeholders should take into consideration **protection of confidential information and** other utility reporting requirements to ensure no unnecessary duplication. Within 30 days following the initial meeting, the Utilities shall file a Tier Two Advice Letter requesting approval by the Commission of the final reporting template.

3. Within 30 days of the issuance of this decision, Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E) and Southern California Edison Company (SCE) shall meet with the appropriate Commission Staff to discuss and develop a reporting template and timeline **as set forth in Ordering Paragraph 2** to provide feedback on the utilities' experience with bidding into the CAISO energy markets during the 2015-2016

demand response program cycle. Within 30 days of this initial meeting, PG&E, SDG&E and SCE shall each file a finalized reporting template and timeline for approval via a Tier One Advice Letter.

16. Southern California Edison Company (SCE) shall continue to negotiate in good faith with its Aggregator Managed Portfolio (AMP) program contractors to extend the agreements through 2016. SCE and its AMP program contractors are encouraged to consider the changes approved by the Commission in the Pacific Gas and Electric Company AMP agreement improvements approved in Decision 14-02-033 as well as the changes recommended by the Office of Ratepayer Advocates (ORA). SCE and its contractors are encouraged to work collaboratively with each other and with ORA in the process of revising the agreements, to aid in the Commission approval process. **Pacific Gas and Electric Company (PG&E) shall similarly negotiate in good faith with its AMP program contractors to extend the agreements through 2016.**

17. No later than July 15, 2014, Southern California Edison Company **and PG&E** shall file an application requesting approval of 2015-2016 re-negotiated Aggregator Managed Portfolio program agreements. **Alternatively, the utilities shall report that contract extensions are not likely to be achieved and shall instead issue a fast-track Request for Proposals (RFP) no later than September 1, 2014 by which DR Providers may offer to provide AMP-like service for 2015 and 2016 in accordance with cost-effectiveness thresholds that are similar to those used for 2013-2014.**