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July 23, 2014

*****PUBLIC*****

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Subject: PUBLIC Response Of the Office of Ratepayer Advocates to Pacific Gas and Electric Company's Revision to Demand Response Aggregator Managed Portfolio Agreements in Compliance With Decision 14-05-025. (AL 4457-E)

INTRODUCTION

Pursuant to the California Public Utilities Commission's ("Commission") General Order ("GO") 96-B, Section 7.4, the Office of Ratepayer Advocates ("ORA") hereby submits this protest to 4457-E, *Revision to Demand Response Aggregator Managed Portfolio Agreements in Compliance With Decision 14-05-025* ("AL 4457-E"), mailed on July 3, 2014. The Advice Letter is submitted in compliance to Ordering Paragraph ("OP") 8 of Commission Decision ("D.") 14-05-025 authorizing Pacific Gas and Electric Company ("PG&E") to continue the Aggregator Managed Portfolio ("AMP") program agreements for the Demand Response Bridge funding years 2015-2016, as approved in D.13-01-024, D.13-04-026 and D.14-02-033.

PG&E seeks approval of three AMP program agreement amendments with [REDACTED], [REDACTED], and [REDACTED] for 2015-2016 for the Bridge funding years.

PG&E claims each of the executed amendments contains confidential, market sensitive information for the individual aggregator involved, and seeks protection under PUC Section 583 and D.06-06-066.

Ratepayer Advocates in the Gas, Electric, Telecommunications and Water Industries

ORA recommends this Advice Letter should be suspended for the following reasons:

- AL 4457-E should be considered in conjunction with the Settlement or Resolution of Litigation in Phase 3 of R.13-09-011.
- PG&E's AL is deficient as it lacks 2013-2014 DR Contract performance data that is necessary to determine if it would be reasonable to extend these submitted DR contracts.
- PG&E's AL is deficient as it lacks DR Aggregator current Megawatt (MW) customer enrollment levels and 2013-2014 DR Contract performance data that is necessary to determine if the proposed commitment levels are reasonable.

BACKGROUND

Ordering Paragraph 6 of D.14-05-025 (the "Bridge Funding Decision") approved PG&E for its 2014-2015 Demand Response Programs and Activities, including:

- a. the continued operation of all 2012-2014 demand response programs during the 2015-2016 bridge years, except as otherwise denied in this decision;
- ...
- d. the revisions to the Aggregated Managed Portfolio program agreements approved in D.14-02-033.

In that same decision, the Commission issued OP 8, which required PG&E to file a Tier 1 Advice Letter within 45 days of the issuance of the Bridge funding decision, along with copies of the Aggregator Managed Portfolio Program Agreements for approval by the Commission. The decision also states,

Because we authorize the continuation of the AMP contracts as previously approved in D.14-02-033, we do not anticipate any changes in the contracts or the results of the cost-effectiveness analyses. No later than 45 days following the issuance of this decision, PG&E shall submit a tier 1 advice letter that includes copies of the AMP contracts for demand response program years 2015-2016.¹

¹ D.14-05-025, p. 28.

In compliance with OP 8, PG&E's met its timing requirement by filing the Advice Letter within 45 days of the issuance of D.14-05-025. PG&E also attached copies of its AMP agreements in compliance with OP 8.² However, Tier 1 Advice letters are not granted automatically—Energy Division reviews and subsequently make a disposition through Commission resolution, which must contain findings of reasonableness pursuant to Public Utilities Code Section 451.³ PG&E proposes three AMP contract amendments for the 2015-2016 Bridge funding year. Pursuant to 7.4.2 of General Order 96-B, ORA bases its protest on the grounds that,

- (6) whether the “relief requested in the advice letter is unjust, unreasonable, or discriminatory and further review may be needed.

DISCUSSION

The Advice Letter Needs to Be Considered in Conjunction with the Settlement or Resolution of Litigation in Phase 3 of R.13-09-011

ORA is presently engaged in Settlement discussions in Phase 3 of R.13-09-011. ORA recommends the Commission consider defer issuing a disposition on PG&E's Advice Letter, until either: (1) after Settlement is filed or (2) Settlement talks completed,⁴ so that ORA may submit supplemental information to this protest. ORA does not believe that a short delay would prejudice any party—resolution on whether or not parties in R.13-09-011 will reach Settlement is imminent, and likely to resolve itself within the next few weeks. Given the fact that the contract amendments do not begin until [REDACTED], a brief suspension in the advice letter until these issues are resolved

² ORA does not take a position on PG&E's request for confidential treatment.

³ All charges demanded or received by any public utility, or by any two or more public utilities, for any product or commodity furnished or to be furnished or any service rendered or to be rendered shall be just and reasonable. Every unjust or unreasonable charge demanded or received for such product or commodity or service is unlawful.

⁴ At this time, ORA has been a party to Settlement discussions, but not signed a Settlement Agreement.

would not adversely impact the parties. In addition, the extra time with help coordinate with ORA's anticipated protest with Southern California Edison's Tier 1 Advice Letter filing in compliance with OP 18.⁵

AL 4457-E is Deficient as it Fails to Provide Proposed DR Contracts 2013-2014 Performance which is Necessary to Determine Whether it is Reasonable to Extend These Contracts

PG&E's AL 4457-E is deficient as it fails to provide the 2013-2014 performance data of the proposed DR contracts, which is necessary to determine whether it is in the public's interest to extend these contracts. The DR contracts that are the subject of this AL were approved for the 2013-2014 time period. It is necessary for PG&E to supplement this AL with the confidential 2013 and 2014 (to-date) performance for each proposed DR contract.⁶ It is necessary that Commission Staff (including ORA) review the 2013-2014 AMP performance data to determine if it is in the public's interest to extend those proposed DR contracts. ORA recommends the Commission only extend the contracts that have demonstrated good performance over the 2013-2014 time period. ORA reserves the right to supplement this protest at a later date with further recommendations after PG&E provides the AL supplement as specified.

Whether the Proposed Commitment Levels Are Reasonable is Dependent on the 2013-2014 DR Contract Performance

The Commission's obligation to ensure just and reasonable rates are not exempted with regard to contract amendments and extensions. PG&E's proposes three contract amendments to extend contracts with [REDACTED], [REDACTED], and [REDACTED]. PG&E's contract amendments proposes following MW level commitments:

⁵ Ordering Paragraph 18 states, "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."

⁶ See Attachment for proposed template with regards to how the IOUs should consistently report the 2013-14 DR performance.

Table 1: ** HAS BEEN REDACTED **

Table 2: ** HAS BEEN REDACTED **

Table 3: ** HAS BEEN REDACTED **

A determination of whether the proposed commitment levels are reasonable depends on both whether each DR Contract has sufficient customer enrollments to justify the proposed commitment levels and whether the 2013-2014 contract performance justifies extending the contracts at the proposed commitment levels. PG&E should provide Commission Staff (including ORA) with confirmation from each proposed DR Contract which specifies how many Megawatts (MWs) are currently under contract and how many MWs of the commitment level are forecasted amounts to be added in 2015. In addition, the 2013-2014 DR Contract performance data is also necessary as specified above in order to determine whether it is in the public's interest to extend the contracts at the proposed commitment levels. ORA reserves the right to supplement this protest at a later date with further recommendations after PG&E provides the AL supplement as specified.

CONCLUSION

The Commission should consider ORA's issues before issuing a disposition on the advice letter, and allow ORA additional time to submit supplemental information in regards to this protest. Please contact Lisa-Marie Salvacion at (415) 703-2069 (lms@cpuc.ca.gov) if you have any questions about this response.

Sincerely,

/s/ Michael Campbell
Program Manager
Electricity Pricing and Consumer Program Branch
Office of Ratepayer Advocates
California Public Utilities Commission

MC:tlg

Attachment

cc: PGETariffs@pge.com