

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 Resource Planning Needs and  
Operational Requirements.

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

**REPLY BRIEF  
OF THE OFFICE OF RATEPAYER ADVOCATES**

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## **I. INTRODUCTION**

The Office of Ratepayer Advocates (ORA) hereby submits its reply brief in the Order Instituting Rulemaking (OIR) to enhance the Role of Demand Response (DR) in Meeting the State's Resource Planning Needs and Operational Requirements, Rulemaking (R.) 13-09-011. In her August 13, 2014 Ruling, the Administrative Law Judge Kelly J. Hymes directed parties to file opening and reply briefs on August 25, 2014 and September 1, 2014, respectively, on a new Phase Three issue of participation in the Demand Response Auction Mechanism (DRAM) pilot as well as the unresolved Phase Two issues of cost allocation and back-up generators (BUGs). This reply brief addresses comments made by PG&E, Joint DR Parties, SCE and CLECA in their opening briefs.

## **II. DISCUSSION**

### **A. The IOUs, CLECA and Joint DR Parties Fail to Explain How to Ensure There Would Be a Substantial Number of Eligible Customers Available to Participate in DRAM Pilots**

The IOUs, the Joint DR Parties, and CLECA all argue that it is premature to determine that DRAM should be the preferred means to procure Supply DR and that DRAM pilots should first be initiated to gain experience.<sup>1</sup> At the same time, these same parties argue there should not be any limitations on utility solicitations of DR resources. These parties also completely ignore the overlap of schedules for DRAM pilots, the IOUs' 2015-2016 approved Bridge Fund programs, and the proposed settlement recommendation for 2017-2019 DR cycle applications and the likely impact of IOU applications on participation in DRAM pilots. They offer no specific proposals to encourage participation in the DRAM pilots.

DRAM pilots should have the opportunity to show that DRAM could be the preferred model for procuring Supply DR in a competitive and cost effective manner. As ORA argued in its brief, if the Commission adopts the Settlement, all parties including all potential Demand Response Providers (DRPs) and DR customers will have the option to either participate in IOUs 2017-2019 DR programs and/or the DRAM pilots. Given these two options, it is logical that customers would choose whichever option provides them the most compensation and

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<sup>1</sup> SCE Brief p. 11, PG&E Brief, p. 30, SDG&E Brief p. 3, CLECA Brief p. 17, Joint DR Parties Brief p. 5.

compensation certainty. As ORA has explained in its opening brief, most DRPs and their customers, if not all, would opt for the less-stringent, lower-risk, and well-compensated IOU programs such as the Aggregator Managed Portfolio (AMP) program, which are paid based on avoided costs—as opposed to participating in the DRAM pilots that have more stringent performance requirements and potentially *less* compensation as participants are only paid “as bid,” while at the same time having to meet the Commission’s cost-effectiveness requirements. Both CLECA and SCE have themselves expressed this concern in their previous comments.<sup>2</sup> Moreover, there is less certainty of being selected as a DRAM pilot winning bidder because of competition between various bidders based on their bids.<sup>3</sup> In contrast, DRPs in AMP RFOs do not have to compete with each other to be selected as long as they meet the cost-effectiveness requirements.

Unless the Commission ensures there are a substantial number of eligible customers available to participate in DRAM pilots, any results from truncated, customer-deprived DRAM pilots will be inconclusive at best and most likely will be meaningless. The Commission should ensure the DRAM pilots do not result in a futile exercise that squanders ratepayer funds.

**B. PG&E and Joint DR Parties’ Recommendations to Encourage Participation in DRAM Pilots Are Vague and Irrelevant**

PG&E and the Joint DR Parties’ recommendations regarding participation in DRAM pilots are vague and irrelevant.<sup>4</sup>

PG&E states the DRAM pilots should be designed with their own direct mechanisms to encourage participation.<sup>5</sup> Using the IRM2 Supply Side Pilot as a guide, PG&E proposes that a solid outreach, education and recruitment plan as a part of the DRAM pilots will be a positive way to encourage participation without restricting other Supply Resource DR and risking reducing DR overall.<sup>6</sup> Unfortunately, the primary conclusions from the IRM2 Pilot that PG&E reported in its testimony in this proceeding identified two issues: (1) that “non-IOU LSEs have

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<sup>2</sup> ORA Brief, p. 9.

<sup>3</sup> ORA Brief, p. 9.

<sup>4</sup> PG&E Brief p. 31, Joint DR Parties Brief p. 24-26.

<sup>5</sup> PG&E Brief, p. 31.

<sup>6</sup> *Id.*

been reluctant to support their customers' participation in IRM2" and (2) the "uncertainty because IRM2 had only been approved through 2014 and for a tiny number of MWs".<sup>7</sup> Although interesting, both these issues are irrelevant with respect to encouraging participation in proposed DRAM pilots.

Furthermore, both the 2012-2014 IRM2 and the extension of IRM2, approved as part of the 2015-2016 bridge funding for PG&E, are very different from the proposed DRAM pilots in their purpose and structure.<sup>8</sup> While the proposed DRAM pilot is a competitive procurement mechanism to obtain specific products for CAISO's use in its operations, both IRM2 pilots are essentially demonstration projects to identify problems, limitations of bidding into CAISO, and identifying costs and benefits of having DR resources in the CAISO market. Similarly, while the participants in DRAM pilots will bear most, if not all, of the cost of their bid proposals including cost of solicitation of customers in a competitive market, the IRM2 pilots are provided the support of utility-provided program administration, consultant and research costs, an operational platform (for scheduling coordinator, bidding, monitoring, communication etc.) and customer incentives.<sup>9</sup> In addition, DRAM pilots will have to meet specific RA and cost-effectiveness requirements where the IRM2 pilots did not. ORA does not see how any experience gained from IRM2 pilots can be leveraged to attract existing utility program participants or potential new incremental participants to participate in DRAM instead of the more lucrative and non-competitive IOU utility programs unless the Commission places sufficient limitations on some of the IOU programs from the start.

The Joint DR Parties are even less specific about how to encourage participation in DRAM pilots. The Joint DR Parties argue "it is premature to impose restrictions on participation in the DRAM Pilot or limit IOU solicitations for Supply Resources, including Aggregator Managed Program (AMP) contracts, during the period when the DRAM Pilot will be in operation (through 2019)."<sup>10</sup> The Joint DR Parties suggest that a good DRAM design will

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<sup>7</sup> Ex. PGE-01, Appendix B, p. B-9.

<sup>8</sup> The Commission approved extension of IRM 2 in D. 14-05-025 Ordering Paragraph 6; March 3, 2014 PG&E Opening Comments with DR Program Proposals for 2015-2016 Attachment B.

<sup>9</sup> *Id.*, p. 3.

<sup>10</sup> Joint DR Parties Brief, p. 5.

encourage participation. This suggestion is vague; Joint DR Parties fail to discuss what would make DRAM pilots more attractive.

**C. Only ORA and TURN Have Offered Specific Proposals to Ensure DRAM Pilots Will Have an Opportunity to Succeed**

In contrast to vague proposals from PG&E and Joint DR Parties, ORA offer a specific proposal to encourage participation in DRAM pilots. ORA's opening brief recommends the Commission limit the size of each IOU's AMP RFO solicitations in connection with their 2017-2019 DR applications to encourage participation in DRAM pilots during 2015 and 2016.<sup>11</sup> Additionally, ORA recommend that each IOU's AMP MW solicitation be limited to the proven performance of the contracts during events in the peak summer months of 2013.<sup>12</sup> Such limits will encourage AMP DRPs to identify current customers in their AMP contracts that might be most suitable for bidding into DRAM pilots. Based on PG&E's experience with its own DR programs, there needs to be a very large universe of customers available from which only a small number of customers can meet the requirements of Supply Resources and participate in the DRAM pilots.<sup>13</sup> The DRPs who bid in to the DRAM pilots can find new customers to participate in the pilots and can also migrate some of their current customers who would be able to meet the requirements of DRAM. They could replace customers who migrated to the DRAM pilots with new AMP customers, who may not have met the requirements of DRAM pilots, without exceeding ORA's recommended AMP limits. ORA's recommended limitations on 2017-2019 AMP solicitations provide motivation for the DRPs to participate in DRAM pilots if they seek to have long-term DR contracts for MWs beyond ORA's proposed limits for AMP. ORA agrees with PG&E there should be a significant outreach and recruitment effort to bring new participants into the DRAM pilots for meeting the minimum goal of 22 MW for each of the DRAM pilots. ORA's proposal would not hinder additional participation in DRAM in any way.

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<sup>11</sup> ORA Brief, p. 10-11.

<sup>12</sup> PG&E limit 181.226 MW; SCE limit 160.09 MW; ORA recommends that the MW limit for each IOU be based on the maximum load impact performance results used for settlement for each aggregator contract for the events during the peak summer months of August and September 2013.

<sup>13</sup> Ex. PGE-02, Appendix F, p. F-8.

TURN offers multiple proposals which also provide potential methods for motivating participation in the DRAM pilots by setting aside a portion of the IOU's load in its DR programs for exclusive participation in the DRAM pilots. <sup>14</sup>

### III. CONCLUSION

In Decision (D.) 14-03-026, the Commission determined that the utility demand response portfolio of programs should be bifurcated into load modifying resources and supply resources. The same decision also requires operational bifurcation of DR programs beginning with the 2017 demand response program year. By including a DRAM proposal in its rulemaking, the Commission has indicated that DRAM will play a crucial part in shaping the Commission's future procurement policy for DR. Unless the Commission ensures there are sufficient MWs of eligible customers available for DRAM pilots, the DRAM is likely to fail as a preferred procurement mechanism for Supply DR without the Commission having had the opportunity to assess its efficacy. If the DRAM pilot results are inconclusive, the Commission will be left to make important DR policy decisions for the future in a vacuum.

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<sup>14</sup> TURN Brief, p. 8-10.

The Commission should disregard the arguments set forth by the IOUs, CLECA, and the Joint DR Parties about continuing the status quo with respect to the current utility DR program regime. ORA present a sound proposal for AMP that would encourage participation in DRAM pilots without harming the current level of IOU DR participation. As such, ORA recommends the Commission adopt ORA's proposal included in its opening brief.

Respectfully submitted,

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