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)

JOINT REPLY BRIEF OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E), SAN DIEGO GAS AND ELECTRIC COMPANY (U 902 E), PACIFIC GAS AND ELECTRIC COMPANY (U 39 M), THE UTILITY REFORM NETWORK, AND CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION ON COST ALLOCATION

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TABLE OF CONTENTS

Page

I. "PRINCIPLES" THAT FOCUS ON IRRELEVANT CONSIDERATIONS AND IGNORE DEMAND RESPONSE PROGRAM BENEFITS MUST BE REJECTED 1

II. CONTENTIONS THAT ALL SUPPLY RESOURCE DR SHOULD BE TREATED AS GENERATION RESOURCES IGNORE THE BENEFITS THAT SUPPLY RESOURCE DR MAY BE DESIGNED TO CREATE 6

III. MCE, SHELL, AND DACC/AREM ERRONEOUSLY FOCUS ON HOW A DEMAND RESPONSE PROGRAM OPERATES RATHER THAN ON WHO BENEFITS FROM THAT PROGRAM 7

IV. DACC/AREM HAVE FAILED TO PRESENT ANY JUSTIFICATION FOR DEPARTING FROM EXISTING CPUC PRECEDENT ON ALLOCATION OF DR PROGRAM COSTS 9

V. MCE'S SPLIT INCENTIVE PAYMENT PROPOSAL IS FLAWED, POORLY DEVELOPED, AND UNSUPPORTED BY THE RECORD 10

VI. MCE'S CONCERNS ABOUT ACCESS TO AMI REAL TIME DATA ARE OUTSIDE THE SCOPE OF THIS PROCEEDING 11

VII. CONCLUSION 11

SB_GT&S_0343196

TABLE OF AUTHORITIES

Page

RULES OF PRACTICE AND PROCEDURE

Rule 13.11 1

PUBLIC UTILITIES COMMISSION DECISIONS

D. 05-05-056, ... 8

D.06-11-049 7,8

D.09-08-027 8

D.10-12-024 8

D.10-12-035 5

D.12-04-045 8

D.13-01-024 8

D.13-09-025 11,12

D.14-05-025 9

SUMMARY OF RECOMMENDATIONS

Rule 13.11 of the Commission's Rules of Practice and Procedure requires a "summary of the briefing party's recommendations following the table of authorities." To this end, the Settling Parties subgroup (together, Southern California Edison Company (SCE), San Diego Gas and Electric Company (SDG&E), Pacific Gas and Electric Company (PG&E), The Utility Reform Network (TURN) and the California Large Energy Consumers Association (CLECA)) provide the following summary of their recommendations on the cost allocation issue included for briefing in Phase Two and Phase Three of this proceeding. The Settling Parties subgroup respectfully request that the Commission's decision in Phase Two and Phase Three of this proceeding resolve this issues as recommended in this Joint Reply Brief and summarized as follows:

Allocation of IOU DR costs

- The allocation of IOU DR costs among customer groups, including bundled and unbundled, should not be governed solely by whether a DR program is categorized as Supply Resource DR or Load Modifying DR.
- Cost allocation should consider all benefits associated with the IOUs' DR programs.
- Eligibility to participate in the IOUs' DR programs may be a consideration supporting cost-sharing, but cost allocation cannot be limited by the eligibility of customers to participate in the IOU program.
- IOU DR programs benefit all customers by supporting system grid reliability and local reliability, and by advancing and implementing Commission policy for the development and use of DR.
- Unbundled Direct Access (DA) and Community Choice Aggregation (CCA) customers are eligible to participate in IOU DR programs that are available to the IOUs' bundled customers, and receive the same incentives for their participation. The only exception are dynamic pricing programs such as critical peak pricing, where the incentives and surcharges are part of the IOU

SB_GT&S_0343198

generation rate components, which DA and CCA customers do not pay or receive since they do not take generation service from the IOUs.

- Allocation of DR-related costs that are in the IOUs' general rate cases (GRC) (such as system maintenance or upgrades, on-going customer outreach and call centers, billing processes), shall be governed by allocation principles generally applicable to GRC authorized costs.
- DACC/AReM's proposals to depart from existing Commission guidelines on allocation of DR program costs would unfairly burden the IOUs' bundled customers, and exempt DA/CCA customers from sharing the costs of DR programs.
- DACC/AReM's proposals to depart from existing Commission guidelines on allocation of DR program costs which reflect benefits provided are not justified or reasonable.

SB_GT&S_0343199

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Pursuant to Rule 13.11 of the Commission's Rules of Practice and Procedure and the Presiding Administrative Judge's August 13, 2014 ruling, Southern California Edison Company (SCE), San Diego Gas and Electric Company (SDG&E), Pacific Gas and Electric Company (PG&E), The Utility Reform Network (TURN) and the California Large Energy Consumers Association (CLECA) (together, the Settling Parties subgroup), submit their joint response to the opening briefs of the Direct Access Customer Coalition and Alliance for Retail Energy Markets (DACC/AReM), Marin Clean Energy (MCE), and Shell Energy North America (US), L.P. (Shell) (together, Opposing Parties) on the issue of recovery of SCE, SDG&E and PG&E (together, IOUs) costs for demand response (DR) programs from unbundled and bundled customers.[1]

I. "PRINCIPLES" THAT FOCUS ON IRRELEVANT CONSIDERATIONS AND IGNORE DEMAND RESPONSE PROGRAM BENEFITS MUST BE REJECTED

As demonstrated in the direct testimony of TURN and SDG&E, among others, Load Modifying DR benefits all customers, including DA and CCA customers by reducing system peak demand, thereby reducing the Resource Adequacy (RA) requirements that are imposed on all Load Serving Entities (LSEs) operating within the IOU service territory and reducing

[1] SCE, PG&E and CLECA have joined other parties in a separate joint reply brief on back-up generation and Demand Response Auction Mechanism (DRAM) issues that have been reserved for briefing.

SB_GT&S_0343200

wholesale market clearing prices.[2] Supply Resource DR could benefit all customers when procured at above-market prices (based on a comparison to the market price for comparable resource adequacy capacity products), on the basis of a cost effectiveness test that accounts for the benefits created by avoiding the need for new generation capacity, and/or increasing reliability for all customers in an IOU's service area.[3]

The Opposing Parties would have the Commission disregard these benefits and instead change the existing methods for allocation of the IOUs' DR program costs to shift these costs away from DA and CCA customers, and essentially make them the sole responsibility of the IOUs' bundled customers. The Opposing Parties would accomplish this result with a series of flawed principles that are designed to ignore these benefits and ensure that unbundled DA/CCA customers are never responsible for any DR costs incurred by the IOUs. Their proposed principles are designed to ensure that unbundled DA/CCA customers continue to reap the benefits of DR programs while escaping any responsibility to pay for these programs.

1. DACC/AReM's principles are flawed, and result in no cost allocation to DA/CCA customers.[4] They should be rejected.
    a. DACC/AReM's first principle is that DR programs integrated with CAISO markets are like generation and should be paid by bundled customers in the generation rate component. This position ignores the benefits that accrue to DA/CCA customers as a result of the reduction in peak demand produced by Load Modifying DR programs, including a reduced RAR obligation and reduced energy prices as well as the benefits that will accrue to DA/CCA customers from Supply Resource DR, depending on the rules adopted by the Commission in this proceeding. DR resources integrated in CAISO markets are most similar to

[2] See, SGE-06, Prepared Rebuttal Testimony of Cynthia Fang, at pp. 2, line 22-25 – 3, line 1-4; SGE-06, Prepared Rebuttal Testimony of Cynthia Fang, page GK-3, lines 5-20.
[3] See, TURN-01, Prepared Direct Testimony of Kevin Woodruff, page 13, lines 5-16; SGE-06Prepared Rebuttal Testimony of Cynthia Fang, page 4, lines 1-17.
[4] DACC/AReM Opening Brief, pp. 8-9.

SB_GT&S_0343201

capacity procured solely to meet reliability, rather than to provide energy to serve load.[5]

b. DACC/AReM's second principle is that tariffs that are only available to bundled customers should be recovered from them exclusively. DACC/AReM focus on the participant in these programs erroneously ignores the system benefits that accrue to DA/CCA customers as a result of these tariffs.

c. DACC/AReM's third principle is that all customers should bear the cost of avoiding distribution infrastructure. This principle is too narrowly stated, and should include deferral of additions and also protection of reliability for existing infrastructure.

d. DACC/AReM's fourth principle is that programs that are open to all customers but do not meet principles 1 through 3 should be recovered from all customers **only if** they are not integrated with CAISO markets and do not support any procurement function. This principle erroneously shifts the focus from who benefits from DR programs to who participates in these programs. However, the Settling Parties Subgroup agrees that if DA/CCA customers can participate in DR programs, they should pay for these programs through distribution rate components.

e. DACC/AReM's fifth principle is that all program benefits flow to the customers paying the costs. This condition places the cart before the horse. The Settling Parties Subgroup submits that costs should be allocated on the basis of who benefits from those costs.

2. Shell's principles are unreasonable, and should be rejected:[6]

   a. Shell asserts that IOUs should not be involved in providing Supply Resource DR, but if they are the costs should be allocated to bundled customers as generation.

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5 This position also ignores that IOUs have in the past (and also latest LTPP / LCR RFOs in Southern California) been directed to procure generation resources on behalf of ALL customers. Those system generation costs have then been allocated to all benefiting customers through the Cost Allocation Mechanism (CAM.)

6 Shell Opening Brief, pp. 2-3.

Shell's proposal to preclude IOUs from Supply Resource DR and its secondary position fail to recognize the system benefits that DR creates for all customers.

b. Shell argues that Load Modifying DR resources should be allocated on the basis of customer eligibility to participate, and whether RA credits are associated with the program. For the reasons discussed above, the Settling Parties Subgroup submits that DR costs should be allocated on the basis of who benefits from those costs. Load Modifying DR reduces peak demand, which reduces the RA obligation and peak energy prices, to the benefit of all customers, including DA and CCA customers, without regard to which customers participate in these programs.

c. Shell claims that if an IOU's program could be offered by a third party on a competitive basis, the costs of the IOU program should be assigned exclusively to bundled customers. This position is flawed because: (1) DR programs are not being offered by third party load serving entities (LSEs), and both DA and CCA intervenors maintain that the Commission cannot require them to do so; and (2) it ignores the benefits to the system provided by IOU programs. Shell's position would ensure that DA/CCA customers receive benefits from DR programs without any associated cost responsibility and to ensure that only bundled customers pay any above-market costs that may be associated with DR programs.

3. MCE's application of its generalized principles similarly ignores the benefits that DR programs create for all customers. MCE's positions should be rejected:

   a. MCE's first principle is that cost allocation must be aligned with customer benefits.[7] Conceptually, the Settling Parties Subgroup agrees that costs should be allocated to the customers that benefit from those costs. For this reason, costs associated with Load Modifying DR should be allocated to all customers due to the reduction in peak demand that results, decreasing capacity obligations and

[7] MCE Opening Brief, p. 9.

peak energy prices, to the benefit of all customers. Costs associated with Supply Resource DR should be allocated to all customers to the extent it is procured 1) to support public policy goals, 2) on the basis of a cost effectiveness test that among other things, determines cost effectiveness in a way that includes consideration of the benefits created by avoiding the need for new generation capacity, or 3) to provide system and/or local reliability for all customers in an IOU's service area.[8] MCE's comments generally ignore these benefits and instead focus on distribution level benefits.

b. MCE's second principle is that if a DR program is not available to CCA customers, the costs should not be recovered from CCA customers.[9] This MCE principle erroneously focuses on eligibility to participate, when the focus should be on who benefits from the DR costs in question.

c. MCE's third principle proposes that if the CCA offers a substantially similar tariff or program, the IOUs may not recover their costs from CCA customers.[10] This MCE position is hypothetical because no CCA offers DR programs. And it is problematic because concurrently MCE proposes to obtain funds from the IOUs to develop CCA DR programs, which MCE apparently wants to receive without sharing in the cost.[11]

d. MCE's fourth principle would preclude recovery of DR costs through the Cost Allocation Mechanism (CAM).[12] MCE provides no justification for this proposed principle except to argue that a CAM mechanism would somehow undermine the ability of CCA's to efficiently procure capacity resources for meeting their RA obligations. However, the testimony of witness Fang[13] and Woodruff[14], point out that

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8 See, TURN-01, Prepared Direct Testimony of Kevin Woodruff, page 13, lines 5-16; SGE-06Prepared Rebuttal Testimony of Cynthia Fang, page 4, lines 1-17.
9 MCE Opening Brief, p. 11.
10 MCE Opening Brief, p. 14.
11 MCE Opening Brief, p. 10.
12 MCE Opening Brief, p. 15.
13 SGE-06, at p. 5.
14 TURN-01, at p. 13.

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the Commission has also used a CAM-like mechanism for procurement of preferred resources that meet State policy goals.[15] To the extent DA/CCA customers benefit from DR costs incurred by IOUs to meet public policy goals, there is no reason that a CAM mechanism could not be utilized to ensure that those costs are allocated in an equitable manner.

When set forth on an individual basis, as above, the Opposing Parties' arguments against allocating costs to DA/CCA customers look more numerous than they really are. To understand the basic foundation of their arguments, the Commission can analyze them using two frameworks: (1) Supply Resource DR, and (2) for all programs, in terms of how benefits are characterized or repudiated. The following two sections look at DACC/AReM, MCE and Shell's arguments from these perspectives.

II. CONTENTIONS THAT ALL SUPPLY RESOURCE DR SHOULD BE TREATED AS GENERATION RESOURCES IGNORE THE BENEFITS THAT SUPPLY RESOURCE DR MAY BE DESIGNED TO CREATE

Shell and DACC/AReM assert that all Supply Resource DR should be treated as generation and should be assigned to bundled customers' generation rates.[16] These two parties claim that DR resources that can be integrated or bid into the CAISO market have the characteristics of generation and should be treated like generation for cost allocation purposes.[17] However, Shell and DACC/AReM completely ignore the testimony from the CAISO about their need to have DR bid into the market for use to meet system and local reliability needs, which Mr. Millar described in connection with the CAISO's recent analysis for southern California and its transmission planning cycle.[18]

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[15] See, D.10-12-035, at Ordering Paragraph 5, pp. 68-69.

[16] Shell Opening Brief, pp 3-4; DACC/AReM Opening Brief, p. 8

[17] Shell Opening Brief, p. 5; DACC/AReM Opening Brief, p. 8.

[18] Millar, ISO-01, p. 2, ll.7 to p. 5, l. 2; Goodin, ISO-4, p. 19, ll. 15-20. Nor does Shell recognize the role IOU DR played in averting a system emergency on February 6, 2014, cited by CLECA. Barkovich, CLECA-02, p.22.

The Commission can also mandate the IOUs to obtain Supply Resource DR in order to advance state policy, such as creating markets where none currently exist. The DRAM is an example where the IOUs are tools for Commission policy to create a capacity-type market for DR.[19] Obtaining Supply Resource DR to further state policy and create a market as directed by the Commission provides a benefit for the common good, and all customers should share in the costs.[20] In an early decision approving IOU DR programs, the Commission described DR program benefits in the following passage:

> We anticipate the program modifications we adopt today will improve system reliability in 2007 and beyond. Some programs will be more successful than others. Most can be funded by redeploying previously authorized demand response money. We believe the costs associated with changes adopted here are in the public interest because we believe the cost of a vulnerable statewide electrical system would be unacceptably high to most of California's energy customers, particularly business customers.

(D.06-11-049, p. 9.) D.06-11-049 recognized the common good of protecting electric system reliability and continued the status quo allocation of costs to all customers. Labeling a DR program as "Supply Resource DR" today is not an excuse for ignoring what it actually does and what benefits it provides. Supply Resource DR will be able to support reliability for the system and for local areas, and that benefits everyone who uses the system.[21]

Furthermore, even if the DA/CCA customers can participate in the IOU supply resource DR program and receive its incentive payments, as DA customers currently do under the aggregator managed portfolio (AMP) programs, DACC/AReM want none of the costs allocated to their customers. This would be doubly unfair to bundled customers, since the bundled customers would be subsidizing DA/CCA customers who would receive the benefit of the incentive payments from participation, in addition to the system and local reliability benefits

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19 Revised Workshop Report, Section II. G. 4, last paragraph, p. 35.

20 See, SCE Opening Brief, p. 4.

21 Moreover, when IOUs are directed to procure system generation resources on behalf of all customers, those costs have been allocated to all benefiting customers through CAM

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III. MCE, SHELL, AND DACC/AREM ERRONEOUSLY FOCUS ON HOW A DEMAND RESPONSE PROGRAM OPERATES RATHER THAN ON WHO BENEFITS FROM THAT PROGRAM

The positions of DACC/AReM, MCE and Shell on cost allocation for IOU DR programs result from an inappropriate focus on how the programs operate rather than on who benefits from those programs and a unreasonably narrow view of the benefits created through these programs. The preceding section describes how these parties erroneously focus on the label "Supply Resource DR" to avoid cost responsibility, while dropping the other benefits received by their customers out of the equation. In addition, these parties have articulated other principles that would allow DA/CCA customers to avoid an allocation of any IOU DR program costs under nearly any circumstance whatsoever.

For Shell, cost allocation for Load Modifying DR would depend on customer eligibility to participate, but if a third party could offer a similar program (regardless of whether a third party actually offers a program), only bundled customers would bear the costs, without regard to who benefits from these programs. Shell's positions ignore the fact that the IOU's regulated DR programs provide benefits to everyone by supporting system and local reliability.[22] By advancing Commission policies such as changing the market through DRAM and creating new opportunities like Rule 24 direct participation. MCE would also have CCA customers be excused from any sharing of DR costs if the CCA offers similar programs, without regard to whether these future CCA programs, if any, would serve the same state policies in the same way, provide equivalent consumer benefits, or provide system or local reliability protection when and

[22] See, D.05-05-056, p. 4; D.09-08-027, p. 30; D.06-11-049, pp. 5, 8, 9, and Finding of Fact 1, p. 67; D.12-04-045, p. 2 ("The Commission broadly defines demand response (DR) as reductions or shifts in electricity consumption by customers in response to either economic or reliability signals. Economic signals come in the form of electricity prices or financial incentives and reliability signals present themselves as alerts during times when the electricity system is vulnerable to extremely high prices or reliability is compromised."; D.13-01-024, p. 3 ("In the wake of the 2006 California heat storm, the Commission requested Pacific Gas and Electric Company (PG&E) and Southern California Edison Company (SCE) to increase its demand response resources in order to improve grid reliability."[D.10-12-024, Attachment 1, 2010 Demand Response Cost Effectiveness Protocols, Section 1, Introduction, p. 4].).

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where needed. Neither an inappropriate focus on participant eligibility, nor vague references to non-jurisdictional, non-existent DA/CCA provider DR programs, warrant a decision that excuses DA/CCA from any responsibility for sharing in the costs of IOU DR programs that benefit DA/CA customers.

DACC/AReM and MCE would have the Commission use customer eligibility to participate as an initial step in cost allocation, without regard to who benefits from those programs. Under their view, if the DA/CCA customers are not eligible to participate, they would not share the costs even when DA/CCA customers share in the benefits created by these programs. In essence, DACC/AReM and MCE equate participation eligibility, i.e. ability to get the incentives paid to participants, as the sole benefit relevant to cost allocation policies. All other benefits would be ignored. However, even if DA/CCA customers are eligible to participate, DACC/AReM and MCE would only allocate costs to DA/CCA customers if those customers receive all the benefits attributable to the program costs that they pay. As discussed above, this condition is unrealistic and impossible to satisfy - - when DR programs create operational, pricing, and public policy benefits, those features accrue to the benefit of all electricity customers, regardless of who participates in those programs. The benefits cannot be cordoned off and awarded only to customers based on their share of the costs that generated these benefits.

At their heart, the recommendations from DACC/AReM, MCE and Shell are designed to focus on irrelevant criteria and take an extremely narrow, cramped and abridged view of the benefits associated with the IOU DR programs so DA/CCA customers are able to realize benefits from these programs without paying any of the associated costs. Their positions would not result in equitable allocation of costs to DA/CCA customers and bundled customers. Instead they essentially would foist the cost burden entirely on bundled customers, leaving DA/CCA customers to enjoy the benefits created for the common good and the participation incentives paid to individual customers without responsibility for the costs.

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IV. DACC/AREM HAVE FAILED TO PRESENT ANY JUSTIFICATION FOR DEPARTING FROM EXISTING CPUC PRECEDENT ON ALLOCATION OF DR PROGRAM COSTS

DACC/AReM's opening brief, at pages 2-3, includes a table of currently authorized IOU DR program costs for the 2015-2016 bridge period funding. DACC/AReM's brief implies that these costs should be reallocated based on DACC/AReM's proposed cost allocation principles. In this case, DACC/AReM did request that the Commission consider any cost allocation and cost recovery determinations made in Phase Two of this proceeding applicable to the bridge years of 2015 and 2016.[23] However, DACC/AReM's request regarding allocation of costs for the 2015-2016 bridge period was definitively denied in D.14-05-025, where the Commission stated in Ordering Paragraph 20:

> 20. The request by the Direct Access Customer Coalition/Alliance for Retail Energy Markets that the Commission consider any cost allocation and cost recovery determinations made in Phase Two of this proceeding applicable to the bridge years of 2015 and 2016 **is denied**.

(D.14-05-025, OP 20, emphasis added.) These parties have presented no relevant new facts that would justify a change in this prior Commission determination, for either existing or future DR programs.

V. MCE'S SPLIT INCENTIVE PAYMENT PROPOSAL IS FLAWED, POORLY DEVELOPED, AND UNSUPPORTED BY THE RECORD

MCE's brief focuses on incentives *paid* to customers for participation in DR programs that MCE says are split between generation and delivery charges. MCE calls this situation "split incentive payments".[24] But in the same paragraph, MCE complains that it cannot capture DR funds *collected* from customers on the delivery side of the bill. MCE introduced this idea of "split incentives" for the first time in its opening brief. The idea is not contained in MCE's testimony.[25] Thus there is no evidence explaining what it is. In addition, the discussion in MCE's brief is difficult to comprehend. In one sentence, MCE's describes incentives awarded to customer for participating in DR programs. Then, MCE complains about not being able to

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[23] D.14-05-025, p. 5.

[24] MCE Opening Brief, pp. 17-18.

[25] Nor is it in any other party's testimony, as far as PG&E has determined

capture amounts that customers pay in distribution rates. There are contradictions in MCE's discussion. First, it is not clear whether MCE is concerned about participation incentives being paid to customers, or cost recovery amounts collected from customers. Second, MCE does not provide distribution service, so it should not expect to receive amounts in the distribution rate.

The IOUs are unaware of a specific participation incentive being split between distribution and generation. Incentives paid under different DR programs may be provided as a separately stated credit on the customer's bill, or as a rate surcharge/reduction, but the incentive paid for a given program is not split. MCE also ignores that customers who participate in DR programs through aggregators receive their DR participation incentives through private contractual arrangement between the aggregator and its customers. Where aggregators are involved, the IOU pays the participation incentive to the aggregator. What the aggregator pays its DR customers pursuant to their contract is neither known by the IOUs, nor subject to the Commission's oversight. And, as far as the IOUs know, CCAs are not parties to, nor third-party beneficiaries, to the aggregator agreements with their customers.

The Commission should dismiss MCE's arguments for the reasons discussed above.

VI. MCE'S CONCERNS ABOUT ACCESS TO AMI REAL TIME DATA ARE OUTSIDE THE SCOPE OF THIS PROCEEDING

MCE complains about not having access to real-time usage data for its customers, which it identifies as a long-standing issue for advanced metering infrastructure (AMI) data.[26] The Commission addressed the IOUs' systems and processes for providing customer data to others, like MCE, in Application (A.)12-03-002, et. seq., pursuant to a settlement of data access issues among PG&E, MCE and other parties.[27] PG&E's A.12-03-002 requested authorization to implement a data access platform called the "Customer Data Access" (CDA) project,[28] which

[26] MCE Opening Brief, pp. 15-17.

[27] The PG&E and SCE platforms will enable improved transfer of customer data to third parties, such as DA and CCA providers.

[28] (D.13-09-025, p. 2.) SCE's is called "Energy Service Provider Interface" (ESPI).,(*Id.* p. 10)

SB_GT&S_0343210

D.13-09-025 approved.[29] The Commission noted that pursuant to a settlement with PG&E, MCE (and AReM) would have equal access pursuant to the CCA and DA tariffs at no cost to consumption data also provided by PG&E at the request of a customer to a third-party.[30] (D.13-09-025, Finding of Fact 28.) PG&E is building CDA, which should be operational around the end of the first quarter, 2015.[31] The issue of access to AMI data is out of scope for this proceeding, and already addressed in the CDA and CCA decisions. MCE should address any data access issues with PG&E about CDA implementation with PG&E pursuant to D.13-09-025 in those proceedings and pursuant to those decisions and tariffs.

VII. CONCLUSION

For the forgoing reasons, the Settling Parties subgroup respectfully submits that the Commission should allocate DR program costs on the basis of who benefits from those programs, including consideration of all of the operational, pricing, and public policy benefits that are created by those programs.[32] The Commission should reject "principles" that have been proposed with a goal of shifting focus from who benefits from DR programs to irrelevant features and details associated with how those programs operate at a microscopic level.

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[29] D.13-09-025 also approved SCE's ESPI proposal. SDG&E's platform is called "Customer Energy Network". SDG&E's system was already installed at the time of D.13-09-025. (D.13-09-025, p. 11.)

[30] MCE is already entitled to access its customers' data under the CCA tariffs; therefore MCE's access to its customers' data via CDA will not require customer authorization..

[31] MCE was formerly known as Marin Energy Authority (MEA.)

[32] Each member of the Settling Parties subgroup has authorized PG&E to sign and file this reply brief on its behalf.

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