

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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Application of Pacific Gas and Electric Company
for Approval of its 2009 Rate Design Window
Proposals for Dynamic Pricing and Recovery of
Incremental Expenditures Required for
Implementation. (U39E)

Application 09-02-022
(Filed February 27, 2009)

**COMMENTS OF ENERNOC, INC.,
ON PROPOSED DECISION OF ALJ FUKUTOME**

January 11, 2010

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EnerNOC, Inc. (EnerNOC) respectfully submits these Comments on the Proposed Decision (PD) of Administrative Law Judge (ALJ) Fukutome on Peak Day Pricing for Pacific Gas and Electric Company (PG&E) issued in Application (A.) 09-02-022 (PG&E Rate Design Window (RDW)) on December 22, 2009. These Comments are filed and served pursuant to Article 14 of the Commission's Rules of Practice and Procedure and the instructions accompanying the Proposed Decision.

**I.
INTRODUCTION**

EnerNOC is a leading developer and provider of demand response services. EnerNOC participates in the Capacity Bidding Program (CBP) and Base Interruptible Program (BIP) of each of the three investor owned utilities (IOUs). In addition, EnerNOC is currently providing demand response resources to Pacific Gas & Electric Company (PG&E), San Diego Gas and Electric Company (SDG&E), and Southern California Edison Company (SCE) through bilateral contracts approved by this Commission.¹ EnerNOC has made a strong commitment to help California meet its demand response (DR) goals with offices in San Francisco and over 45 employees in Northern and Southern California.

¹ See, e.g., Decision (D.) 09-09-015 (approving a demand response contract between SDG&E and EnerNOC, Inc.).

EnerNOC's focus in this application has been on ensuring that PG&E's Peak Day Pricing (PDP) proposal is consistent with the Commission's current precedent and direction for opting-out and dual participation by customers in demand response (DR) programs. To this end, EnerNOC participated both in the evidentiary hearings in this application and filed opening and reply briefs on these issues.

With respect to A.09-02-022, EnerNOC had been concerned that PG&E's proposal for its new default critical peak pricing (CPP) rate, referred to as PDP, would have significant impacts on other DR programs. Specifically, it was EnerNOC's position that the implementation of PDP, as proposed by PG&E, would prevent any further growth in other demand response programs, including the CBP, BIP, and Aggregator Managed Portfolio (AMP) contracts, because of limitations placed by PG&E on customers 1) opting out of PDP and 2) participating in both PDP and DR programs.

In August 2009, the Commission issued Decision (D.) 09-08-027 approving the IOUs' demand response activities and budgets for 2009-2011 (A.08-06-001, et al.) and adopting policies governing all DR programs. In its briefs in this application, EnerNOC sought to ensure that any final program adopted by the Commission would be consistent with the rules and policies adopted in D.09-08-027.

The PD addresses EnerNOC's concerns about the opt-out provisions and conforms to the Commission's policy directions on dual participation adopted in D.09-08-027. EnerNOC, therefore, strongly supports the Proposed Decision on these two issues. In adopting the PD, however, EnerNOC does ask that the Commission provide one clarification, as described below, on the timing of the additional functionality required to accommodate the PD's opt-out provisions.

II.

THE PROPOSED DECISION'S FINDING THAT PG&E CUSTOMERS SHOULD BE ALLOWED TO OPT-OUT OF PDP AT ANY TIME TO ENROLL IN ANOTHER DR PROGRAM IS CORRECT AND SHOULD BE ADOPTED BY THE COMMISSION WITH ONE CLARIFICATION ON THE TIMING OF THIS REQUIREMENT.

The PD extends PG&E's first year opt-out provision to *all* customers, including those who affirmatively opt in, and determines that the opt-out provisions will be applicable any time during the first year and on an annual basis thereafter.² In addition, the PD adopts EnerNOC's recommendation that customers be allowed to opt-out of PDP if they opt-out to enroll in a DR program. Specifically, the PD states:

“PG&E customers should be allowed to opt out of PDP at any time, if they opt out to enroll in another DR program. However, we will not hold up the May 1, 2010 implementation of PDP to accommodate this revision to PG&E's proposal, but will require that PG&E incorporate the change as soon as possible.”³

EnerNOC believes this additional functionality will improve PG&E's proposal and maintain the customers' commitment to demand response while increasing customer satisfaction. Our concern is that the PD concludes that this functionality should be incorporated “as soon as possible” rather than having the requirement coincide with the end of the first program year. If this functionality is not available at the end of the first program year, customers would be required to commit to PDP for the second year and would not be able to opt out during that year to enroll in a DR program. EnerNOC, therefore, requests that the Commission, in adopting the proposal to allow customers to opt-out of PDP at any time to enroll in another DR program, also provide that this functionality be available no later than the beginning of the second PDP program year in 2011.

² PD, at p. 51.

³ PD, at p. 51.

III.
**THE PROPOSED DECISION’S FINDINGS ON DUAL PARTICIPATION
CONFORM TO D.09-08-027 AND SHOULD BE ADOPTED BY THE COMMISSION.**

The PD’s discussion on dual participation in PDP and DR programs concludes that this issue was already determined in D.09-08-027. In this regard, the PD states:

“[A]t this time, we agree with EnerNOC’s recommendation that PG&E’s PDP tariff should be modified to allow PG&E customers to participate in both the PDP and Day-of dispatchable demand response programs at the same time, to conform to the Commission’s rules for dual participation established in D.09-08-27.”⁴

In addition, the PD addresses the issue raised by several parties, including EnerNOC, that there may need to be revisions to the PDP proposal to address any double payment concerns.

The PD does authorize PG&E to implement PDP without making these revisions subject to the following conditions:

“We will therefore authorize PDP implementation without making such revisions. PG&E states that it plans to address this when complying with the ordering paragraphs of D.09-08-027. That is satisfactory, if it is feasible to do so . . . In any event, to the extent that PDP is implemented before the revisions are made, PG&E should collect data to understand and evaluate how the payments overlap and use that information in determining how best to revise the PDP program.”⁵

EnerNOC supports the PD’s recommendations on dual participation and requests that the Commission adopt these provisions.

⁴ PD, at p. 56.

⁵ PD, at pp. 56-57.

**IV.
CONCLUSION**

EnerNOC requests that the Commission adopt the PD's recommendation that customers be allowed to opt-out of PDP at any time to enroll in another program, with the clarification that this functionality should be available no later than the beginning of the second PDP program year in 2011. In addition, EnerNOC requests that the Commission adopt the PD's recommendations on dual participation, which conform to the Commission's policy directions adopted in D.09-08-027.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Sara Steck Myers, am over the age of 18 years and employed in the City and County of San Francisco. My business address is 122 - 28th Avenue, San Francisco, California 94121.

On January 11, 2010, I served the within document **COMMENTS OF ENERNOC, INC., ON PROPOSED DECISION OF ALJ FUKUTOME**, in A.09-02-022 (PG&E RDW), with service on the A.09-02-022 service list (attached) in the manner prescribed by the Commission's Rules of Practice and Procedure, with additional and separate service of electronic and paper copies by U.S. Mail to Assigned Commissioner Peevey and Assigned ALJ Fukutome, at San Francisco, California.

Executed on January 11, 2010, at San Francisco, California.

/s/ SARA STECK MYERS

Sara Steck Myers

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A.09-02-022 (PG&E RDW)
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