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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company (U39E) for Approval of Demand Response Programs, Pilots and Budgets for 2012-2014.

Application 11-03-001
(Filed March 1, 2011)

And Related Matters.

Application 11-03-002
Application 11-03-003

**JOINT ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE'S
RULING AND SCOPING MEMO**

Pursuant to Pub. Util. Code § 1701.1 and Article 7 of the Commission's Rules of Practice and Procedure (Rules), this Ruling and Scoping Memo sets forth the category, issues, need for hearing, schedule, and other matters necessary to scope this proceeding.

Background

Commission Decision (D.) 09-08-027, approving 2009-2011 Demand Response (DR) activities and budgets for Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E) and Pacific Gas and Electric Company (PG&E), required SCE, SDG&E, and PG&E (collectively, the Joint Applicants) to file applications by January 30, 2011 for approval of DR activities and budgets for 2012-2014. D.10-12-024, which provides a consistent method for estimating the cost effectiveness of demand response activities, revised the deadline for filing of the applications to not later than March 1, 2011.

On March 1, 2011, the Joint Applicants each filed an application for approval of DR programs, activities, pilots, and budgets for 2012-2014 (Applications). Assigned Administrative Law Judge (ALJ) Kelly A. Hymes issued a Ruling on March 30, 2011, consolidating the three Applications into one proceeding, A.11-03-001 et al., and setting a pre-hearing conference (PHC) for May 3, 2011. The assigned ALJ also emailed the service list on March 31, 2011 clarifying that due to the consolidation of the three Applications, protests and responses would be due on April 4, 2011. Parties filed timely protests and responses to the Applications on April 1, 2011 and April 4, 2011.¹

In a related matter, ALJ Hymes issued a Ruling on April 29, 2011² that incorporated by reference into the record of this proceeding the Statewide Joint Investor-Owned Utility Study of Permanent Load Shifting³ (PLS Study) and its associated comments and reply comments. The Ruling also provided further guidance to the Joint Applicants for revising estimates of the cost effectiveness of proposed PLS activities in the Applications.

¹ North America Power Partners, Inc. and California Independent System Operator Corporation (CAISO) filed responses on April 1, 2011; Comverge, Inc., Enernoc, Inc., Energy Inc., California Energy Storage Alliance, and Ice Energy Inc. filed responses on April 4, 2011 and the Division of Ratepayer Advocates (DRA) and the Alliance for Retail Energy Markets filed protests on April 4, 2011.

² The April 29, 2011 Ruling is available at <http://docs.cpuc.ca.gov/efile/RULINGS/134347.pdf>.

³ The PLS Study was also placed into the formal record of Rulemaking (R.) 07-01-041 by a February 11, 2011 ALJ Ruling in that proceeding, and is available at <http://docs.cpuc.ca.gov/efile/RULINGS/130717.pdf>.

On May 3, 2011, a PHC was held to determine parties, scope, schedule and other procedural matters. In addition, the assigned ALJ entertained questions and comments on the April 29, 2011 Ruling regarding the PLS Study.

Category

The Joint Applicants requested this matter be categorized as ratesetting. The Commission preliminarily categorized this matter as ratesetting. (Resolution ALJ 176-3270, dated March 10, 2011.) We confirm the preliminary assessment and categorize this proceeding as ratesetting. This ruling may be appealed. Appeals must be filed and served within 10 days. (Rule 7.6.)

Need for Hearing and Discovery

Joint Applicants stated that hearings would be required. The Commission preliminarily determined that hearings are necessary. (Resolution ALJ 176-3270, dated March 10, 2011.) None of the Respondents or Protestants opposes this determination. We agree that hearings are necessary and will be scheduled.

For convenience and efficiency, parties and the Joint Applicants are encouraged to work together so as not to duplicate efforts in terms of discovery. The Joint Applicants are encouraged to serve discovery request responses to all parties, where there are no confidentiality issues. If parties have discovery disputes they are unable to resolve by meeting and conferring, they should raise these disputes with the presiding officer, pursuant to Rule 11.3.

Filing, Service, and Service List

Parties must file certain documents as required by the Commission Rules or in response to rulings by either the assigned Commissioner or the assigned ALJ. All formally filed documents must be filed with the Commission's Docket Office and served on the service list for the proceeding. Article 1 of the Rules contains all of the Commission's filing requirements.

Parties are encouraged to file and serve electronically, whenever possible. This proceeding will follow the electronic service protocols adopted by the Commission in Rule 1.10 for all documents, whether formally filed or just served. This Rule allows electronic service of documents, in a searchable format, unless the party or state service list member did not provide an e-mail address. If no e-mail address was provided, service should be made by U.S. mail. Concurrent e-mail service to ALL persons on the service list for whom an e-mail address is available, including those listed under "Information Only," is required. Parties are expected to provide paper copies of served documents upon request. More information about electronic filing is available at <http://www.cpuc.ca.gov/puc/efiling>.

Parties are responsible for ensuring that correct information is contained on the service list, and notifying the Commission's Process Office and other parties of corrections or ministerial changes. (Rule 1.9(e).) Substantive changes (e.g., to be added or removed as a party) must be made by motion. Motions to become a party must conform to Rule 1.4(a) and (b). Over the course of the proceeding, parties must use the most current service list each time service is performed. The service list for this proceeding is on the Commission's web page.

Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures or who has questions about the electronic filing procedures should contact the Commission's Public Advisor at (866) 849-8390 or (415) 703-2074, or (866) 836-7825 (TTY-toll free), or send an e-mail to public.advisor@cpuc.ca.gov.

Intervenor Compensation

The PHC in this matter was held on May 3, 2011. Pursuant to Pub. Util. Code § 1804(a)(1), a party who intends to seek an award of compensation must file and serve a notice of intent to claim compensation by June 2, 2011.

***Ex Parte* Communications**

Ex parte communications are governed by the Public Utilities Code and Commission Rules. In any ratesetting proceeding, *ex parte* communications are restricted and subject to the reporting requirements set forth in Rule 8.3. (Rule 8.2(c)).

Presiding Officer

Pursuant to Rule 13.2, ALJ Kelly A. Hymes shall be the Presiding Officer.

Viridity Energy Inc.'s Motion for Party Status

On May 6, 2011, Viridity Energy, Inc. (Viridity) served a motion requesting party status. In its motion, Viridity explained that, as a demand response provider, its interests will be affected by the outcome of this proceeding. Viridity has begun to informally participate in this proceeding. Viridity contends that its participation will not prejudice any party, delay the schedule or broaden the scope of issues in the proceeding. Viridity's motion for party status is granted.⁴

April 29, 2011 Ruling on Permanent Load Shifting

D.09-08-027 directed the Joint Applicants to work together with parties to study permanent load shifting so as to develop strategies to expand its availability. In an April 29, 2011 Ruling, ALJ Hymes directed the Joint

⁴ Rule 11.1(g) provides that the Commission or the Administrative Law Judge may rule on a motion before responses or replies are filed.

Applicants to refile and re-serve, within 21 days, the permanent load shifting portions of the Applications such that they conform to the guidelines contained in the ruling.

During the PHC, PG&E clarified that its Application does not address its cost-effectiveness analysis of permanent load shifting. Rather, the cost-effectiveness analysis is in its testimony that was served to the parties on March 1, 2011. PG&E proposed that instead of refiling the applications, PG&E could amend its testimony, work papers, and the spreadsheets located on the PG&E website. Furthermore, PG&E recommended that it could re-serve the amended testimony to the service list. Both SDG&E and SCE agreed with PG&E's clarification and recommendation, and noted that this also applied to the Applications of SDG&E and SCE.

We confirm that the cost effectiveness analysis of the permanent load shifting programs is not in the Applications of the Joint Applicants but is included in the testimony of PG&E, SDG&E and SCE. We clarify that the Joint Applicants shall amend the testimony per the guidelines of the April 29, 2011 Ruling and serve the amended testimony to the service list not later than May 20, 2011 as required by the same Ruling. The work papers and spreadsheets shall also be amended at the same time.

Issues

During the PHC, the assigned ALJ proposed a set of issues to be addressed in this proceeding which the parties discussed. After further review, the issues to be addressed in this proceeding are as follows:

A. COMPLIANCE

We will review the Applications for compliance with any and all directives related to DR.⁵ While the proceeding will focus on DR-specific directives including the emergency-triggered programs settlement, the analyses will also look to ensure compliance with Resource Adequacy rules. Furthermore, this proceeding will specifically look at the compliance of the cost-effectiveness measurements and inputs.

Parties should be aware that there are Commission decisions that, while not containing any specific requirements for the 2012-2014 DR applications, contain references to DR in general that could apply to these Applications, e.g., D.11-01-036 encourages PG&E to improve the price trigger for its AC cycling program in its 2012-2014 DR application. There are also several Commission proceedings that may not contain any specific requirements for the 2012-2014 DR applications, but may contain potential overlap, e.g., A.10-09-002, the Dynamic Pricing Proceeding.⁶ These proceedings will be monitored by the assigned ALJ and Commission staff for any potential overlap with or impact on this proceeding.

⁵ ALJ Jessica Hecht's August 27, 2010 Ruling required that: 1) the utilities' Applications shall conform to the guidelines outlined in this [August 27, 2010] ruling, and 2) all requirements for the 2012-2014 Applications made in previous Commission orders, including any not mentioned in this [August 27, 2010] ruling, still apply.

⁶ We will not, however, review dynamic rates themselves. An August 27, 2010 Ruling by ALJ Hecht declares, on page 5, that the demand response applications proceeding will focus on price responsive demand response, not dynamic rates. Footnote 5 accompanies this declaration, stating, "The authority to develop and recover costs associated with dynamic rates will be addressed in other proceedings." The Ruling notes that utilities should keep in mind that the proposals should complement dynamic pricing and/or respond to wholesale price signals.

B. REASONABLENESS

This proceeding will evaluate the reasonableness of program and portfolio design, measured in terms of cost effectiveness, track record, future performance, cost, flexibility and versatility, adaptability, locational value, integration, consistency across the Joint Applicants' applications, simplicity, recognition, environmental benefits, consistency with Commission policies⁷ and general policies affecting revenue allocation. The focus of the reasonableness analysis will be the applications in general, both for individual programs and the portfolio as a whole. However, the proceeding will also include the performance of a reasonableness review on dual participation and the baseline methodology.

C. FORWARD LOOKING ISSUES

The proceeding will look at the evolving nature of DR and the impact of its evolution on these current and future applications. The proceeding will determine the adequacy of the DR programs, looking at whether existing and proposed programs and pilots are sufficient to meet California energy goals in light of the changing nature of the energy grid and the 33% renewables requirement.⁸ The review will address specific activities including PLS cost-effectiveness, CAISO market integration, aggregator-utility contracts, and DR market competition. Policies for these activities may be revised or further developed in this proceeding. However, the specifics for the policies may also be determined in the associated Rulemaking on Demand Response (R.07-01-041).

⁷ The Commission utilized these same factors to analyze the 2009-2011 DR applications.

⁸ On April 12, 2011, California Governor Jerry Brown signed Senate Bill X1-2, requiring all California utilities, public and private, to get 33 percent of their electricity from renewable sources by the end of 2020.

Because California energy policies are dynamic, the proceeding will look to ensure continuous coordination of DR programs with other Commission and State agencies' energy policies and programs including the California Energy Action Plan⁹ and the California Long Term Energy Efficiency Strategic Plan.¹⁰

Further Direction to Joint Applicants

In order for the Commission to move forward expeditiously with the analysis of the Applications, the following additional or revised information is required from the Joint Applicants.

First, in its protest and at the May 3, 2011 PHC, DRA requested a clarification regarding the April 1, 2011 Load Impact Reports. DRA explained that the Joint Applicants had filed the Applications prior to the availability of the April 1, 2011 Load Impact Reports. DRA suggested that the parties could benefit from receiving the load impact forecasts based on the April 1, 2011 numbers.

⁹ In 2003, the Commission, the California Energy Commission (CEC), and the California Power Authority adopted an *Energy Action Plan* that articulated a single, unified approach to meeting California's electricity and natural gas needs. In 2005, the CEC and the Commission adopted a second plan, *Energy Action Plan II*, to reflect the policy changes and actions of the ensuing two years. At the beginning of 2008, the two state agencies prepared an "update" that examined the state's ongoing actions in the context of global climate change. More information can be found at:

<http://www.cpuc.ca.gov/PUC/energy/resources/Energy+Action+Plan/>

¹⁰ On September 18, 2008, the Commission adopted California's first Long Term Energy Efficiency Strategic Plan, presenting a single roadmap to achieve maximum energy savings across all major groups and sectors in California. This comprehensive Plan for 2009 to 2020 is the state's first integrated framework of goals and strategies for saving energy, covering government, utility, and private sector actions, and holds energy efficiency to its role as the highest priority resource in meeting California's energy needs. More information and a copy of the Strategic Plan can be found at:

<http://www.cpuc.ca.gov/PUC/energy/Energy+Efficiency/eesp/>

In the August 27, 2011 Ruling providing guidance for the 2012-2014 DR Applications, ALJ Hecht surmised that the load impact estimates in the 2012-2014 Applications will likely be based on April 2010 load impact reports and because changes were made to existing programs for summer 2010, the available load impact data might not take these changes into account. ALJ Hecht put the parties on notice that “the Commission may require the utilities to submit revised testimony on load impact and cost effectiveness to reflect the load impact estimates in their April 1, 2011 filings.”¹¹

Energy Division Staff has compared the load impact data used in the March 1, 2011 cost effectiveness analysis to the load impact data in the April 1, 2011 report and finds the two to have significant differences. Because of those differences, we direct the Joint Applicants to revise their cost effectiveness analyses and load impact estimates served on March 1, 2011 using the data from the April 1, 2011 Load Impact Reports and serve the revisions no later than May 27, 2011.

Second, Energy Division staff has determined that the flexibility permitted in the cost effectiveness protocols adopted in D.10-12-024, has hampered the analysis of the applications in that the Joint Applicants have utilized some different inputs in the cost effectiveness analysis. Attachment 1 of this Ruling outlines the requirements for identical inputs across all three of the Joint Applicants. The Joint Applicants shall revise their cost-effectiveness analyses and load impact estimates using data from the April 1, 2011 Load Impact Report,

¹¹ Administrative Law Judge’s Ruling Providing Guidance for the 2012-2014 Demand Response Applications, August 27, 2010 at 18-19.

as well as the inputs in Attachment 1 and serve to the parties not later than May 27, 2011. This will maintain a degree of flexibility, but allow for analysis across the three utilities.

Schedule

At the May 3, 2011 PHC, the assigned ALJ proposed a schedule which the parties discussed. After further review, the adopted schedule is:

Date	Event
May 13, 2011	Scoping Ruling Filed and Served
May 20, 2011	Revisions to Cost Effectiveness Analyses Related to Permanent Load Shifting Activities Served
May 27, 2011	Revisions to Cost Effectiveness Analyses and Load Impact Estimates 1) using April 1, 2011 Load Impact Report Data and 2) using both the April 1, 2011 Load Impact Report Data and the Responses to Attachment 1 Served
June 13, 2011	Testimony Served
July 11, 2011	Rebuttal Served
July 19-22, 2011	Evidentiary Hearings at 9:00 a.m. Commission Courtroom State Office Building 505 Van Ness Avenue San Francisco, CA 94102
August 19, 2011	Opening Briefs / Comments Filed and Served
September 9, 2011	Reply Briefs / Comments Filed and Served
October 28, 2011	Proposed Decision Issued
December 1, 2011	Proposed Decision on Commission Agenda

The assigned Commissioner or Presiding Officer may adjust this schedule as necessary for efficient management of this proceeding.

The proceeding will be completed within 18 months of the date this Scoping Memo is filed. (Pub. Util. Code § 1701.5(a).)

IT IS RULED that the items addressed in the body of this ruling are adopted. In particular:

1. The category of this proceeding is ratesetting. Appeals, if any, must be filed and served within 10 days.
2. Hearings will be held.
3. Ex parte communications are restricted and subject to reporting requirements. (See Pub. Util. Code § 1701.3(a); Rules 8.2(a))
4. Pursuant to Rule 13.2 of the Commission's Rules of Practice and Procedure, Administrative Law Judge Kelly A. Hymes is the Presiding Officer.
5. The May 6, 2011 motion for party status filed and served by Viridity Energy Inc. is granted. The Commission's Process Office shall add Laura Manz as a party to this proceeding appearing for Viridity.
6. The Joint Applicants shall follow the instructions in this ruling pertaining to the permanent load shifting proposal revisions defined in the April 29, 2011 ALJ Hymes Ruling and serve the revisions not later than May 20, 2011.
7. The issues for this proceeding are as stated in the body of this ruling.
8. The Joint Applicants shall revise their cost effectiveness analyses and load impact estimates for all demand response programs 1) using the data from the April 1, 2011 Load Impact Reports and 2) using the data from the April 1, 2011 Load Impact Reports and the inputs from Attachment 1. The Joint Applicants shall serve both sets of revisions not later than May 27, 2011.

9. The schedule stated in the ruling is adopted. The assigned Commissioner or Presiding Officer may adjust this schedule as necessary for efficient management of this proceeding.

Dated May 13, 2011 at San Francisco, California.

/s/ MICHAEL R. PEEVEY
Michael R. Peevey
Assigned Commissioner

/s/ KELLY A. HYMES
Kelly A. Hymes
Administrative Law Judge

ATTACHMENT 1

Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E) and Southern California Edison Company (SCE) (collectively, the Joint Applicants) are to provide an alternate version of their cost-effectiveness analysis for their Demand Response (DR) programs. This will allow the Commission to analyze the cost-effectiveness calculations consistently across the Joint Applicants. The alternate version will be consistent in the calculation of the adjustment factors, which adjust each DR program's avoided costs for various program characteristics. The A, B, and C factors adjust the avoided generation capacity cost, the D factor adjusts the Transmission and Distribution (T&D) avoided cost, and the E factor adjusts the Avoided Energy Cost. The alternate version should also use Load Impact Data as reported in the April 1, 2011 Load Impact reports.

A. Factor or Availability: The A Factor is intended to represent the portion of capacity value that can be captured by the DR program based on the frequency and duration of calls permitted. A program that could be called in every hour that a generation capacity constraint might be experienced by the utility would have an A Factor of 100%. PG&E and SCE provided an A factor analysis based on Energy and Environmental Economics, Inc.'s (E3) suggested method. PG&E also provided an alternate analysis based on their own Loss of Load Probability analysis. SDG&E's A factor analysis is a modified version of E3's suggested method which uses 100 peak hours rather than the 250 hours in E3's method. SDG&E is to provide an alternate analysis which uses E3's suggested method for the A factor analysis.

B. Factor or Notification Time: The B Factor determines the value of a program's notification time by estimating how the additional information available for shorter notification times will result in more accurate decisions about event calls. PG&E and SCE's B factors are 100% for day-of programs and 88% for day-ahead programs. One exception is PG&E's Aggregator Managed Portfolio (AMP) program, which has a B factor of 97%, which we presume is a weighted average based on the varying nature of the AMP contracts. SDG&E uses 86% for day-ahead programs. PG&E is to confirm whether using a 97% B factor for AMP is consistent with the use of 100% for day-of programs and 88% for day-ahead programs. SDG&E is to provide an alternative analysis which uses 88% as the B factor for its day-ahead programs.

C. Factor or Trigger Flexibility: The C Factor accounts for the triggers or conditions that permit the utility to call a DR program. Programs with flexible triggers have a higher value than programs which can only be triggered under

particular conditions. PG&E uses 95% as the C factor for its Base Interruptible Program (BIP) and SmartAC programs. SCE and SDG&E use a C factor of 100% for all programs. SDG&E and SCE are to provide an alternate analysis which uses 95% as the C factor for any program, such as BIP and AC cycling programs, which cannot be triggered at the discretion of the utility.

D. Factor or T&D: The D Factor adjusts the estimated benefits of a DR program to avoid or defer upgrades to the transmission and distribution system. The default value of the D factor is 0%, as it is assumed that a given DR program does not avoid any transmission or distribution upgrades unless the utility can show otherwise. PG&E uses 0% as the D factor for all of its programs. We are not requiring PG&E to provide an alternate analysis, but we give PG&E another opportunity to assess this, based on their estimated ability to use those programs on a locational basis, or any other relevant factor, during the 2012-2014 program cycle and beyond.

E. Factor or Energy Adjustment Factor: The E Factor allows the utility to value DR under alternate energy price scenarios, such as the higher cost of energy during peak hours. SCE uses an E factor of 137% and SDG&E uses 140%, while PG&E uses 100%. PG&E and SCE are to provide an alternate analysis which uses 140% for the E factor.

The Joint Applicants may provide comments, if desired, on why, in their opinion, any part of this alternative analysis provides a less (or more) accurate estimate of the cost-effectiveness of their programs and/or portfolio.

SUMMARY

PG&E is to provide a spreadsheet based on the most recent version of the DR Reporting Template, using 2011 load impacts, with an alternate cost-effectiveness analysis of all their programs, using the following inputs:

A factor: E3's suggested method (no change).

B factor: 88% for day-ahead programs and 100% for day-of programs (no change).

C factor: 95% for programs which cannot be triggered at the discretion of the utility and 100% for all other programs (no change).

D factor: update if desired

E factor: 140%

SCE is to provide a spreadsheet based on the most recent version of the DR Reporting Template, using 2011 load impacts, with an alternate cost-effectiveness analysis of all their programs, using the following inputs:

A factor: E3's suggested method (no change).

B factor: 88% for day-ahead programs and 100% for day-of programs (no change).

C factor: 95% for programs which cannot be triggered at the discretion of the utility and 100% for all other programs

D factor: no change

E factor: 140%

This analysis must include all programs and relevant sub-programs, including RTP, AST, and CBP day ahead and day of.

SDG&E is to provide a spreadsheet based on the most recent version of the DR Reporting Template, using 2011 load impacts, with an alternate cost-effectiveness analysis of all their programs, using the following inputs:

A factor: E3's suggested method

B factor: 88% for day-ahead programs and 100% for day-of programs

C factor: 95% for programs which cannot be triggered at the discretion of the utility and 100% for all other programs

D factor: no change

E factor: 140% (no change)

(END OF ATTACHMENT 1)