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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Approval of Aggregator Managed Demand Response Agreements (U39E).	Application 12-09-004 (Filed September 7, 2012)
And Related Matter.	Application 12-09-007

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

On September 7, 2012 Pacific Gas and Electric Company (PG&E) filed Application (A.) 12-09-004 seeking approval of five Aggregator Managed Demand Response Portfolio (AMP) Agreements and Southern California Edison (SCE) filed A.12-09-007 also seeking approval of five AMP Agreements. On September 14, 2012, SCE filed a Motion to Shorten Time to Respond to the Applications. The assigned Administrative Law Judge (ALJ) issued a Ruling on September 28, 2012 denying SCE's Motion and consolidating the two applications. The Division of Ratepayer Advocates (DRA) filed a timely protest to the applications on October 14, 2011. Energy Curtailment Specialists, Inc. and

a coalition of demand response aggregators[1] each filed a timely response supporting the two applications.

On November 5, 2012, the assigned ALJ held a Pre Hearing Conference (PHC) to determine the parties, scope, and schedule as well as other procedural matters.

DRA Motion to Withdraw Protest of SCE Application

On November 9, 2012 DRA filed a Motion to Withdraw its protest of the SCE application, explaining that they had resolved the concerns with the SCE application. The request is reasonable and DRA's Motion to Withdraw is hereby granted.

Category

PG&E and SCE requested this matter be categorized as ratesetting. The Commission preliminarily categorized this matter as ratesetting. (Resolution ALJ 176-3301, dated September 27, 2012.) During the PHC, no party opposed the categorization. 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

In its Application, PG&E stated that hearings would not be required. The Commission preliminarily determined that hearings are not necessary. (Resolution ALJ 176-3301, dated September 27, 2012.) No party opposes this determination. We confirm that hearings are unnecessary.

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[1] The demand response aggregators include EnerNOC, Inc., Johnson Controls, and Comverge, Inc.

For convenience and efficiency, parties and PG&E are encouraged to work together so as not to duplicate efforts in terms of discovery. 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 must provide paper copies of filed and served documents to the assigned ALJ. 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 available 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

A party who intends to seek an award of compensation pursuant to Pub. Util. Code §§ 1801-1812 should file and serve a notice of intent to claim compensation no later than 30 days after the November 5, 2012 PHC. (Pub. Util. Code § 1804(a)(1)). Under the Commission's Rules of Practice and Procedure, future opportunities may arise for such filings but such an opportunity is not guaranteed.

Parties intending to seek an award of intervenor compensation must maintain daily record keeping for all hours charged and a sufficient description for each time entry. Sufficient means more detail than just "review."

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

President Michael R. Peevey is the assigned Commissioner in this proceeding and Kelly A. Hymes is the assigned ALJ. Pursuant to Rule 13.2, Judge Hymes shall be the Presiding Officer.

Issues

During the PHC, the ALJ provided the parties with a list of all issues presented in the applications, protest and responses. After further review, the issues to be addressed in this proceeding are as follows:

- Review of AMP Agreements/Contracts and the Associated Budgets
  - Compliance with Commission Decision 12-04-045
    - Compliance, Reasonableness, and Meeting Future Needs
    - Cost-Effectiveness
      - Do the PG&E Agreements/Contracts in this proceeding have the higher costs referred to in Advice Letter 4061-E and are those costs reflected in this application?[2]
  - Compliance with related Commission Decisions
  - Reasonableness with Regard to Pub. Util. Code §451
- Resource Adequacy Requirements
- Cost Recovery Issues
- Should the Commission authorize SCE to file a Tier Three Advice Letter, if necessary, proposing changes to the Contracts to help

[2] In Advice Letter 4061-E, PG&E submitted revised cost-effectiveness analyses for its Capacity Bidding and Demand Bidding demand response programs. PG&E proposed that certain costs associated with these programs are more appropriately allocated to "other demand response programs."

mitigate the impact of the current outage at the San Onofre Nuclear Generating Station?

Issues not listed above are deemed to be outside of the scope of this proceeding and will not be addressed in any determination of these applications.

Schedule

During the PHC, the parties discussed several options to address the need for expediency in deciding this matter, including bifurcating the two applications. The adopted briefing schedule is as follows with no bifurcation of the applications:

November 28, 2012	Opening Brief Filed and Served
December 5, 2012	Reply Brief Filed and Served

During the PHC, the parties agreed that, in order to expedite a decision in this proceeding, a shortened time period would be appropriate for parties to comment on a proposed decision. Pursuant to Rule 14.6(b), the Commission may reduce or waive the public review and comment period on proposed decisions and their alternates where all parties so stipulate. Therefore, the proposed decision in this proceeding will have a comment period of seven days with no reply comments. The assigned Commissioner or Presiding Officer may adjust any portion of 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. (§ 1701.5(a).)

Identifying and Moving Exhibits into Evidence

During the PHC, PG&E requested to admit its testimony into the record. Similarly, SCE requested whether confidential testimony could be entered into

the record as such with the letter "c" after the exhibit number. The ALJ asked parties if there were any comments regarding these issues to which there was no response.

The testimony for this proceeding is identified as follows:

- Exhibit PGE-01 – PG&E 2013-2014 AMP Agreements, Prepared Testimony, and Appendices
- Exhibit PGE-01c – PG&E 2013-2014 AMP Agreements and Appendices (CONFIDENTIAL)
- Exhibit SCE -01 – SCE Testimony In Support Of Its Application For Expedited Approval Of Five Demand Response Resource Purchase Agreements
- Exhibit SCE-02 – SCE Testimony In Support Of Its Application For Expedited Approval Of Five Demand Response Resource Purchase Agreements (Appendices)
- Exhibit SCE-03 – SCE Demand Response Reporting Template (Slip Sheet Only)
- Exhibit SCE -01c – SCE Testimony In Support Of Its Application For Expedited Approval Of Five Demand Response Resource Purchase Agreements (CONFIDENTIAL)
- Exhibit SCE-02c – SCE Testimony In Support Of Its Application For Expedited Approval Of Five Demand Response Resource Purchase Agreements (Appendices) (CONFIDENTIAL)
- Exhibit SCE-03c – SCE Demand Response Reporting Template (CONFIDENTIAL)

There being no objection from parties during the PHC, the testimony identified above is admitted as evidence into the record of this proceeding.

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

1. The Division of Ratepayer Advocate's Motion to Withdraw its protest of the Southern California Edison Application 12-09-007 is granted.

2. The category of this proceeding is ratesetting. Appeals, if any, must be filed and served within 10 days.

3. *Ex parte* communications are restricted and subject to reporting requirements. (See § 1701.3(a); Rules 8.2(a))

4. Parties must comply with the Commission's electronic filing requirements.

5. Parties must provide paper copies of all filed and served documents to the assigned Administrative Law Judge.

6. Pursuant to Rule 13.2 of the Commission's Rules of Practice and Procedure, Administrative Law Judge Kelly A. Hymes is the Presiding Officer.

7. The issues for this proceeding are limited to those stated in the body of this ruling.

8. 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.

9. Pursuant to Commission Rule 14.6(b), the public review and comment period for a proposed decision in this proceeding will be reduced to seven days with no reply comments.

10. Exhibits PGE-01, PGE-01c, SCE-01, SCE-02, SCE-03, SCE-01c, SCE-02c, and SCE-03c are admitted as evidence into the record of this proceeding.

Dated November 13, 2012, at San Francisco, California.

/s/ MICHAEL R. PEEVEY	/s/ KELLY A. HYMES
Michael R. Peevey	Kelly A. Hymes
Assigned Commissioner	Administrative Law Judge