

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA



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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)

**THE OFFICE OF RATEPAYER ADVOCATES' REPLY COMMENTS ON THE  
PROPOSED DECISION ADOPTING GUIDANCE FOR FUTURE DEMAND RESPONSE  
PORTFOLIOS AND MODIFYING DECISION 14-12-024**

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## I. INTRODUCTION

The Office of Ratepayer Advocates (ORA) submits the following reply comments to parties' comments on the *Proposed Decision Adopting Guidance for Future Demand Response Portfolios and Modifying Decision 14-12-024* (PD), which was issued on August 30, 2016. Parties filed comments on the PD on September 19, 2016. ORA's reply comments focus on the following issues: the Demand Response Auction Mechanism (DRAM) design, DRAM administration cost recovery, the investor owned utility (IOU) program budget cap, and the policies surrounding fossil-fueled Back-Up Generation/generators (BUGs).

## II. SUMMARY

In these comments, ORA recommends the following:

- The final guidance should address and clarify concerns raised by ORA and other parties about the DRAM design.
- ORA agrees with Pacific Gas and Electric Company (PG&E) and San Diego Gas & Electric Company (SDG&E) that DRAM administration costs should be recovered from all customers, including unbundled customers.
- ORA agrees with The Utility Reform Network (TURN) that the budget cap for IOU programs for 2018-2020 should be set at the average of the IOUs' actual annual spending from 2012-2016.
- Metering is the only option that would concurrently verify the use of fossil-fueled BUGs and make the most accurate adjustment to the load reduction provided by non-residential customers who use fossil-fueled facilities to meet onsite, baseload demand during demand response (DR) events.

## III. DISCUSSION

### A. The Final Guidance Should Address And Clarify Concerns Raised By ORA And Other Parties About The DRAM Design.

The PD lacks specificity on the DRAM bidding process rules, which prompted parties to express potential gaming concerns in opening comments. PG&E raised concerns that bidders could manipulate the group of eligible DRAM bids from which IOUs procure if those bids are selected based on their August bid price. PG&E states that bidders could submit bids with higher prices in other (non-August) months while providing a low August bid price.<sup>1</sup> In addition, the California Large Energy Consumers Association (CLECA) raised concerns about the viability of bids for longer term contracts.<sup>2</sup> According to CLECA, bidders may engage in "bid-to-win" strategies for longer term contracts in which the bidder does not actually expect the bid price to be viable.

ORA shares PG&E's concerns, which highlights the need for further clarifications on the DRAM bid selection process. ORA recommends the Commission mitigate any potential gaming opportunities by

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<sup>1</sup> PG&E Opening Comments to the PD, p. 8.

<sup>2</sup> CLECA Opening Comments to the PD, p. 6.

providing further explanation of how the utilities should select winning bids from the DRAM.<sup>3</sup> The PD already allows the IOUs to reject “bids priced above the long-term avoided cost of generation at the time of the auction”<sup>4</sup> which is a good ratepayer protection measure. However, the method for comparing bids against the avoided cost of generation remains unclear. The IOUs may have conflicting interpretations of this directive. ORA recommends the Commission clarify what bid price the IOUs should use to compare with the long-term avoided cost of generation and what the corresponding bid price would be for multi-year contracts.

In light of CLECA’s concerns, ORA also recommends the final guidance continue Energy Division’s reviews<sup>5</sup> of the DRAM in its initial years to inform any necessary changes to its design. OP 11 of the PD directs the Energy Division to conduct an independent analysis of the DRAM and establish a vetted metrics and evaluation plan for Energy Division’s review of the 2016 and 2017 DRAM cycles. ORA recommends Energy Division continue to conduct these reviews of the DRAM on an annual basis after Energy Division’s final analysis of the 2016 and 2017 DRAM pilots is published August 1, 2018. ORA recommends Energy Division’s annual reviews of the DRAM be due June 30 of the following year. For the 2018 DRAM cycle, for example, Energy Division’s review would be due June 30, 2019. Parties should also be able to comment on the annual reports. These reviews would help ensure DRAM becomes a successful DR procurement mechanism.

In sum, the PD’s DRAM design requires clarification to effectively execute the program and achieve the overall objective of procuring viable, competitive contracts.

**B. ORA Agrees With PG&E And SDG&E That DRAM Administration Costs Should Be Recovered From All Customers, Including Unbundled Customers.**

PG&E and SDG&E wrote in opening comments that shifting the recording of DRAM costs to the Energy Resources Recovery Account (ERRA) would effectively pass all DRAM costs on to bundled

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<sup>3</sup> ORA Opening Comments to the PD highlighted the need for clarifications on how to calculate the long-term avoided cost of generation and the simple average August capacity bidding price as well as whether the IOUs should continue ranking bids based on their Net Market Values, p. 6-7.

<sup>4</sup> PD, Ordering Paragraph 13.c., p. 91.

<sup>5</sup> PD, Ordering Paragraph 11, p. 89-90 authorizes the Energy Division to “conduct an independent analysis of the results of the 2016 and 2017 demand response auction mechanism pilot auctions and the subsequent deliveries, emphasizing the following five criterion: a) Were new, viable third-party providers engaged; b) Were new customers engaged; c) Were bid prices competitive; d) Were offer prices competitive in the wholesale markets; and e) Were resources reliable when dispatched.” The metrics and evaluation plan for this review will be established no later than April 1, 2017.

customers.<sup>6</sup> This is in direct conflict with the “cost causation” principle adopted in Decision (D.) 14-12-024, in which any DR program or tariff that benefits all customers should be paid for by all customers.<sup>7</sup>

ORA agrees. DRAM costs should instead be recovered through the Distribution Revenue Adjustment Mechanism, which allocates costs to all customers, similar to other DR programs.

**C. ORA Agrees With TURN That The Budget Cap For IOU Programs For 2018-2020 Should Be Set At The Average Of The IOUs’ Actual Annual Spending From 2012-2016.**

ORA supports TURN’s recommendation to scale back the IOUs’ control of the DR markets to promote a competitive market for DR programs.<sup>8</sup> In particular, TURN recommends using the average of the IOUs’ actual annual spending for the years 2012 to 2016<sup>9</sup> as the cap for the IOUs’ 2018-2020 program budgets, rather than the 2017 authorized budget level ordered in the PD<sup>10</sup>. According to TURN’s analysis, the IOUs had spent only 44 percent of their authorized budgets during the 2012-2015 period.<sup>11</sup>

Within the budget cap, the IOUs should then prioritize spending on the load modifying DR resources/programs that are embedded into the California Energy Commission’s (CEC) base case load forecast, which is used to determine the need for new resources. The IOUs are most uniquely equipped to provide these programs, so the IOUs should maximize the cost-effective load modifying DR programs instead of spending money on supply-side DR programs. All supply-side DR programs should be primarily procured through the DRAM<sup>12</sup>. The Commission should take into consideration any demonstrated need for an increase in the IOUs’ budgets for these non-event based load modifying programs that will be embedded in the CEC’s base case load forecast.

ORA disagrees with CLECA’s recommendations that the budget cap should be “soft” and that the budgets should be increased above the 2017 level to include replacement funding for the discontinued Demand

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<sup>6</sup> PG&E Opening Comments to the PD, p. 12-13; SDG&E Opening Comments to the PD, p. 3.

<sup>7</sup> D. 14-12-024, Ordering Paragraph 8.a., p. 87.

<sup>8</sup> One of the adopted principles in Ordering Paragraph 8 of the PD is: “*Demand response shall be market-driven leading to a competitive, technology-neutral, open market in California with a preference for services provided by third-parties through performance-based contracts at competitively determined prices, and dispatched pursuant to wholesale or distribution market instructions, superseded only for emergency grid conditions.*” PD, p. 89.

<sup>9</sup> TURN Opening Comments to the PD, p. 3-4.

<sup>10</sup> PD, Ordering Paragraph 13, p. 90.

<sup>11</sup> According to a footnote in TURN’s Opening Comment to the PD, TURN’s analysis was based on IOU DR monthly reports for December 2014 (showing data for the 2012-2014 cycle) and December 2015. TURN used the one-year average of the two-year 2015-2016 budget reported in the monthly reports to compare 2015 actual spending.

<sup>12</sup> The PD adopts a market-driven principle for DR programs that establishes a “...preference for services provided by third-parties through performance-based contracts at competitively determined prices...”, Ordering Paragraph 8, p. 89.

Bidding Program (DBP).<sup>13</sup>

D.16-06-029, which adopted bridge funding for 2017 DR programs and activities, discontinued the DBP due to the program's low performance and relatively high level of difficulty and expense to integrate into the CAISO market.<sup>14</sup> The Commission only continued the program in SCE's territory in 2017 to help alleviate the effects of the Aliso Canyon gas leakage,<sup>15</sup> and given the shortcomings of DBP, continuing the program into 2017 was only meant to be a short-term solution. There is no demonstrable need to replace spending on what was a low-performing DBP. As TURN demonstrated, the IOUs had spent less than half of their allotted budgets during 2012-2015 time period which included funding for DBP. Thus, ORA recommends the Commission reject CLECA's request.

**D. Metering Is The Only Option That Would Concurrently Verify The Use Of Fossil-Fueled BUGS And Make The Most Accurate Adjustment To The Load Reduction Provided By Non-Residential Customers Who Use Fossil-Fueled Facilities To Meet Onsite, Baseload Demand During DR Events.**

In Opening Comments, Comverge, Inc., CPower, EnerNOC, Inc., and EnergyHub ("Joint DR Parties") as well as the California Energy Efficiency Industry Council (CEEIC) recommended that generation facilities which operate on an ongoing basis to meet a customer's baseload demand onsite should be exempt from the BUGs prohibition.<sup>16</sup> Both parties referred to combined heat and power (CHP), or cogeneration, as an example of onsite generation facilities that would preclude customers from receiving DR incentives, even if the CHP facility were shut down during a DR event.<sup>17</sup> Whether or not the Commission allows generation facilities to use fossil-fueled generation to meet onsite baseload demand during a DR event, ORA recommends installing an interval meter to accurately and cost-effectively measure a customer's eligible demand response related reduction in load while allowing such cogeneration facilities to continue to operate.<sup>18</sup> Metering would remedy the Joint DR Parties' and CEEIC's concerns by unambiguously accounting for any use of a fossil-fueled generator during a DR event.

Incorporating a metering requirement would be the most accurate verification mechanism for identifying the use of prohibited, fossil-fueled BUGs during a DR event. If the Commission allows for the use of fossil-fueled generators to meet a customer's baseload demand onsite during a DR event, metering would

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<sup>13</sup> CLECA Opening Comments to the PD, p. 2-4.

<sup>14</sup> D.16-06-029, p. 41.

<sup>15</sup> D.16-06-029, Findings of Fact 51, p. 80.

<sup>16</sup> Joint DR Parties' Opening Comments to the PD, p. 3-5; CEEIC Opening Comments to the PD, p. 4-5.

<sup>17</sup> Joint DR Parties Opening Comments to the PD, p. 4

<sup>18</sup> ORA Opening Comments on Staff Proposal Regarding Use of Fossil-Fueled Back-up Generation in Demand Response Programs, October 15, 2015, p. 7; ORA Opening Comments to the PD, p. 4.

be absolutely necessary to account for any increase in output from the onsite generation during a DR event. Since DR provided by such customers (from curtailment of lighting, HVAC and other measures)<sup>19</sup> is minute in relation to the output of cogeneration facilities, even a small increase in generation from the cogeneration facilities would result in a considerable additional load reduction that is not DR-eligible and should not receive ratepayer compensation. Regardless of the scenario, interval metering is the only option that would consistently verify and measure each customer's eligible load reduction during a DR event.

ORA recommends that the final guidance on the BUGs audit verification plan<sup>20</sup> should require all non-residential customers to either accept the "default adjustment" provided in the Staff Proposal or allow them the option to use an interval meter on their fossil-fueled BUG or baseload demand-meeting units to demonstrate compliance with Commission policy regarding BUGs use during DR events. The amended Ordering Paragraph 5 could read as follows:

5. Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California (jointly, the Utilities) shall immediately hire expert consultants to assess whether it is possible, and if so by what methods and data sources, to evaluate whether customers are complying with the demand response prohibition requirement. The Utilities shall require the consultants to provide recommendations on how best to design an audit verification plan. All meetings with the consultants shall include a representative of the Commission's Energy Division, at Energy Division's discretion. The Utilities shall serve the consultant's report on its findings to the service list no later than April 1, 2017. The Utilities shall host a workshop on the audit verification plan report. Notice of the workshop shall be provided to all parties including representatives of the Commission's Energy Division. No later than July 1, 2017, the Utilities shall file an Advice Letter requesting approval of a final proposed audit verification plan incorporating feedback received during the workshop. The verification plan shall be effective January 1, 2018. As part of the prohibition verification plan, for all non-residential demand response program participants who opt to purchase and install an interval meter on their fossil-fueled back-up generator (BUG) or baseload demand-meeting unit, the verification plan should adjust the customer's measured load reduction on the grid by an amount attributable to any increase in the output of the BUG or the baseload demand-meeting unit as measured by the installed interval meter during a demand response event. These participants would be exempt from the selective audits.

#### IV. CONCLUSION

ORA recommends the Commission adopt the PD, with modifications, as discussed above.

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<sup>19</sup> Join DR Parties Opening Comments to the PD, p. 4.

<sup>20</sup> PD, Ordering Paragraph 5, p. 87.

Respectfully submitted,

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