

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 AND ALTERNATE PROPOSED DECISION  
ADOPTING STEPS FOR IMPLEMENTING THE COMPETITIVE  
NEUTRALITY COST CAUSATION PRINCIPLE, HOLDING AN AUCTION  
IN 2018 FOR THE DEMAND RESPONSE AUCTION MECHANISM,  
AND ESTABLISHING A WORKING GROUP FOR THE CREATION  
OF NEW MODELS OF DEMAND RESPONSE**

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## I. INTRODUCTION

Pursuant to Rule 14.3(d), the Office of Ratepayer Advocates (ORA) submits the following reply comments to parties' comments on the Proposed Decision (PD) of Administrative Law Judge Kelly Hymes and the Alternate Proposed Decision (APD) of Assigned Commissioner Martha Guzman Aceves, issued on September 15, 2017.

In comments below, ORA makes the following recommendations:

- The Commission should maintain the PD and APD's adoption of the Commission's ban on certain prohibited resources as a minimum requirement for similar demand response (DR) programs.
- If a new Demand Response Auction Mechanism (DRAM) auction is approved, the Commission should modify its DRAM procurement guidelines.
- Decision (D.) 16-09-056 established one gigawatt of DR through DRAM as a ceiling, not a target.
- A Tier Three (AL) or expedited application process is appropriate for implementing the competitive neutrality cost causation principle.

## II. DISCUSSION

### A. **The Commission should maintain the PD and APD's adoption of the Commission's ban on certain prohibited resources as a minimum requirement for similar demand response programs.**

The PD and APD require community choice aggregators (CCAs) or direct access energy service providers (ESPs) to demonstrate that DR customers will not receive DR incentives for the use of prohibited resources during a DR event.<sup>1</sup> In Opening Comments, Marin Clean Energy (MCE) states the Commission's prohibited resources policy does not apply to CCAs and recommends the "Competing Provider" should have

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<sup>1</sup> PD and APD, Attachment 1, p. 1.

the discretion to determine what resources to ban from its similar programs.<sup>2</sup> MCE also argues that CCAs deploy more renewable energy resources than investor-owned utilities (IOUs).<sup>3</sup> However, CCA procurement practices do not preclude CCA customers from utilizing fossil-fueled resources during DR events. Without an explicit ban on certain fossil-fueled BUGs during DR events for similar DR programs, there is no assurance that a similar program will achieve the same greenhouse gas emissions reductions as an IOU's DR program.

The Commission should maintain the PD and APD's orders regarding a ban on prohibited resources as a minimum requirement for all DR programs.

**B. If a new DRAM auction is approved, the Commission should modify its DRAM procurement guidelines.**

The PD determines another DRAM pilot auction is unnecessary until Energy Division completes its evaluation of the pilot<sup>4</sup> while the APD requires Southern California Edison Company (SCE) and San Diego Gas & Electric Company (SDG&E)<sup>5</sup> – and authorized Pacific Gas and Electric Company (PG&E) at its discretion<sup>6</sup> – to hold another DRAM pilot auction in 2018 for deliveries in 2019. In Opening Comments, parties were split on whether another DRAM pilot auction in 2018 is necessary.<sup>7</sup> The

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<sup>2</sup> MCE Comments on PD and APD, p. 4.

<sup>3</sup> MCE Comments on PD and APD, p. 4.

<sup>4</sup> PD, Conclusion of Law 12, p. 63.

<sup>5</sup> APD, Ordering Paragraph 7, pp. 78-79.

<sup>6</sup> APD, Findings of Fact 31, p. 70 and Ordering Paragraph 7, pp. 78-79.

<sup>7</sup> Supporters: Joint DR Parties (CPower, EnerNOC, and EnergyHub) Comments on PD and APD, p. 4; OhmConnect, Stem, and eMotor Werks Joint Comments on PD and APD, p. 5; California Solar Energy Industries Association (CALSEIA) Comments on PD and APD, p. 1; California Energy Storage Alliance (CESA) Comments on PD and APD, p. 6; California Independent System Operator (CAISO) Comments on PD and APD, p. 1. Opponents: SDG&E Comments on APD, p. 3; SCE Comments on APD, p. 2; Olivine is wary of whether another DRAM pilot auction is necessary, Olivine Comments on PD and APD, p. 3; California Large Energy Consumers Association (CLECA) Comments on PD and APD, p. 9.

Joint DR Parties<sup>8</sup> and OhmConnect, Stem and eMotor Werks (latter three parties filed joint comments) support the APD's authorization of another DRAM pilot auction and argue that the Commission should also require PG&E to conduct another DRAM pilot auction.<sup>9</sup> OhmConnect, Stem and eMotor Werks assert another auction is necessary for all the IOUs to further the Commission's goal of transitioning to more competitive procurement of DR through third parties.<sup>10</sup>

If the Commission approves a 2018 DRAM auction, ORA reiterates its support for a DRAM auction with procurement guidelines that will test methods of procuring more competitive contracts.<sup>11</sup> In particular, the Commission should utilize the permanent procurement guidelines adopted in D.16-09-056. Utilizing the permanent procurement guidelines will ensure the Commission is on track to meeting its goal of procuring DR through competitively-determined, third-party contracts.

**C. Decision 16-09-056 established one gigawatt of DR through DRAM as a ceiling, not a target.**

In their responses to the questions in D.17-04-045 regarding whether the Commission should authorize another DRAM pilot auction in 2018, the Joint DR Parties and OhmConnect mischaracterize the Commission's procurement ceiling for DRAM as a procurement target.<sup>12</sup> The PD and APD agree with ORA's clarification that the one gigawatt figure in D.16-09-056 is a ceiling to protect ratepayers and not a procurement target.<sup>13</sup> However, the APD also appears to treat the one gigawatt ceiling as a target in

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<sup>8</sup> The Joint DR Parties are CPower, EnerNOC, and EnergyHub.

<sup>9</sup> Joint DR Parties Comments on PD and APD, p. 5; OhmConnect, Stem, and eMotor Werks Comments on PD and APD, p. 5.

<sup>10</sup> OhmConnect, Stem, and eMotor Werks Comments on PD and APD, pp. 5-6.

<sup>11</sup> ORA Comments on PD and APD, pp. 6-8.

<sup>12</sup> Joint DR Parties response to questions in D.17-04-045, p. 5; OhmConnect response to questions in D.17-04-045, p. 4.

<sup>13</sup> PD, p. 35; APD, p. 38.

the justification for authorizing another DRAM pilot auction.<sup>14</sup> SDG&E correctly highlights this discrepancy in Opening Comments.<sup>15</sup> The Joint DR Parties also use the APD’s logic to argue the PD should approve an additional DRAM pilot auction because, “the Commission is so far from achieving this target, it should be focused, as the APD is, on ensuring that there are robust opportunities that would enable DR to grow in a manner that will at least put it on course to even move toward such a goal.”<sup>16</sup> ORA supports SDG&E’s suggested clarifying language to the APD’s Findings of Fact 27:

The one gigawatt figure adopted by the Commission in D.16-09-056 is not a procurement target-; that is, one gigawatt is *not* a procurement requirement, but a ceiling to protect ratepayers.<sup>17</sup>

**D. A Tier Three Advice Letter or expedited application process is appropriate for implementing the competitive neutrality cost causation principle.**

The PD and APD adopt a Tier Three AL regulatory process to determine whether a CCA/ESP’s DR program is similar.<sup>18</sup> MCE, the Alliance for Retail Energy Markets (AReM) and the Direct Access Customer Coalition (DACC), propose a Tier Two AL process instead.<sup>19</sup> The California Large Energy Consumers Association (CLECA) recommends the Commission adopt an expedited application process, with the option to replace evidentiary hearings with workshops, for the initial review and allow for the Tier

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<sup>14</sup> APD Findings of Fact 28 states that the total capacity of DR procured for 2019 “falls well short of the one gigawatt ceiling adopted in D.16-09-056,” p. 70. Findings of Fact 29 then states, “An additional demand response auction for 2019 deliveries furthers Pilot goals and is consistent with the parameters and policies adopted in D.16-09-056,” p. 70.

<sup>15</sup> SDG&E Comments on PD, pp. 2-3; SDG&E Comments on APD, pp. 2-3.

<sup>16</sup> Joint DR Parties Comments on PD and APD, p. 9.

<sup>17</sup> SDG&E Comments to APD, Appendix, p. A-2.

<sup>18</sup> PD Conclusion of Law 1, p. 62; APD Conclusion of Law 1, p. 74.

<sup>19</sup> MCE Comments on PD and APD, pp. 7-8l; AReM-DACC, Comments on PD and APD, pp. 3-4.

Three AL process in subsequent reviews.<sup>20</sup> CLECA argues the application process would provide a more comprehensive review of applications for similar DR programs that could better address any unforeseen questions and complexities than a Tier Three AL process could.<sup>21</sup>

ORA supports the Tier Three AL process at a minimum and does not oppose an expedited application. However, MCE and AReM-DACC's recommendation of a Tier Two AL should be rejected. Application of the competitive neutrality cost causation principle will require the Commission to weigh the evidence and make factual determinations regarding whether a competing DR programs is similar enough to an IOU's program to warrant the cessation of cost recovery and are not appropriate for delegation to staff.

### III. CONCLUSION

For the foregoing reasons, ORA respectfully requests the Commission adopt the recommendations contained herein.

Respectfully submitted,

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<sup>20</sup> CLECA Comments on PD and APD, pp. 6-7.

<sup>21</sup> CLECA Comments on PD and APD, pp. 6-7.