



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE  
STATE OF CALIFORNIA

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Application of Pacific Gas and Electric Company  
(U39E) for Approval of Demand Response  
Programs, Pilots and Budgets for Program Years  
2018-2022.

Application 17-01-012  
(Filed January 17, 2017)

And Related Matters.

Application 17-01-018  
Application 17-01-019

**SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E) AND PACIFIC GAS AND  
ELECTRIC COMPANY'S (U 39-E) JOINT REPLY TO RESPONSES TO ADMINISTRATIVE  
LAW JUDGE'S RULING DIRECTING RESPONSES TO QUESTIONS REGARDING  
THE DEMAND RESPONSE AUCTION MECHANISM PILOT**

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**I.**

**INTRODUCTION**

Pursuant to *Administrative Law Judge (ALJ) Hymes’ Ruling Directing Responses to Questions Regarding the Demand Response Auction Mechanism Pilot* (Ruling), issued August 6, 2018, Southern California Edison Company (SCE) and Pacific Gas and Electric Company (PG&E) respectfully submit the following joint reply<sup>1</sup> to comments filed by the California Large Energy Consumers Association (CLECA), the California Energy Storage Alliance (CESA), CPower and EnerNOC, Inc., the Office of Ratepayer Advocates (ORA), OhmConnect, Inc., Olivine, Inc., and San Diego Gas & Electric Company (SDG&E).

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<sup>1</sup> Pursuant to Rule 1.8(d), PG&E has authorized SCE to transmit and serve this joint filing on its behalf.

## II.

### DISCUSSION

#### **A. The Commission Should Deny A Fifth Year of the DRAM Pilot, and Instead Take the Opportunity for a Pause to Finish the Evaluation and Address Key Issues.**

SCE and PG&E agree with ORA, CLECA, Olivine, and SDG&E's Comments that highlight significant concerns with directing a fifth year of the DRAM Pilot before the Commission has had an opportunity to review a final DRAM evaluation report, including the analysis of DRAM bids in the wholesale market and how reliable the DRAM resources were when dispatched.<sup>2</sup> In addition, SCE and PG&E support SDG&E's concerns that procurement decisions should be based on need and must consider the evolving energy landscape.<sup>3</sup> Key policy considerations pertaining to: (1) a central procurement framework for Resource Adequacy (RA), (2) the development of a multi-year RA procurement framework, (3) the definition of a durable flexible capacity product and (4) continued growth in Community Choice Aggregation<sup>4</sup> will all influence the efficacy of conducting additional DRAM auctions for RA eligible resources to be delivered in 2020. The Comments reflect that multiple parties oppose procuring additional RA resources via an extension of the DRAM pilot in the absence of a clear determination by the Commission that the resources procured are needed and that the

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<sup>2</sup> See ORA Comments, p. 1 ("Since the final DRAM evaluation report is not available, the Commission should not approve another pilot year at this time. Without the final report, it is unclear what the full spectrum of issues with the DRAM are and what the corresponding remedies should be."); CLECA Comments at p. 6 (Explaining the policy reason to deny another year of the Pilot, "Not only do the ratepayers funding the pilots have no information on what they bought, but the Energy Division has only interim results and will not have critical information on performance for another year."); Olivine Comments at p. 2 ("There are several policy reasons that support denying another year of the pilot, first and foremost being the lack of a complete evaluation."); and SDG&E Comments at p. ("One additional year will not add any material amount of new data or insight, but it could cost SDG&E's ratepayers more money for potentially dubious results.").

<sup>3</sup> SDG&E Comments, p. 2.

<sup>4</sup> According to the California Energy Commission's 2018-2030 California Energy Demand forecast (Mid Baseline, Mid AAEE and AAPV, form 1.1) non-PG&E LSEs will serve more than 50% of the energy delivered to PG&E distribution customers in 2020 compared to less than 20% in 2016 when the first DRAM pilot began deliveries.

procurement mechanism and products procured are consistent with the future RA framework under discussion in proceeding R.17-09-020 and the Integrated Resource Planning proceeding.<sup>5</sup>

Parties who advocate for another pilot year rely on arguments that are based on continuity of the DRAM pilot until the final evaluation is completed, greater market certainty for third-party DRPs,<sup>6</sup> and concern about stranded assets.<sup>7</sup> These arguments are inconsistent with the purpose of the DRAM pilot, which is to test: (a) the feasibility of procuring Supply Resources for RA with third party direct participation in the California Independent System Operator Corporation (CAISO) markets through an auction mechanism, and (b) the ability of winning bidders to integrate their provision of demand response (DR) into the CAISO market.<sup>8</sup> PG&E and SCE reiterate that DRAM Sellers cannot count on consistently winning DRAM awards in every auction and any argument that customers should be responsible for the investment decisions (stranded assets) of DRPs is without merit when the ratepayer funds allocated to this Pilot have not been shown to be a cost-effective use of ratepayer dollars. As CLECA succinctly put it: “the ratepayers funding the pilots have no information on what they bought.”<sup>9</sup> SCE and PG&E are responsible for serving the best interests of their customers, and a pilot that has not clearly demonstrated value based on appropriate evaluation should not continue to be funded by customers.

DRPs can continue to act as aggregators under CBP, BIP (subject to availability under the reliability cap), or by contracting with utilities or other load serving entities (LSEs) to provide RA and other services through competitive solicitations, in the absence of a DRAM award in a particular year. CPower, EnerNOC, and OhmConnect mentioned in their comments that the CISR-DRP form for DRAM is completely different than the add/delete form for CBP.<sup>10</sup> SCE and PG&E recognize and

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<sup>5</sup> See SDG&E Comments, pp. 1-2; CLECA Comments, pp. 2-4.

<sup>6</sup> CESA Comments, p. 5; Joint Comments of CPower and EnerNOC, pp. 2-4; OhmConnect Comments, p. 9.

<sup>7</sup> Joint Comments of CPower and EnerNOC, pp. 3-4; OhmConnect Comments, p. 7.

<sup>8</sup> See D.14-12-024, Decision Resolving Several Phase Two Issues and Addressing The Motion For Adoption Of Settlement Agreement On Phase Three Issues, at p. 24.

<sup>9</sup> CLECA Comments at p. 6.

<sup>10</sup> Joint Comments of CPower and EnerNOC, pp. 3-4; OhmConnect Comments, p. 8.

appreciate the difficulty of the enrollment process and are open to discussing ways to streamline the transition to IOU programs in the least impactful way for customers within the existing data privacy rules.

In addition to enrolling customers in existing IOU aggregator programs, as outlined above, DRPs can also preserve their relationships with their customers in the gap years by keeping customers in their resource portfolio and bidding into the CAISO market for the energy payments, without the DRAM capacity payments. The design of Rule 24/32 was to support DR direct participation in the CAISO, separate from DRAM capacity payments for RA. The CAISO markets have changed significantly since the DRAM pilot was first proposed, and there is a much greater frequency of high prices today that may be sufficient for DRPs without DRAM capacity payments.<sup>11</sup> While the IOUs do not have visibility into aggregator bidding behavior, SCE has found that some customers have remained with DRPs without active DRAM contracts.

**B. Should the Commission order a 2020 DRAM Pilot, the Commission should develop clear goals and a limited budget until the Pilot can be shown to be cost effective, competitive, and reliable.**

If the Commission orders another auction, ORA’s proposed budget of \$9 million (\$4 million each for PG&E and SCE, \$1 million for SDG&E) may be appropriate.<sup>12</sup> ORA states that while it does not support another pilot year, if the Commission pursues it nevertheless, there is uncertainty regarding the reliability of the DRAM resources and that “a budget greater than \$9 million would be an imprudent use of ratepayer funds.”<sup>13</sup> SCE and PG&E note that it is difficult to determine an appropriate budget amount without an understanding of the changes that the Commission may or may not make to a fifth year of the DRAM pilot and an assessment of the need for additional RA resources.

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<sup>11</sup> CAISO 2017 Annual Report on Market Issues & Performance, p. 3, states, “Day-ahead prices reached historic highs during some hours. On September 1, day-ahead market prices reached over \$770/MWh and were greater than \$200/MWh during a four-hour period. These high day-ahead prices reflect a tightening of supply conditions during peak ramping hours that [CAISO] expects will continue in 2018 and the coming years.”

<sup>12</sup> ORA Comments, p. 8.

<sup>13</sup> ORA Comments, p. 8.

SCE and PG&E agree with Olivine that several changes are warranted to the design of the DRAM if a fifth pilot year is ordered,<sup>14</sup> and with CLECA that the lack of performance data is reason enough to reject another pilot year.<sup>15</sup> In addition, SCE and PG&E agree with Olivine and CLECA that simply extending the current contracts would only exacerbate the supplier concentration issues, and would further hinder goals of encouraging new DRPs.<sup>16</sup> If SCE and PG&E's recommendations for improving the design of the DRAM pilot are adopted,<sup>17</sup> a limited budget for a 2020 DRAM may be acceptable.

**C. If the Commission directs another year of the pilot, the Commission should approve more stringent performance requirements and stricter penalties for non-performance to reduce risks to the IOUs and ratepayers.**

In Joint Comments, PG&E and SCE<sup>18</sup> expressed concerns to the Commission about whether current DRAM resources bid into the CAISO markets are truly viable resources and further noted that current contract provisions are not sufficient to allow the IOUs to ensure that DRAM Sellers are capable of delivering their maximum contract quantities if fully dispatched on the same day at the same time. Several parties, including Olivine, CESA, CLECA, and OhmConnect support qualifying DRAM capacity through testing, which would ensure that appropriate RA counting is applied to these resources.<sup>19</sup> At a minimum, the *pro forma* contract should be revised so that DRAM Sellers have the option to:

1. Provide load impact results based on the protocols applicable to the IOUs' annual April 1 load impact reports, or

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<sup>14</sup> Olivine Comments, pp. 9-12;

<sup>15</sup> CLECA Comments, pp. 11-12.

<sup>16</sup> Olivine Comments, p. 6; CLECA Comments, pp. 5-6.

<sup>17</sup> *See generally*, SCE and PG&E Joint Comments.

<sup>18</sup> SCE & PG&E Joint Comments, p. 9.

<sup>19</sup> Olivine Comments, p. 10; CESA Comments, pp. 12-13; CLECA Comments, pp. 13-14; OhmConnect Comments, pp. 15-17.

2. Provide full capacity test results to set their Net Qualifying Capacity (NQC), to be included with the submission of their supply plans to the IOUs; or
3. If testing prior to the delivery is infeasible, provide full dispatch or full capacity test results for a showing month as their demonstrated capacity.

The testing recommendations should allow some flexibility, including the choice between load impacts and testing, the ability to retest to set a higher NQC, and a 10 percent tolerance band. The Supply Side Working Group is also evaluating options for better measuring weather-sensitive DR, which could be incorporated into these testing requirements.

Several parties support the use of load impact analysis for DRAM<sup>20</sup>, while others identify concerns with measurement.<sup>21</sup> ORA suggested that the Commission include “requirements for demand response providers to report their bid data and ex post load impacts on a monthly basis.”<sup>22</sup> Although SCE and PG&E support the annual load impact analysis and additional transparency, the Commission should not require the ex post load impact results of DRAM resources be included in the utilities’ monthly interruptible load program (ILP) reports. SCE and PG&E are concerned that including such information in the ILP reports would require the IOUs to ensure the accuracy and timeliness of the submissions, when the DRAM Sellers should be held responsible to some extent (potentially contract provisions and corresponding penalties) for ensuring the accuracy and timeliness for submitting these reports to the Commission.

Most of the commenting parties also recognized the importance of implementing stronger performance requirements and penalties when Sellers reduce capacity or do not perform, if an additional year of the DRAM Pilot is directed.<sup>23</sup> ORA states, “DRAM providers must be accountable for the performance of these resources. [...] DRAM providers, therefore, should be prepared to face penalties

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<sup>20</sup> CLECA Comments, p. 14; SDG&E Comments, p. 5; ORA Comments, p. 4; CESA Comments, p. 13.

<sup>21</sup> OhmConnect Comments, p. 16; Olivine Comments, p. 11. Such concerns are common to all DR resources and should be considered in the Supply Side Working Group as well.

<sup>22</sup> ORA Comments, p. 4.

<sup>23</sup> CLECA Comments, p. 13; SDG&E Comments, p. 5; ORA Comments, p. 7; CESA Comments, pp. 12-13; Olivine Comments, pp. 5-6.

for insufficient showing as an RA resource even during this pilot phase of the mechanism.”<sup>24</sup> SDG&E recommends that a penalty should be assessed if the demonstrated capacity is less than 85 percent of the contracted capacity.<sup>25</sup> CLECA provided an example where a resource delivering less than 75 percent of its RA value could be denied a capacity payment for that month.<sup>26</sup> SCE and PG&E support such penalties.<sup>27</sup>

While SDG&E recommends that new suppliers be exempted from these additional performance requirements<sup>28</sup> and OhmConnect suggests a minimum MW size for testing<sup>29</sup>, PG&E and SCE recommend that all Sellers be subject to the same performance and testing requirements in any future Pilot directed by the Commission.

Lastly, SCE and PG&E previously suggested that the DRAM *pro forma* contract be revised to require DRAM Sellers with multiple contracts to conduct capacity tests at the portfolio level across contracts (simultaneously or within the same day) so that the tests accurately demonstrate the total DR Resource available at a given time.<sup>30</sup> This requirement is similar to the “portfolio-adjusted” load impacts, and would mitigate the potential double counting of DR load from customer migrations between DRP resources. SCE and PG&E add that this can be best managed by combining all DRAM products under one DRAM Seller contract for ease of administration and full capacity testing.

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<sup>24</sup> ORA Comments, p. 7.

<sup>25</sup> SDG&E Comments, p. 5.

<sup>26</sup> CLECA Comments, p. 13.

<sup>27</sup> For example, in SCE’s CBP tariff Section 15, the Capacity Payment is equal to the Delivered Capacity \* 50% of Capacity Credit Rate when the Delivered Capacity is 60-75% of the capacity nomination.

<sup>28</sup> SDG&E Comments, p. 5.

<sup>29</sup> OhmConnect Comments, p. 16.

<sup>30</sup> SCE and PG&E Joint IOU Comments, pg. 12.



**D. If the Commission orders another pilot, it should require offers to be evaluated based on least-cost, best-fit with qualitative criteria to allow for prior performance and a more diverse portfolio.**

Least-cost, best-fit evaluations are the industry standard for solicitations and should be used for DRAM going forward. Several parties support SCE and PG&E’s proposals to remove the August average capacity bid price requirement,<sup>31</sup> remove the residential set-aside,<sup>32</sup> better factor in prior performance,<sup>33</sup> and allow the use of qualitative criteria to create a more diverse portfolio.<sup>34</sup> No party supports keeping the August average capacity bid price requirement, and there is no compelling reason for the Commission to keep this evaluation criteria in place. Further, CLECA supports the IOUs using qualitative criteria to promote diversity and better performance.<sup>35</sup>

Although several parties advocate for a transition from a “pay as bid” auction to a “pay as clear” auction,<sup>36</sup> SCE and PG&E, as stated in informal comments on the DRAM Interim Evaluation Report, disagree that a “pay as clear” (or “market clearing price”) auction would be superior to the “pay as bid” auction used today.<sup>37</sup> In early DRAM workshops, DRPs suggested that the “pay as bid” auction design led bidders to bid below their costs to win contracts. In a “pay as clear” auction, bidders would be paid the market clearing price of the highest bid awarded, which could be some amount above their bids. This would result in higher prices paid to Sellers, while also reducing the amount of MW that could be awarded on a given budget. “Pay as clear” auction designs are typically used in more competitive

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<sup>31</sup> OhmConnect Comments, p. 12; SDG&E Comments, p. 3; Joint Comments of CPower and EnerNOC, pp. 7-8; CLECA Comments, p. 7.

<sup>32</sup> Joint Comments of CPower and EnerNOC, pp. 7-8; CLECA Comments, p. 7.

<sup>33</sup> ORA Comments, p. 7; Joint Comments of CPower and EnerNOC, p. 8; CESA Comments, p. 11.

<sup>34</sup> Olivine Comments, p. 5, state that it may be preferable to make the residential set-aside a “soft target, as opposed to a set requirement” and enable access to new or previously “underperforming” DRPs.

<sup>35</sup> CLECA Comments, pp. 10-11. ORA’s Comments support similar principles, pp. 3, and 7-8.

<sup>36</sup> Joint Comments of CPower and EnerNOC, pp. 9-10; OhmConnect Comments, p. 12; CESA Comments, p. 11; Olivine Comments, p. 5.

<sup>37</sup> Joint Informal Comments of SCE and PG&E on the DRAM Interim Evaluation Report, served on A.17-01-012 et al, on August 15, 2018.

markets, particularly those with similar products being traded. In contrast, the DRAM pilot market is less mature, less competitive, and allows for a multitude of product combinations (based on various types of RA and local sub-area, residential/non-residential customer products, PDR/RDRR, etc.), which would not result in a single market clearing price, but rather one price for each combination of products.<sup>38</sup> This is not an efficient evaluation process, contrary to the Joint DR Parties' claims.<sup>39</sup> Further, the current "pay as bid" auction maximizes ratepayer value by paying DRAM Sellers based on their individual costs, and nothing more. Instead of fundamental changes to the DRAM pilot design, PG&E and SCE recommend improved performance requirements and penalties under the contract for non-performance.

It bears reiterating that CPower and EnerNOC's request for the IOUs to reveal administrative costs serves no purpose, as bids should be based on cost. Further, revealing this confidential information discloses commercial records that have been protected by the Commission. As SCE and PG&E have continually stated, administrative costs, including the cost of the independent evaluator, are minimal and such figures continue to be available to the Commission and non-market participants in the Procurement Review Group.<sup>40</sup>

Lastly, while SCE and PG&E are open to considering bid fees to improve the rate of shortlisted bidders signing contracts, performance-related reasons for this (including low-balling bid prices) would be more directly impacted by penalties on performance.<sup>41</sup> SCE and PG&E believe bid fees are too indirect to influence meaningful change to bidding behaviors, and will likely require additional effort to implement.

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<sup>38</sup> Olivine, p. 5, also states, "the extensive product combinations will create multiple clearing prices."

<sup>39</sup> Joint Comments of CPower and EnerNOC, p. 9.

<sup>40</sup> See PG&E, SCE, or SDG&E 2019 DRAM RFO Frequently Asked Questions. "Q7: Can each IOU please specify how much of its authorized budget for the 2019 DRAM IV RFO is available for capacity payments to winning bidders (versus reserved for administrative costs)? A7: SCE and PG&E both allocated a relatively small amount of their DRAM budget to administrative costs. SDG&E allocated 10% towards Admin costs." [https://www.pge.com/pge\\_global/common/pdfs/save-energy-money/energy-management-programs/demand-response-programs/2019-demand-response/DRAM4-QA-FINAL.PDF](https://www.pge.com/pge_global/common/pdfs/save-energy-money/energy-management-programs/demand-response-programs/2019-demand-response/DRAM4-QA-FINAL.PDF)

<sup>41</sup> CLECA Comments, p. 9; OhmConnect Comments, p. 11; SDG&E Comments, p. 2.

**E. A number of changes to the DRAM Pilot contract should be adopted, but certain proposals for changing contract reassignment and credit and collateral requirements are overly prescriptive and should be rejected.**

If the Commission directs a fifth year of the DRAM Pilot, the IOUs recommend a number of revisions to the contracting process to improve the assessment of performance, strengthen penalties, and otherwise better align the DRAM contract to a more mature pilot.<sup>42</sup> Although SCE and PG&E share similar concerns with other parties about non-performance and market concentration, several of the proposals to modify contract reassignment and credit and collateral requirements are too indirect to influence significant change, are administratively burdensome, and should not be adopted. ORA's suggestion to put the megawatts from reassigned contracts up for bid again could result in multiple and year-round auctions. CPower and EnerNOC's similar <sup>43</sup> suggestion that the IOUs take the next offer on the bid stack and CLECA's recommendation<sup>44</sup> to limit it to underrepresented providers are well-intentioned, but bid prices may not be applicable after the solicitation period and simply accepting the next offer from the stack could cause an IOU to exceed its available budget. OhmConnect also suggested partitioning a contract for partial reassignments<sup>45</sup>, but this, too, would be burdensome to implement. Reassignments serve a purpose in contract management and would not effectively mitigate market concentration concerns that are more directly addressed in the offer evaluation and performance requirements.

Similarly, the Commission should not adopt changes to the credit and collateral proposals proposed by several parties.<sup>46</sup> The current processes require the Seller to provide 20 percent of the cumulative contract value from Sellers that do not meet the credit rating threshold (or do not yet have a

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<sup>42</sup> SDG&E Comments, p. 2.

<sup>43</sup> Joint Comments of CPower and EnerNOC, p. 10.

<sup>44</sup> CLECA Comments, p. 9.

<sup>45</sup> OhmConnect Comments, p. 13.

<sup>46</sup> Joint Comments of CPower and EnerNOC, p. 8; OhmConnect Comments, p. 14; Olivine Comments, p. 5

credit rating established by the IOUs' preferred credit rating agencies) as collateral.<sup>47</sup> This practice is sound, is based on standardized RFO practices, and complies with the IOUs' market risk and credit obligations. In fact, certain proposals may be considered discriminatory to newer companies, or expose the IOUs to significant risk.

**F. The Commission should enable an expedient procedural process if it orders a 2020 DRAM pilot.**

SCE and PG&E understand the ALJ's request to only identify changes to the pilot process that can be implemented within 90 days, do not require evidentiary hearings, and do not have insurmountable budgetary implications. Such a timeline would align with issuing a 2020 DRAM Pilot by February 2019, which would be necessary to meet the RFO schedules, enable DRAM Sellers time to recruit customers, and allow the IOUs to include the capacity in the year-ahead RA showing. SCE and PG&E further recommend that the Commission include the specific list of modifications to the contract and solicitation process it approves in a decision to be issued no later than October 1, 2018. The IOUs should also be permitted to comply with the modifications through a joint Tier 2 advice letter process. SCE and PG&E caution that any stakeholder processes to implement changes, or any protests to such advice letters, may not allow the RFO to launch in time to support these timelines. The IOUs concur that the ability to claim RA from the DRAM resources in the year-ahead showing is of utmost importance: delays to the RFO that impact this would limit the ability for any DRAM capacity procured to be counted toward the IOUs' RA requirements, and thus exacerbate double procurement concerns.

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<sup>47</sup> See DRAM Contract, Article 5.

**III.**

**CONCLUSION**

SCE and PG&E appreciate the Commission's consideration of these matters and the opportunity to provide this reply.

Respectfully submitted,

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