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**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. | R.13-09-011<br>(Filed September, 2013) |

# MOTION FOR ADOPTION OF SETTLEMENT AGREEMENT BETWEEN AND AMONG PACIFIC GAS AND ELECTRIC COMPANY, SOUTHERN CALIFORNIA EDISON COMPANY, SAN DIEGO GAS & ELECTRIC COMPANY, CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION, OFFICE OF RATEPAYER ADVOCATES, THE UTILITY REFORM NETWORK, CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION, CONSUMER FEDERATION OF CALIFORNIA, ALLIANCE FOR RETAIL ENERGY MARKETS, DIRECT ACCESS CUSTOMER COALITION, MARIN CLEAN ENERGY, ENERNOC, INC., COMVERGE, INC., JOHNSON CONTROLS, INC., OLIVINE, INC., ENERGYHUB/ALARM.COM, SIERRA CLUB, ENVIRONMENTAL DEFENSE FUND, AND CLEAN COALITION ON PHASE 3 ISSUES


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Pursuant to Rule 12.1(a) of the Commission's Rules of Practice and Procedure, the Joint Settling Parties[1/] respectfully move for the adoption by the Commission of the attached Settlement Agreement (Attachment A hereto) on the issues included within the scope of Phase Three of this rulemaking. By the Settlement Agreement, the Settling Parties agree on a mutually acceptable outcome on the Phase Three issues identified in the "Joint Assigned Commissioner and Administrative Law Judge Ruling and Revised Scoping Memo Defining Scope and Schedule for Phase Three, Revising Schedule for Phase Two, and Providing Guidance for Testimony and Hearings" issued in this rulemaking on April 2, 2014 ("April 2 ACR").

1/ The Settling Parties include Pacific Gas and Electric Company (PG&E); Southern California Edison Company (SCE); San Diego Gas and Electric Company (SDG&E); California Independent System Operator Corporation (CAISO); Office of Ratepayer Advocates (ORA); The Utility Reform Network (TURN); California Large Energy Consumers Association (CLECA); Consumer Federation of California (CFC); Alliance for Retail Energy Markets (AReM); Direct Access Customer Coalition (DACC); Marin Clean Energy (MCE); EnerNOC, Inc. (EnerNOC); Comverge, Inc. (Comverge).; Johnson Controls, Inc. (JCI); Olivine, Inc.; EnergyHub /Alarm.Com; Sierra Club; Environmental Defense Fund (EDF); and Clean Coalition (collectively, Settling Parties).

Rule 12.1(a) requires a motion proposing a settlement on the resolution of issues within the scope of a proceeding to "contain a statement of the factual and legal considerations adequate to advise the Commission of the scope of the settlement and of the grounds on which adoption is urged." In compliance with that rule, this Motion provides (1) the factual and procedural background and scope of Phase Three of R.13-09-011, (2) the history of the Settlement Agreement and Rule 12 compliance, (3) a description of the context and scope of the Settlement Agreement, along with a summary of the Settlement Agreement, and (4) a demonstration that the Settlement Agreement is reasonable in light of the whole record, consistent with the law, and in the public interest; and (5) an exhibit that comparies the Settling Parties' testimony with the outcomes of the Settlement Agreement. No hearing, as described in Rule 12.3, is required. In addition, the Motion seeks additional relief consistent with the terms of the Settlement Agreement.

## I. SUMMARY OF REQUESTED RELIEF

Based on the information contained herein and the Settlement Agreement attached hereto as Attachment A, the Settling Parties move for adoption of the Settlement Agreement by the Commission. It is the Settling Parties' position that the settlement process and the Settlement Agreement fully comply with Rule 12 and that the Settlement Agreement, for the reasons stated herein, is reasonable in light of the whole record, consistent with the law, in the public interest, and should be adopted by the Commission.

Based on "time urgency," as detailed below, the Settling Parties also request the following procedural rulings to facilitate timely consideration of the Settlement Agreement within the schedule adopted for Phases Two and Three.[2/] These rulings are required to permit appropriate deviation from the Commission's deadlines otherwise applicable to settlement agreements and to reflect resource constraints that have arisen in reaching the Settlement Agreement.

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2/ Rule 12.1(c).

In addition, consistent with the Settlement Agreement, the Settling Parties ask for immediate ALJ's Ruling(s) to do the following:

(1) Include in the issues to be briefed issues associated with encouraging participation in the Demand Response Auction Mechanism (DRAM) Pilot and the potential interaction of other types of Supply Resource solicitation (i.e. outside the DRAM Pilot) with the DRAM Pilot, as set forth in the Settlement Recital, pages 4 to 5, Settlement Section II. C.3.j., page 27, and Settlement III; 15., p 33,[3/] in addition to the Phase 2 issues related to cost allocation and use of fossil-fueled back-up generators;[4/] and

(2) Authorize the three Investor Owned Utilities (IOUs) (PG&E, SCE, and SDG&E) to convene workshops, prior to a final decision, to enable parties and all interested stakeholders to begin working together promptly to design and develop the materials and criteria necessary to timely commence the DRAM Pilot, described in the Settlement Agreement at pages 24 to 30.

## II. FACTUAL AND PROCEDURAL BACKGROUND OF PHASES TWO AND THREE

On September 19, 2013, the Commission initiated Rulemaking (R.) 13-09-011 by approving the Order Instituting Rulemaking (OIR) to enhance the role of demand response in meeting California's resource planning needs and operational requirements. The Commission initiated the rulemaking to determine whether and how to bifurcate current utility-administered, ratepayer-funded demand response programs into demand-side and supply-side resources in order to prioritize demand response as a utility-procured resource, competitively bid into the CAISO wholesale electricity market.

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3/ As noted in subsection (3) above, the Settlement Parties reached agreement on the use of a DRAM Pilot, but an agreement was not reached on issues related to encouraging participation in that pilot and its interaction with other types of Supply Resources solicitations. To that end, any final resolution of those issues will necessarily require consideration of the briefs that address those issues.

4/ The Settling Parties confirm that this additional issue is within the scope of Phases Two and Three, as identified at page 6 of the Assigned Commissioner and ALJ Ruling and Revised Scoping Memo issued on April 2, 2014.

On November 14, 2013, the assigned Commissioner and Administrative Law Judge (ALJ) jointly issued a Ruling and Scoping Memo (Scoping Memo) that set forth the procedural schedule and scope of issues. The Scoping Memo established a four-phased approach with Phase One dealing with bridge funding issues, Phase Two addressing foundational issues, Phase Three covering future demand response program design, and Phase Four developing a demand response road map. The scope of issues for Phases Three and Four were left to be determined in a later ruling.

On March 27, 2014, the Commission issued a decision (D.14-03-026) on the Phase Two foundational issues. By that decision, the Commission determined that demand response programs should be bifurcated into load modifying resources and supply resources, that a proposal for a demand response auction mechanism would be provided in a future ruling, and that other foundational issues would be addressed in future decisions.[5/]

On April 2, 2014, the Assigned Commissioner and ALJ issued their joint ruling providing a Revised Scoping Memo for Phases Two and Three (April 2 ACR). The April 2 ACR identified the scope of the remaining Phase Two ("foundational") issues and the scope of Phase Three. The remaining Phase Two issues include: a review of cost allocation/cost recovery, the use of fossil-fueled back-up generation for demand response, and revisions to the cost-effectiveness protocols.[6/] The Phase Three issues were divided into the following topic areas: Goals for Demand Response, Resource Adequacy Concerns, CAISO Market Integration Costs, Supply Resources Issues, Load Modifying Resources Issues, and Program Budget Application Process.[7/] In addition, the April 2 ACR included the proposed Demand Response Auction Mechanism (DRAM) in Attachment B to that ruling. Parties were directed to address the issues identified within the scope of Phases Two and Three, along with the proposed DRAM, in their testimony to

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5/ D.14-03-026, at pp. 2, 23-25.

6/ April 2 ACR, at pp. 3, 6.

7/ April 2 ACR, at pp. 4-6.

be served in May 2014. Further, Attachment A of the April 2 ACR provided guidance for that testimony in the form of questions on each Phase Two and Phase Three issue area.

Attachment A did not include questions on issues related to cost-effectiveness protocols. Instead, a further and separate process was identified for addressing those issues. As such, cost-effectiveness protocols were not an issue area for testimony or hearings on Phase Two and Phase Three issues, or for the subsequent settlement discussions described below.

Specifically, on June 23, 2014, the ALJ issue a Ruling Requesting Comment on Proposed Revisions to the Cost-Effectiveness Protocols. Those revisions consisted of an Energy Division Staff Proposal, dated April 25, 2014, and attached to the June 23 ALJ's Ruling as Attachment A. That Ruling directed parties to file Opening and Reply Comments on Attachment A on August 15 and August 22, 2014, respectively.

With respect to the testimony on the other Phase Two issues (cost allocation/recovery and BUGS) and the Phase Three issues, the following parties served Opening Testimony on May 6, 2014: PG&E, SCE, SDG&E, CAISO, ORA, TURN, CLECA, DACC/AReM, MCE, Joint DR Parties[8/], EnergyHub/Alarm.Com, OPower, Inc., Natural Resources Defense Council (NRDC), Sierra Club, and Clean Coalition.[9/] On May 22, 2014, rebuttal testimony was served by PG&E, SCE, SDG&E, CAISO, ORA, TURN, CLECA, DACC/AReM, MCE, DR Parties, and Clean Coalition.

Prior to the start of evidentiary hearings scheduled for the week of June 9, 2014, the ALJ determined, in response to input from the parties, that a portion of that week should be devoted to Workshops on certain topics, rather than hearings. On June 5, 2014, the ALJ announced a schedule for that week to begin with a limited evidentiary hearing on the morning of June 9 to permit cross-examination of SDG&E witness James Avery and identification and admission into

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8/ The Joint DR Parties are EnerNOC, Comverge, and JCI.

9/ Calpine Corporation also served testimony on May 6, 2014 and May 22, 2014, although it is not on the service list for R.13-09-011.

evidence of certain exhibits.[10/] The evidentiary hearings were then recessed to commence workshops that ultimately continued through June 11, 2014. The topics addressed at those workshops included BUGS, CAISO integration costs, characteristics of load modifying versus supply resources, demand response goals, DRAM, and the interplay of DRAM with Resource Adequacy (RA).

On June 12, 2014, the ALJ called a second brief evidentiary hearing to mark for identification certain additional exhibits and consider next steps in the proceeding, including setting future hearing dates for July 10 and 11.[11/] Upon adjournment of that hearing, a settlement discussion, pursuant to Rule 12, commenced. Based on input from the parties engaged in settlement, the ALJ issued an email ruling on June 23, 2014, removing the July 10 and 11 hearing dates from the calendar and setting a PHC for July 29 to be followed, as necessary, by hearings scheduled for August 7 and 11, 2014.

At the July 29, 2014 Prehearing Conference in Phases Two and Three (July 29 PHC), the Settling Parties reported on the status of settlement discussions without addressing any confidential terms, but did provide a description of the Settling Parties' compliance to that date with Rule 12 and an expected filing date for this Motion and the Settlement Agreement on or about August 1, 2014. In addition, the ALJ and the parties discussed the next steps. The ALJ made a direct inquiry as to whether any party intended to raise a material contested issue of fact that could require a hearing on the Settlement Agreement under Rule 12.3; no party indicated that such a material contested issue of fact existed.[12/] The Settling Parties, however, stated that

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10/ Exhibits SGE-01, SGE-02, SGE-03, SGE-04, SGE-05, SGE-06, MCE-01, DAC-01, DAC-02, NRD-01, CLC-01, CLC-02, DAC-01, and DAC-02 were marked for identification; and Exhibits SGE-01, NRD-01, CLC-01, DAC-01, and DAC-02 were accepted into evidence.

11/ Exhibits ISO-01, ISO-02, ISO-03, ISO-04, ISO-05, ISO-06, CPC-01 43, CPC-02 43, CLE-01, CLE-02, CLE-03, CLE-04, CLC-02A, EDF-01, EDF-02, EDF-03, JDP-01, JDP-02, JDP-03, JDP-04, JDP-05, ORA-01, ORA-02, ORA-03, PGE-01, PGE-02, PGE-03, PGE-04, PGE-05, PGE-06, PGE-07, SGE-07, SGE-08, SGE-09, SGE-10, SGE-11, SGE-12, SGE-13, SCL-01, SCE-01, SCE-01A, SCE-02, SCE-02A, TRN-01, TRN-01A, TRN-02, TRN-02A, TRN-03, TRN-03A, TRN-04, and TRN-05 were marked for identification. The following exhibits also were received into evidence: CLE 04, SGE 02, SGE 03, SCL-01, and CLC-02A that day.

12/ Reporter's Transcript (RT) at 114 (ALJ Hymes).

they were prepared to provide a panel of representatives to respond to informational or clarification questions from the ALJ.

On July 31, 2014, ALJ Hymes issued an electronic ruling (July 31 ALJ's Ruling), which, based on input received at the July 29 PHC, revised the schedule of this proceeding to require (1) Opening Briefs and Opening Comments on the Settlement Agreement to both be filed on August 25, 2014; and (2) Reply Briefs and Reply Comments on the Settlement Agreement to both be filed on September 8, 2014. Given that this schedule shortens the time otherwise permitted for Comments on a settlement, the ALJ set August 4, 2014, as the due date for any objections to that shortened time being sent by electronic mail to the ALJ. Absent objections, the ALJ's Ruling determines "the shortened comment period to be reasonable."[13/]

In addition, the July 31 ALJ's Ruling set August 11, 2014, as a Status Conference, for the purpose of a panel of Settling Parties to provide an overview of the Settlement Agreement to the ALJ. The July 31 ALJ's Ruling also advised that further guidance regarding the testimony and the need for additional hearings would be provided at a later date, and comment dates previously set for responding to proposed revised cost-effectiveness protocols (August 15 and August 22, 2014) were suspended until further notice.

Finally, the July 31 ALJ's Ruling also directed that "the settlement document should also contain a comparison exhibit that provides a list of the issues from the April 2, 2014 ruling and Revised Scoping Memo, parties' original positions from testimony, and the outcome as agreed upon in the settlement."[14/] This Motion and the Settlement Agreement set forth in clear detail how the Settling Parties approached the Phase Three issues, including how each identified "Issue Area" matched to the topics identified as being with the scope of Phase Three.[15/] One of the primary changes that occurred, however, as a result of the June 9 through June 11 Workshops was the emergence of an understanding of the Phase Three Issues that required both an

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13/ July 31, 2014 ALJ's Ruling.

14/ Id.

15/ See, Sections IV below.

articulation and resolution of those issues in a manner that was different than reflected in the testimony "guidance" provided by Attachment A of the April 2 ACR.

As a result, in many cases, the issues and their resolution are different from the precise manner in which they were addressed in the Settling Parties' testimony. This outcome was necessitated by, again, a greater understanding of both the facts and current and future regulatory paradigms that impact these issues.

The Settling Parties are submitting as Attachment B to this Motion a Comparison Exhibit containing brief descriptions of the opening testimony submitted by service list parties on the Phase Three issues in the April 2 ACR in compliance with the July 31 ALJ Ruling. The Comparison Exhibit also provides brief summaries of the Settlement Agreement outcomes for the Phase Three issues The Settling Parties believe that the attached Comparison Exhibit fulfils the intent of the ALJ's request in her July 31, 2014 e-mail ruling.

## III. SETTLEMENT HISTORY AND RULE 12 COMPLIANCE

Upon adjournment of the evidentiary hearing on June 12, 2014, parties to this proceeding began settlement discussions on the issues identified by the April 2 ACR as within the scope of Phase Two and Phase Three. Those discussions extended through many weeks, including in-person meetings, email correspondence, and conference calls.

At all times during these meetings and discussions, the Settling Parties have fully complied with Article 12 (Settlements) of the Commission's Rules of Practice and Procedure. Among other things, all participating parties complied with and were bound by the Confidentiality and Inadmissibility provisions of Rule 12.6, holding all such discussions confidential and agreeing not to disclose them outside the negotiations without the consent of participating parties.

Further, prior to signing the Settlement Agreement, the Settling Parties convened a Settlement Conference on July 23, 2014, with notice and opportunity to participate provided to all parties to this proceeding more than three weeks in advance on June 27, 2014. On July 23,

the Settlement Conference was held at the Commission's offices, and the proposed Settlement Agreement was described and discussed. After the conclusion of the Settlement Conference, the Settlement Agreement was finalized and executed as of August 1, 2014, and has been offered for Commission consideration and adoption by this Motion today, August 1, 2014.[16/] In this regard, the Settlement Agreement complies with Rule 12.5 in recognizing that Commission adoption of the Settlement Agreement, while binding on all parties to this proceeding, does not constitute precedent regarding any principle or issue in this proceeding or in any future proceeding.

## IV. CONTEXT, SCOPE, AND SUMMARY OF SETTLEMENT AGREEMENT

### A. Settlement Context

In D.14-03-026, the Commission adopted conceptual bifurcation of the Commission-regulated demand response (DR) portfolio of programs into two categories: (1) load modifying resources, which reshape or reduce the net load curve; and (2) supply resources, which are integrated into the CAISO energy markets.[17/] In adopting its DR bifurcation policy, however, the Commission made clear that it did not intend to favor one category over another, but rather:

> "[T]he Commission's goals are to improve the efficiency of demand response and increase the use of all demand response programs; but there is no intention to diminish the value of demand response in either category."[18/]

The Commission further affirmed that, "as has been echoed by several parties during this proceeding, the Commission will insure that we do not devalue current demand response programs."[19/]

The Settling Parties are mindful of the cited Commission statements regarding demand response, the current programs, and the goal of avoiding diminution of the value of demand

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16/ Rules 12.1(a) and (b).

17/ D.14-03-026, at p. 1.

18/ D.14-03-026, at p. 2. In addition, the Commission reiterated its intent at page 7 of D.14-03-026, as follows:

19/ D.14-03-026, at p. 6.

response, whether load modifying resource or supply resource. However, the Settling Parties agree that information and insights that came to light during the workshops, hearings, and settlement discussions that took place in June and July 2014 have revealed that the course set via the topics and testimony guidance identified in the April 2 ACR for implementing bifurcation could actually lead to results that would be counter to the Commission's stated intentions.

Specifically, the Settling Parties learned many critical things about what is necessary to increase demand response successfully in a future world where DR Supply Resources are bid directly into the CAISO market by third-party DR providers, as well as the utilities. It became apparent to the Settling Parties that rushing into bifurcation implementation without addressing and solving valuation, integration, process, and cost questions that emerged in both the workshops and settlement discussions in June and July 2014 will set back and diminish demand response and not improve and increase DR as expected by the Commission. In fact, consistent with the Commission's stated intentions in D.14-03-026, such a result (a decrease or diminishment of DR) would clearly be an unintended consequence that should be addressed and avoided.

To that end, the Settling Parties first sought to identify "Issue Areas" in a manner consistent with the actual challenges faced in bifurcating DR resources and moving toward CAISO integration and further agreed that a deliberate, measured approach to implementing bifurcated demand response and direct participation in the CAISO market was required.[20/] As explained in more detail below, the Settlement Agreement has in turn been based on these identified Issue Areas for moving forward, rather than directly responding to the questions or testimony guidance included in Attachment A or the DRAM proposal as specifically provided in Attachment B of the April 2 ACR.

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20/ In addition, the Settling Parties noted that changes and implementation to the cost effectiveness protocols that are used to evaluate demand response programs would likely be important for future demand response. On June 23, 2014, the ALJ issued a Ruling Requesting Comments on Proposed Revisions to the Cost-Effectiveness Protocols, which included a draft set of revisions to the protocols attached to the ruling. Thus, cost effectiveness protocols are being considered separately and were not included in the scope of issues considered for this settlement.

### B. Settlement Scope ("Issue Areas")

During the initial settlement discussions, the Settling Parties, for the reasons described above, developed "Issue Areas" in order to reach outcomes that would further align with the Commission's policy conclusions reached in D.14-03-026. Ultimately, the Issue Areas that moved to settlement do not include any Phase Two issues, but do seek to resolve all Phase Three issues.

#### 1. The Settlement Agreement Does Not Address or Resolve the Remaining Phase Two Issues.

The three remaining Phase Two issues were generally described by the April 2 ACR as (1) revisions to the DR cost-effectiveness protocols, (2) review of cost allocation/recovery, and (3) use of fossil-fueled back-up generators.[21/] None of these issues are included in the Settlement Agreement and their treatment, separate from the agreement, can be summarized as follows:

- *Revision of Cost-Effectiveness Protocols*: During the week of June 9, 2014, parties to this proceeding were advised that revised cost-effectiveness protocols would be issued for party comment at a later date. That action was taken by ALJ's Ruling issued on June 23, 2014 (June 23 ALJ's Ruling), which summarized and attached draft revisions to the 2010 Cost-Effectiveness Protocols as proposed by Commission Staff, and offered the opportunity for parties to file Opening and Reply Comments on August 15 and August 22, respectively. Given this separate and ongoing process adopted for this issue, any such revisions are not part of the Settlement Agreement.
- *Review of Cost Allocation/Recovery*: This issue was included in the initial phase of the settlement discussion. However, following confidential discussions among interested parties, it was reported that no agreement could be reached and that the issue should be briefed instead, according to the schedule adopted by the ALJ. As a result, this issue is not part of the Settlement Agreement.
- *Use of Back-Up Generators*: During public Workshop discussions on June 12, 2014, parties agreed that this issue did not require further evidentiary hearings, but, instead,

21/ April 2 ACR, at p. 6.

should be addressed in briefs. The issue was, therefore, never included in the settlement discussions and is not part of the Settlement Agreement.

### 2. The Settlement Agreement Addresses All Phase Three Issues by "Issue Area."

To further and comply with Commission policy adopted in D.14-03-026, the following "Issue Areas" were developed by the Settling Parties to reach a Settlement Agreement on all issues identified as being within the scope of Phase Three of this proceeding by the April 2 ACR. These Issue Areas are collectively Issue Areas 1, 2, 3, 4 and 5 and are described as follows:

***Issue Area #1***: Demand Response Goals,

***Issue Area #2***: Valuation/Program Categorization,

***Issue Area #3***: Demand Response Auction Mechanism (DRAM), Utility Roles, Future Procurement,

***Issue Area #4***: CAISO Integration,

***Issue Area #5***: Budget Cycles

The Settling Parties sought to ensure that each Issue Areas was responsive to the scope identified by the April 2 ACR for Phase Three, including consideration of the Demand Response Auction Mechanism (DRAM). In this regard, the Issue Areas can be matched to those topics as identified by the April 2 ACR at pages 4 through 6 and Attachment B as follows:

- "Goals for Demand Response" [**Issue Area #1**]
- "Resource Adequacy Concerns (as directed by D.14-03-026)" [**Issue Area #2**]
- "CAISO Market Integration Costs (as directed by D.14-03-026)" [**Issue Area #4**]
- "Supply Resource Issues" [**Issue Area #2**]
- "Load Modifying Resource Issues" [**Issue Area #2**]
- "Program Budget Application Process" [**Issue Area #5**]
- DRAM (included in the April 2 ACR as Attachment B) [**Issue Area #3**]

## C. Summary of Settlement Agreement

### 1. Overview

The Settlement Agreement includes both recitals and terms and conditions that address and resolve the Issue Areas identified above as follows: Demand Response Goals (Issue Area #1); DR Valuation and Program Categorization (Issue Area #2); DRAM, Utility Roles, and Future Procurement (Issue Area #3); CAISO Integration (Issue #4); and Budget Cycles (Issue Area #5). While all of these terms and conditions are interrelated and represent compromise by the Settling Parties on all of these issues as a whole, two of the Issue Areas (Issue Area #2 (Valuation and Program Categorization) and Issue Area #4 (CAISO Integration)) lent themselves to further integration into one section of the Terms and Conditions of the Settlement Agreement.

A high level summary of the Terms and Conditions reached on the designated Issue Areas is provided below. However, a full understanding of all compromises reached requires review and consideration of each Term and Condition of the Settlement Agreement. Finally, taken as a whole, the Settlement Agreement represents the Settling Parties' agreement on the manner in which we believe the Commission should resolve these Issue Areas today to allow for a reasonable transition to a competitive market for DR supply resources that does not diminish, but instead improves and increases the level of all DR resources available to meet both current and future energy needs.

### 2. By "Issue Area"

#### a. Issue Area #1: Demand Response Goals

Using available information about current demand response aspirational goals and the current level of demand response, the Settling Parties have agreed to an interim statewide demand response goal and a process and criteria for establishing firm demand response goals that resolves the set of issues set forth in the April 2 ACR Scope. The Settlement Agreement specifies the criteria for a firm DR goal and a timetable and process, including the development and completion of a DR Potential Study, to inform the adoption of a firm DR goal specific to each utility.

### b. Issue Area #2: Valuation/Program Categorization, and Issue Area #4: CAISO Integration

During settlement discussions, the Settling Parties concluded that D.14-03-026 provided a sufficient framework for demand response program categorization, but that the value proposition for both Load-Modifying Resources and Supply Resources extended beyond resource adequacy. Further, the Settling Parties concluded that the issues of program categorization and valuation (Issue Area #2) were interrelated with those arising from CAISO integration (Issue Area #4).

For purposes of this high level summary, the Settling Parties first acknowledged that DR program bifurcation would begin in 2017, with new and redesigned programs offered by the IOUs in their DR Budget Applications to be submitted in November 2015. With that in mind, the Settling Parties concluded that these new or redesigned programs should have the necessary characteristics to meet specific pre-determined needs as either Supply Resource or Load-Modifying Resource DR, but that further analysis is required pursuant to a process and timetable included in the Settlement Agreement. During the pendency of that work, the current valuation used to calculate the system and local resource adequacy credits for the IOUs' existing DR programs will be retained through 2019.

With respect to the costs of integrating Supply Resources into the CAISO market, the Settling Parties recognized that there is experience to be gained from current efforts to bring existing programs into the market, and these efforts will continue beyond the anticipated issuance of a decision on Phase Three issues in December 2014. The Settling Parties concluded that a better understanding of costs, existing barriers to CAISO integration, and possible resolution would be facilitated by further dialogue, particularly because these issues are technically complex and could not be easily resolved in the context of either hearings or in the Settlement Agreement. To that end, the Settlement Agreement specifies a process and timetable, including working groups and applicable charters, for that purpose.

### c. Issue Area #3: Demand Response Auction Mechanism (DRAM), Utility Roles, Future Procurement.

The Settling Parties concluded that changes in the requirements for direct participation by demand response providers in the CAISO market are needed to reduce the cost and complexity of that participation without creating operational difficulties for the CAISO. The resolution of those integration issues is central to the development of the DRAM, the purpose of which is to competitively procure Supply Resources that will be integrated into the CAISO markets. Such integration will, in turn, require auction winners to make the substantial investment in up-front costs to meet all CAISO and CPUC integration requirements. The Settling Parties also recognize that many issues must be resolved in order for the DRAM to be implemented, including bidding rules, cost caps, and payment structure.

With that in mind, the Settling Parties have agreed that resolution of these issues requires, and would be benefitted by, DRAM Pilot auctions, the first of which would be held in 2015 for 2016 delivery of supply resource DR and the second would be conducted in 2016 for deliveries beginning in 2017. Each auction would be for a minimum of 22 MW statewide, apportioned among the IOUs, as reflected in the Settlement Agreement except that if a utility's DRAM contract(s) from the first auction includes MW commitments after 2016, the MWs from the first auction that continue after 2016 will count towards that utility's MW minimum for the second auction. The IOUs' costs for the DRAM pilot would be recorded in existing DR related balancing accounts, provided the funds are not spent or committed and that the IOUs are authorized to shift funds for this purpose without the limitations of the existing fund shifting rules as defined in D.12-04-045 (Ordering Paragraph 4).[22/] The allocation of costs among customers of the 2015-2016 DRAM Pilot-related amounts as well as DRAM-related amounts in 2017-2019 shall be subject to briefing and determination by the Commission in this proceeding.

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22/ If sufficient bridge funding is not available to fund incentives for approved DRAM Pilot contracts in 2016, funding for those incentives could be addressed in the advice letters that the utilities would have to file after the winners of the DRAM auction are determined.

The Settling Parties agreed that a broad, public stakeholder process or working groups, convened by December 2014, should be used to develop the design, protocol, and standard offer contracts of the DRAM Pilot. The resulting DRAM Pilot design, protocol and standard offer contracts would be submitted to the Commission for its review and approval. The winning contracts in the DRAM Pilot also would be submitted to the Commission for approval. The Settling Parties further agreed that, at the same time, the IOUs will have the option of conducting RFOs in 2015 for delivery in 2017 and beyond for supply resource and load-modifying DR that differ from those procured through the DRAM pilot. However, the Settling Parties could not reach agreement on the specifics of how to encourage participation in the DRAM Pilot and consider the related impact of the RFOs, but did agree to that issue being the subject of briefs.

For the period 2015-2016, the Settling Parties agree that costs for the DRAM Pilot will be recovered through bridge funding authorized in D.14-01-004 and D.14-05-025. In order to use the 2015-2016 bridge funding for the DRAM Pilot, the IOUs need the Commission to: 1) determine that funding the DRAM Pilot from previously authorized bridge funding budgets is appropriate, and 2) authorize the IOUs to shift funds for the purpose of funding the DRAM Pilot without the limitations of existing fund-shifting rules as defined in D.12-04-045, Ordering Paragraph 4. If 2015-2016 bridge funding is insufficient to recover the incentives paid in 2016 to winning bidders in the DRAM Pilots, the IOUs would be permitted to request recovery of the incentives in the advice letter(s) submitting the winning DRAM Pilot contracts for approval.

#### d. *Issue Area #5: Budget Cycle*

The Settling Parties agreed that the development of an extended budget cycle required careful consideration and needed to be coordinated with other changes to DR programs and procurement taking place today. The Settling Parties therefore agreed that there should be one more three-year program cycle (2017-2019), with certain mid-cycle reviews, before a longer budget cycle goes into effect, and also agreed on a process to develop the appropriate rules for a

potential extended DR budget cycle. That process would be initiated by April 1, 2015, and coordinated with the IOUs' Rule 24/32 and other Commission and CAISO stakeholder processes, with the goal of offering proposed rules by December 31, 2015, for Commission approval by March 31, 2016.

## V. THE SETTLEMENT AGREEMENT IS REASONABLE, CONSISTENT WITH THE LAW, IN THE PUBLIC INTEREST, AND SHOULD BE ADOPTED BY THE COMMISSION.

The Commission will approve a settlement if it finds the settlement "reasonable in light of the whole record, consistent with law, and in the public interest."[23/] As a matter of public policy, the Commission generally favors settlements of disputes if they are fair and reasonable in light of the record, finding that such a policy "supports worthwhile goals, including reducing the expense of litigation, conserving scarce Commission resources, and allowing parties to reduce the risk that litigation will produce an unacceptable result."[24/]

Thus, in reviewing a settlement, the Commission will consider (1) the risk, expense, complexity and likely duration of further litigation, (2) whether the settlement negotiations were at arms-length, (3) whether major issues were addressed, and (4) whether the parties were adequately represented.[25/] Further, while the Commission considers individual settlement provisions, "in light of the strong public policy favoring settlements, we do not base our conclusion on whether any single provision is necessarily the optimal result," but "whether the settlement as a whole produces a just and reasonable outcome."[26/] Finally, the Commission will also consider and approve settlements that are not joined by all parties where the settlement taken as a whole is in the public interest and generally balances the various interests at stake in a manner consistent with the applicable policy objectives and law.[27/]

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23/ Rule 12.1(d); *see also* D.09-10-017 (applying Rule 12.1(d) criteria).

24/ D.11-12-053, at p. 72.

25/ Re Pacific Gas & Electric Company, 30 CPUC 2d 189, 222.

26/ D.11-12-053, at p. 73.

27/ D.11-12-053, at p.76.

The Settlement Agreement on Phase Three issues readily meets all of the applicable criteria set forth in Rule 12 for Commission adoption. To begin with, the Settling Parties included nearly all parties that offered testimony on Phase Three issues. Further, the interests represented by the Settling Parties are divergent and broad based, and the Settlement Agreement reflects both accommodation and compromise of positions held by each of the Settling Parties.

In reaching the Settlement Agreement, each of the Settling Parties were adequately represented, negotiated in good faith and at arms-length, bargained aggressively, compromised, and agreed to the Settlement Agreement as an interrelated package of terms and conditions on Phase Three issues. The resolution of any one term or Issue Area cannot be assessed separately or discretely. Instead, the Settlement Agreement should be evaluated as a package and with the understanding that any change by the Commission to the settled resolution of any one issue or Issue Area may undermine or upset the balance of positions that the entire package strikes. Further, the Settlement Agreement, as to its individual terms and as a whole, considered all available information and the record to date on DR programs, valuation, and procurement; agreed to terms consistent with that information and the law, and balanced the various interests at stake and reached outcomes consistent with the applicable policy objectives for DR.

In terms of the issues addressed, the record in this case – from the testimony served and identified in May and June 2014 to the Workshops and hearings held the week of June 9 – makes very clear that the Phase Three issues are contentious and complex and reflect fundamental changes in how demand response resources are to be valued, categorized, and procured going forward. There is no doubt, as became apparent in the transition from hearings to workshops in June 2014 to facilitate even a basic understanding of these issues, that a reasonable and fair resolution of these issues would not be achieved by litigation. Instead, litigation would be time consuming and expensive and risk reaching "unacceptable results" at odds with applicable Commission DR policy.

For these reasons, the Settling Parties ask that the Commission find that the Settlement Agreement complies with all of the requirements of Rule 12 (see, Section III. B., *supra*) and is

reasonable in light of the whole record, consistent with the law, and in the public interest. With those findings, the Settlement Agreement should be adopted by the Commission without revision.

## VI. RULE 12.3 HEARINGS ARE NOT REQUIRED

Rule 12.3 allows the Commission to "decline to set hearing" on a Settlement Agreement "[i]f there are no material contested issues of fact, or if the contested issue is one of law." In this case, as recited above, the settlement discussions were open to all parties with an interest in resolving issues within the scope of Phases Two and Three. Further, in compliance with Rule 12, a Settlement Conference was properly noticed to all parties to this rulemaking and held on July 23, 2014, at which the Settling Parties described to inactive parties the Settlement in detail, and no one stated their intent to raise a material contested issue of fact related to the Settlement Agreement. Further, at the July 29 PHC, ALJ Hymes asked if any party had a material contested issue of fact related to the Settlement Agreement, and no party responded in the affirmative.[28/]

It is the Settling Parties' position that the Settlement Agreement does not raise any material contested issues of fact that would require the Commission to hold an evidentiary hearing on the Settlement Agreement pursuant to Rule 12.3. Further such a hearing would prevent the expeditious review of the Settlement Agreement and, in turn, the timely resolution of Phase Three by December 2014 as intended by the Commission. However, the Settling Parties, as indicated at the July 29 PHC, will make a panel of representatives available to the ALJ for information or clarification questions. That panel has been scheduled to appear before ALJ Hymes on August 11, 2014.

## VII. ADDITIONAL REQUESTED RELIEF IN FURTHERANCE OF THE SETTLEMENT AGREEMENT

As referenced above, certain Phase Two issues have already been identified as outside the Settlement Agreement and, while not requiring evidentiary hearings, will be the subject of briefs.

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28/ RT at 114 (ALJ Hymes).

In addition, while the Settlement Agreement did address all Phase Three issues, its proposal of a DRAM Pilot raised an issue on which the parties could not reach an agreement on its resolution, but did reach an agreement that, instead, the issue could be the subject of briefs.

Because of these circumstances, the Settling Parties request that an ALJ's Ruling be issued immediately to confirm that the issues to be briefed in the Opening and Reply Briefs, now due on August 25 and September 8, respectively, include all of the following issues:

(1) The remaining Phase Two issues of cost allocation;

(2) The remaining Phase Two issue of the use of back-up generators; and

(3) Issues associated with encouraging participation in the Demand Response Auction Mechanism (DRAM) Pilot and the potential interaction of other (i.e. non-DRAM Pilot) solicitations for Supply Resources with the DRAM Pilot, as set forth in the Settlement Agreement.[29/]

In addition, to permit prompt development of the DRAM Pilot as identified in the Settlement Agreement, an ALJ's Ruling is required prior to a final decision to authorize PG&E, SCE, and SDG&E to convene workshops to enable all parties, interested stakeholders, and entities to begin the work necessary to develop the DRAM Pilot design, including DRAM RFO solicitations, protocols, standard contracts, and other DRAM Pilot Design matters, as soon as possible. This ruling is necessary to timely commence the DRAM Pilot, as described in the Settlement Agreement and for timely submission to the Commission before the first auction, as anticipated in Attachment B, Page 15, to the April 2 ACR.

Further, because the funding of the DRAM requires modifications to the earlier bridge funding and fund shifting decisions, the Settling Parties ask that the final decision approving the settlement determine that the DRAM Pilot costs be included among the 2015-2016 DR programs

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29/ As noted in subsection (3) above, the Settlement Parties reached agreement on the use of a DRAM Pilot, but an agreement was not reached on issues related to encouraging participation in that pilot and its interaction with Supply Resources RFOs. To that end, any final resolution of those issues will necessarily require consideration of the briefs that address those issues.

to be funded by the budgets authorized in Ordering Paragraphs 10, 15 and 17 of D.14-05-025, which adopted 2015-2016 budgets respectively for PG&E in Attachment 2 , for SDG&E in Attachment 3 and for SCE in Attachment 4 to D.14-05-025, and that the Commission authorize the IOUs to shift funds from existing DR categories to cover the costs of the DRAM Pilot costs, without the limitations of the existing fund-shifting rules contained in D.12-04-045, Ordering Paragraph 4.

## VIII. CONCLUSION

As demonstrated above, the Settlement Agreement is reasonable in light of the whole record, consistent with law, and in the public interest. Therefore, the Settling Parties respectfully move for the adoption of the Settlement Agreement (Attachment A hereto) by the Commission without modification. In turn, the Settling Parties request that the Commission base its decision on all Phase Three issues on the Terms and Conditions of the Settlement Agreement. In addition, the Settling Parties request that the ALJ's Rulings detailed in Section V above be issued by the Commission. These rulings are necessary to ensure a full and complete record on remaining Phase Two and all Phase Three issues, consistent with the schedule adopted for those phases in this proceeding.

PG&E is authorized by each of the settling parties to sign this Motion on their behalf.

Respectfully submitted on behalf of the Settling Parties,

*/s/Shirley A. Woo*

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Date: August 4, 2014

# ATTACHMENT A

# SETTLEMENT AGREEMENT

**BEFORE THE PUBLIC UTILITIES COMMISSION**
**OF THE STATE OF CALIFORNIA**

| | |
|---|---|
| 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<br>(Filed September 19, 2013) |

# SETTLEMENT AGREEMENT BETWEEN AND AMONG PACIFIC GAS AND ELECTRIC COMPANY, SOUTHERN CALIFORNIA EDISON COMPANY, SAN DIEGO GAS & ELECTRIC COMPANY, CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION, OFFICE OF RATEPAYER ADVOCATES, THE UTILITY REFORM NETWORK, CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION, CONSUMER FEDERATION OF CALIFORNIA, ALLIANCE FOR RETAIL ENERGY MARKETS, DIRECT ACCESS CUSTOMER COALITION, MARIN CLEAN ENERGY, ENERNOC, INC., COMVERGE, INC., JOHNSON CONTROLS, INC., OLIVINE, INC., SIERRA CLUB, ENVIRONMENTAL DEFENSE FUND, CLEAN COALITION, AND ENERGYHUB/ALARM.COM ON PHASE 3 ISSUES

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**BEFORE THE PUBLIC UTILITIES COMMISSION**
**OF THE STATE OF CALIFORNIA**

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In Accordance with Article 12 of the Rules of Practice and Procedure of the California Public Utilities Commission (CPUC or Commission), Pacific Gas and Electric Company (PG&E); Southern California Edison Company (SCE); San Diego Gas and Electric Company (SDG&E); the California Independent System Operator Corporation (CAISO); the Office of Ratepayer Advocates (ORA); The Utility Reform Network (TURN); California Large Energy Consumers Association (CLECA); Consumer Federation of California (CFC); Alliance for Retail Energy Markets (AReM); Direct Access Customer Coalition (DACC); Marin Clean Energy (MCE); EnerNOC, Inc. (EnerNOC); Comverge, Inc. (Comverge); Johnson Controls, Inc. (JCI); Olivine, Inc. (Olivine); Sierra Club (Sierra Club); Environmental Defense Fund (EDF); Clean Coalition (Clean Coalition); and EnergyHub/Alarm.com (EnergyHub/Alarm.com), (jointly, the "Settling Parties"), by and through their undersigned representatives enter into this Settlement Agreement on a mutually agreeable outcome on certain issues in Phase Three of this rulemaking, as described further herein. The issues addressed by this Settlement Agreement were included within the scope of Phase Three of this rulemaking by the "*Joint Assigned Commissioner and Administrative Law Judge Ruling and Revised Scoping Memo Defining Scope and Schedule for*

*Phase Three*, *Revising Schedule for Phase Two, and Providing Guidance for Testimony and Hearings*" issued in this rulemaking on April 2, 2014 ("April 2 ACR").

## I. RECITALS

**A.** ***Whereas***, the Settling Parties are all parties of record to Rulemaking 13-09-011 (DR OIR) and include: PG&E; SCE; SDG&E; CAISO; ORA; TURN; CLECA; CFC; AReM; DACC; MCE; EnerNOC; Comverge; JCI; Olivine; Sierra Club; EDF; Clean Coalition; and EnergyHub/Alarm.com.

**B.** ***Whereas***, the factual and procedural background for Phase Two and Phase Three of R.13-09-011 (DR OIR) and the Settlement Agreement are fully described in the accompanying Motion of the Settling Parties for Approval of the Settlement Agreement of Phase Three Issues filed this same day, August 1, 2014 (Settlement Agreement Motion).

**C.** ***Whereas***, the Settlement Agreement Motion describes the history, context, and scope of the Settlement Agreement, a summary of the Settlement Agreement, and the full compliance by the Settling Parties and the Settlement Agreement with all requirements of Article 12 of the Commission's Rules of Practice and Procedure, and demonstrates and supports findings and conclusions by the Commission that the Settlement Agreement is reasonable in light of the whole record, consistent with law, and in the public interest.

**D.** ***Whereas***, the Settling Parties believe the following recitals will help to clearly identify the treatment of issues on which a settlement has been reached:

1. In the course of the Workshops held on June 9 through June 11, 2014, and the ensuing settlement discussions held over the course of the period from June 12 through July 29, 2014, the Settling Parties learned many critical things about what is necessary to increase demand response (DR) successfully in a future world where third-party DR providers and the investor-owned utilities (IOUs) directly bid supply-side demand response (Supply Resource) into the CAISO market.

2. Based on the evolving understanding of the complex issues presented by this rulemaking, but given the differing views on how to resolve those concerns, the Settling Parties responded to encouragement from assigned Administrative Law Judge (ALJ) Kelly Hymes to meet and pursue a workable compromise and resolution of these issues.

3. With the background of the Workshops and the prepared testimony identified at the evidentiary hearings held on the mornings of June 9 and June 12, 2014, the Settling Parties first created the following issue-based approach for addressing and reaching a mutually agreeable settlement on the Issues for Phase Three identified by the April 2 ACR, using the following "Issue Areas":

   ***Issue Area #1***: Demand Response Goals,

   ***Issue Area #2***: Valuation/Program Categorization,

   ***Issue Area #3***: Demand Response Auction Mechanism (DRAM), Utility Roles, Future Procurement,

   ***Issue Area #4***: CAISO Integration,

   ***Issue Area #5***: Budget Cycles

4. The Settling Parties sought to ensure that each of these Issue Areas fell within the scope of, and covered, the Phase Three issues in this proceeding, as follows:

   1. Goals for Demand Response [**Issue Area #1**]
   2. Resource Adequacy Concerns (as directed by D.14-03-026) [**Issue Area #2**]
   3. CAISO Market Integration Costs (as directed by D.14-03-026) [**Issue Area #4**]
   4. Supply Resource Issues [**Issue Area #2**]
   5. Load-Modifying Resource Issues [**Issue Area #2**]
   6. Program Budget Application Process [**Issue Area #5**]
   7. DRAM (included in the April 2 ACR as Attachment B) [**Issue Area #3**]

5. The Settling Parties confirm the settlement discussions considered the interests of all active parties on each Issue Area, and believe the Settlement Agreement addresses each of the Issue Areas in a fair and balanced manner.

6. The Settling Parties represent diverse interests and developed the Settlement Agreement by mutually accepting concessions and trade-offs.

7. The Settlement Agreement strives to enhance the role of DR in California consistent with the Commission's guidance in Decision (D.) 14-03-026 to facilitate direct bidding into the CAISO market and bifurcate DR into Load-Modifying Resources and Supply Resources, while balancing the interests of many parties on multiple issues. This balance has been achieved through the close interrelation of various elements and sections of the Settlement Agreement. Accordingly, the Settling Parties intend that the Settlement Agreement be treated as a package solution, parts of which cannot be altered without affecting the entire agreement.

**E.** ***Whereas*****,** the Settling Parties acknowledge that two other Issue Areas identified as remaining from Phase Two, specifically, Cost Allocation and the treatment of fossil-fueled Back-Up Generation (BUGs) associated with demand response resources used in conjunction with providing demand response services, have not been settled, and, instead, will be the subject of briefs to be filed according to the schedule established by the ALJ for Phases Two and Three.

**F.** ***Whereas,*** the Settling Parties have identified for briefing the following narrowly scoped additional issue: whether the DRAM should be a preferred means of procuring Supply Resources and if so, with respect to encouraging participation in the DRAM Pilot, the potential interaction of IOU solicitations for Supply Resources with the DRAM Pilot and possible limitations on the IOUs' other solicitations for Supply Resources. The Settling Parties' request

for briefing on this narrowly scoped issue is included in the Motion for Approval of this Settlement Agreement.[30/]

**G.** ***Whereas,*** the Settling Parties further acknowledge that another issue remaining from Phase Two, cost-effectiveness protocols, was not an issue for the Workshop or settlement discussions, and is not part of this Settlement Agreement, but will be separately addressed in response to Energy Division's proposed 2014 Revised Demand Response Cost-Effectiveness Protocols circulated by the ALJ's June 23, 2014 Ruling. Opening and Reply Comments on the proposal are currently due on August 15 and August 22, 2014.

**H.** ***Whereas***, the terms and conditions of the Settlement Agreement were guided generally by the following:

1. The Commission's determinations in D.14-03-026 that: (1) it remains the Commission's goal to improve the efficiency of DR and increase the use of all DR programs, and (2) in adopting its bifurcation of demand response between Load-Modifying Resources and Supply Resources, the Commission did not intend to favor one category over another or diminish the value of demand response in either category or devalue current demand response programs.

2. Information and insights gained during the June 9-11, 2014 workshops and subsequent settlement discussions about CAISO processes, integration efforts, customer operations, and costs to participate, among other things, have revealed that the course set to implement bifurcation via the goals and topics identified in the April 2 ACR could lead to results that would not advance the Commission's stated intentions to enhance the role of demand response and prioritize demand response.

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[30/] DR Pilots (other than the DRAM Pilot) are excluded from the term "solicitations" for purposes of briefing the narrowly scoped new issue.

3. To avoid rushing into implementation and creating unintended consequences at odds with D.14-03-026, the Settling Parties sought to address and solve valuation, integration, process and cost questions unearthed during Workshops and settlement discussions--difficulties that could diminish DR, instead of increasing and enhancing it to meet future needs. Accordingly, the Settling Parties have generally agreed to a measured approach to implementing bifurcated DR and direct participation in the CAISO market and have reached a Settlement Agreement on the issue areas that focuses on the process for going forward, rather than responding specifically to the questions in Attachments A or B of the April 2 ACR.

**I.** ***Whereas***, in addition to the April 2 ACR and its Attachments, the terms and conditions of the Settlement Agreement were guided more specifically by the following considerations applicable to each specific Issue Area:

***Whereas,*** as to **Issue Area #1: Demand Response Goals**, the Settling Parties were guided by the following, in addition to the April 2 ACR and Attachment A thereto:

1. Existing Aspirational Goal: The Energy Action Plan (EAP) established an aspirational goal for statewide DR of 5% of peak load to come from price response by consumers by 2007.[31/] However, a later update of the EAP confirmed that, as of February 2008, "[w]e are nowhere near that goal and must reinvigorate our efforts in this area."

2. Current Level of Demand Response: Based on the IOUs' load impact reports filed in April 2014, using a 1 in 2 year average weather assumption, and using IOU peak demands as identified in the California Energy Commission (CEC) 2013 Integrated Energy Policy Report (IEPR)[32/], the Settling Parties

[31/] See, EAP II (http://docs.cpuc.ca.gov/word_pdf/REPORT/51604.pdf), at p. 7; 2008 EAP Update (http://www.cpuc.ca.gov/NR/rdonlyres/58ADCD6A-7FE6-4B32-8C70-7C85CB31EBE7/0/2008_EAP_UPDATE.PDF ), at p. 10.

[32/] The 2013 IEPR was adopted in January 2014 and slightly revised in February 2014.

concluded that statewide, event-based demand response, including reliability programs, currently comprises approximately 3.9% of the sum of the individual system peak demands of SCE, SDG&E and PG&E.[33/]

3. Given the existing DR aspirational goals and the current level of DR, the Settling Parties have agreed to an interim DR goal and a process and criteria for establishing firm DR goals that resolve the issues set forth in the April 2 ACR. The Settling Parties recognize that using the sum of the individual IOUs' peak demands in setting an interim goal is for the purposes of quantifying DR levels and is not intended to reflect the manner in which DR resources will actually be used to meet system, local, distribution level, or flexibility needs.

***Whereas,*** as to **Issue Area #2: Valuation and Program Categorization** *and* **Issue Area #4: CAISO Market Integration Costs**, the Settling Parties were guided by the following, in addition to the April 2 ACR and Attachment A thereto:

1. The April 2 ACR included many issues associated with DR program categorization and characteristics, while the program valuation issues focused mostly on Resource Adequacy (RA) concerns. The Settling Parties concluded that D.14-03-026 provided a sufficient framework for DR program categorization, but that the valuation issues for both Load-Modifying Resources and Supply Resources extended beyond RA.

2. D.14-03-026 determined that Supply Resources are "resources that are integrated into the energy markets (CAISO)," while Load-Modifying

[33/] For PG&E, SCE and SDG&E, respectively, the calculation of event-based, including reliability, DR from the April 2014 Load Impact Reports is divided by the sum of the IOUs' System Peak Demands, as reflected in the April 2014 Integrated Energy Policy Report (IEPR) is as follows: (626+1318+85)/(24100+23200+4830)=2029/52130=3.9%

Resources "re-shape or reduce the net load curve." The Settling Parties concur that Supply Resources that are fully integrated into the CAISO market and meet requisite CPUC resource adequacy requirements should receive RA credit just like conventional resources. However, the Settling Parties recognized that Load-Modifying Resources can reduce RA requirements but that RA is only one component of value for DR resources; other values beyond RA value (for example, avoiding or deferring the need for distribution facilities, improving the operational efficiency of either or both transmission and distribution facilities, integrating renewable resources), should be accounted for as part of the valuation proposition.

3. D.14-03-026 directed that DR program bifurcation begin in 2017 with the next demand response program application cycle, and that the IOUs will submit applications for new or redesigned programs in November 2015. The Settling Parties concluded these new or redesigned programs should have the characteristics necessary to meet specific pre-determined needs as either Supply Resources or Load-Modifying Resources and that the ultimate goal for any demand response program should be to cost-effectively avoid or reduce electric system costs and comply with the EAP Loading Order. They also concluded the current methodology used to calculate the system and local RA credits for the IOUs' existing DR programs should be retained through 2019.

4. With respect to the costs of integrating Supply Resources into the CAISO market, the Settling Parties recognized experience can be gained from current efforts to bring existing programs into the market, and these efforts will continue beyond the anticipated date for a decision on Phase Two and Phase Three issues in this docket. The Settling Parties concluded these integration issues are technically complex and not well suited for resolution through

hearings or in the context of this Settlement Agreement, and further dialogue is necessary to create better understanding of costs, existing barriers to CAISO integration and possible resolution.

***Whereas,*** as to **Issue Area #3: Demand Response Auction Mechanism (DRAM), Utility Roles, and Future Procurement**, the Settling Parties were guided by the following, in addition to the April 2 ACR and Attachment B thereto:

1. Workshops and settlement discussions enabled the Settling Parties to share information and insights from different stakeholder groups on what would be needed to successfully procure Supply Resources through an auction mechanism involving third party direct participation in CAISO markets.
2. In workshops and settlement discussions, parties discussed proposals to change some of the requirements associated with bidding Supply Resources into the CAISO market in ways that could reduce cost and complexity without creating any operational difficulties for the CAISO. Agreement on modifications to these various requirements for direct participation, and their adoption by CAISO and the Commission, would significantly facilitate participation by third parties using retail load for DR. However, reaching agreement on these modifications and having them adopted by the CAISO and the Commission will take some time. The Settling Parties understand the Commission's wish to implement integration as quickly as possible, but also believe that success will require substantially reducing the costs and complexity of integration.
3. These integration issues are central to the development of the DRAM proposed in Attachment B of the April 2 ACR. The purpose of the proposed DRAM is to competitively procure Supply Resources that will be integrated

into the CAISO markets, including resources from third party DR providers (DRPs). Because the intent of the DRAM is to provide a capacity payment to winning bidders who will be responsible for bidding DR into the CAISO markets, the winners of the auction will have to meet all CAISO and CPUC integration requirements. They will have to be able to make the investment in the up-front costs to perform this integration. Under current requirements, as noted, this will require a substantial investment.

4. There are many issues that have to be resolved in order for the DRAM to be implemented successfully, including bidding rules, cost caps, and payment structure. The Settling Parties propose a DRAM Pilot. This would allow the details of the auction mechanism to be refined with experience.

5. The IOUs may need to conduct non-DRAM RFOs in 2015 for amounts and products beyond the DRAM Pilot auction amounts, because the current Aggregator Managed Portfolio contracts will expire at the end of 2016 (if the Commission approves their extension as provided in D.14-05-025). This would require a RFO in 2015 if these contracts are to be replaced with new contracts that are developed in an adequate time frame for submission and approval by the Commission and implementation by the winning aggregators.

6. Costs incurred to integrate small amounts of DR obtained in the DRAM Pilot into the CAISO market will increase bid prices if bidders must include early integration costs. PG&E is providing integration services for third parties under its IRM2 Pilot using a third-party intermediary, but Settling Parties prefer not to have an IOU involved in the DRAM Pilot winning bidders' integration and scheduling process. The Settling Parties discussed various means of mitigating third party integration costs while preserving competitive neutrality. These include changing the requirements to allow multi-year bids

over which the up-front costs can be amortized, allowing the third parties to share in the costs of using an entity with integration experience for their programs which is not itself a DRP, and/or some level of ratepayer support of integration costs, among others.

***Whereas,*** as to **Issue Area #5: Budget Cycle**, the Settling Parties were guided by the following, in addition to the April 2 ACR and Attachment A thereto:

1. The Settling Parties agree that a DR program budget cycle longer than three years may be appropriate. However, information shared at the workshops and the continuing uncertainty over other critical matters led the Settling Parties to conclude that development of an extended budget cycle requires careful consideration and should be coordinated with other changes currently underway, or pending. Based on these discussions, the Settling Parties propose that there should be one more three-year DR program budget cycle (2017-2019), before a longer budget cycle is considered appropriate.
2. To determine whether an extended budget cycle is appropriate, the Settling Parties are committed to working with the Commission to develop the rules for an extended DR budget cycle and application process for the IOUs for 2020 and beyond, with discussions to begin no later than April 2015. Any proposal developed through this process would be presented to the Commission no later than December 31, 2015 for CPUC approval by March 31, 2016. The Settling Parties anticipate that this schedule will allow sufficient time to assess progress on other matters critical to successful implementation of future DR for direct participation in the CAISO wholesale market.
3. The Settling Parties also anticipate that the process of developing the details of an extended DR budget cycle should produce results that answer the

questions presented in Appendix A to the April 2 ACR including: 1) the length of an extended budget cycle, and 2) how often reviews of IOU DR programs should occur and the appropriate level of scrutiny.

## II. TERMS AND CONDITIONS

### *A. ISSUE AREA #1*: DEMAND RESPONSE GOALS

***Interim and Future Demand Response Goals:***

1. In consideration of expected changes in DR programs and customer participation, and the need to conduct a study of DR potential in this State (DR Potential Study), it is appropriate for the Commission to establish and adopt an "interim" DR goal based on the current record of DR programs and participation.

2. Consistent with the criteria and limitations identified in subsections 3 and 4 below, the interim state-wide goal should be 5% of the sum of the peak demands of SCE, PG&E, and SDG&E. The Settling Parties agree that the statewide goal of 5% does not represent an individual goal for any of the IOUs, but rather a collective goal for all of the IOUs. Applying the same statewide goal percentage to an individual utility would not be appropriate because that would not recognize the difference in the DR potential among the IOUs. The Settling Parties agree that, based on the difference between the current DR level of 3.9% and a statewide, event-based goal of 5.0% by 2020, the IOUs will use all good faith efforts to increase levels of event-based DR by approximately 5.1%, on average, each year for five years to reach the 5.0% statewide goal for event-based DR. The Settling Parties agree that this interim goal will support the Commission's "ultimate goal … to enhance the role of demand response programs in meeting the state's long-term clean energy goals while maintaining system and local reliability."[34/]

[34/] R.13-09-011 (DR) Rulemaking, at p. 2.

3. This interim statewide DR Goal should remain in effect until superseded by firm IOU-specific goals subject to the ***Criteria for Establishing Firm Demand Response Goals*** subsection below. The firm goals should be informed by a DR Potential Study discussed in ***Demand Response Potential Study,*** below.

4. In sum, the Settling Parties request that the Commission, as part of any decision issued on this topic: (a) adopt an interim statewide DR Goal for cost-effective, event-based DR by 2020 equal to 5% of the sum of the individual peak demands of SCE, SDG&E and PG&E, as described in subsections 2 and 3 above; (b) direct that this interim statewide goal be in effect until superseded by a IOU-specific, firm DR Goal, as described in the ***Criteria for Establishing Firm Demand Response Goals***, and informed by the results of the DR Potential Study to be conducted and developed as described in ***Demand Response Potential Study,*** below; (c) adopt a process for the Commission's consideration and implementation of the DR Potential Study process described below; (d) require annual reporting by the IOUs to this Commission, the CAISO, and the CEC of actual IOU event-based DR achieved toward meeting the interim statewide DR Goal and establish a process for measuring performance against the firm goal, which shall include all forms of DR, including non-event based DR; (e) commit to a decision establishing a firm, IOU-specific DR Goal (including non-event based DR) as described in the Criteria for Establishing Firm Demand Response Goals, that will supersede the interim, state-wide goal and is informed by the DR Potential Study, conducted and developed consistent with the titled subsections below, and any responsive comments by stakeholders; and (f) confirm that any firm, IOU-specific DR Goal(s), developed consistent with the titled subsections below, will be subject to reasonable off-ramps.

5. A Commission decision on the firm, IOU-specific DR Goals should also confirm that any update or revision to established firm DR Goal should be utility-specific, depending upon the results of the DR Potential Study, and should include non-event based DR.

***Criteria for Establishing Firm Demand Response Goals:***

1. A firm, IOU-specific DR Goal must include, and account for, all types of cost-effective DR, whether Load-Modifying Resource or Supply Resource, event-based or non-event-based, emergency or price responsive, that meet DR cost-effectiveness requirements, as applicable. All CPUC-approved DR programs and resource procurement shall count toward that DR goal.

2. The DR Goal shall: (a) reflect the procurement of DR resources in meeting identified needs through solicitations authorized by the Commission in its Long-Term Procurement Planning (LTPP) rulemakings; Resource Adequacy (RA) rulemakings; Demand Response-specific rulemakings or application(s), or other solicitation or program authorizations that include DR resources; (b) ensure that resource solicitations are consistent with Commission authorizations in (a) above and the EAP Loading Order, which requires the procurement of cost-effective energy efficiency and DR first before other resource types, and (c) include other types of needs that the Commission determines may be met by DR.

4. The DR Goal shall not be limited to an impact on "peak requirements" since resource needs are changing and those needs must reflect, and may be dependent on, system (distribution and/or transmission) needs or grid reliability.

5. The DR Goal shall be adapted to each IOU's current level of DR and its specific characteristics, which includes geographic and customer base considerations. Progress toward the DR Goal will be assessed by using the bridge period years (2015-2016) as the base years.

6. The DR Goal shall not constitute a cap, ceiling, or limitation on the procurement of DR, whether Load-Modifying Resource or Supply Resource, to meet all identified needs included in subsection 2 above and consistent with the EAP Loading Order.

7. During the time when the first Firm DR Goals are in effect, the IOUs shall not be subject to penalties or sanctions for failure to meet the DR Goal or to incentives to meet that goal. Any consideration of possible penalties, sanctions, and incentives for goals after the first Firm DR Goals will be considered as part of the development of these later goals.

8. The IOUs shall report the progress toward meeting the DR Goal on an annual basis on the same date as the annual load impact filing (usually filed April 1st each year). The report shall include information from the IOUs' annual load impact reports, and other appropriate sources. To the extent an IOU is unable to meet its DR Goal, it shall inform the Commission, the CAISO and the CEC, in its annual report and may seek Commission permission to extend the period of time over which the IOU will attempt to meet the goal. The IOU shall identify the cause(s) of not meeting the goal and propose a remedy.

9. The Settling Parties are committed to protecting to the greatest extent possible against erosion of existing overall levels of DR participation.

***Demand Response Potential Study:***

1. To effectively set a firm IOU-specific DR Goal that supersedes the interim statewide goal, a DR Potential Study is required to determine the amount of DR that is potentially available within certain geographic areas of the State, i.e. IOU service territories, and subject to specific program or resource characteristics, taking into consideration the customer composition and mix of end uses for electricity within those areas. Any existing efforts at the CPUC to study DR potential shall now be informed by the requirements of the DR Potential Study as described herein, including but not limited to the need to conduct a further separate study.

2. The DR Potential Study must be subject to the following:

    a. The DR Potential Study must incorporate and/or be consistent with the criteria and limitations for a DR Goal identified in the ***Criteria for Establishing Firm Demand Response Goals*** subsection, above.

    b. The DR Potential Study, to be well-designed, must: (a) examine the ability for DR resources to meet a broad range of operational needs of the CAISO and the IOUs; (b) examine all forms of DR that may be available to the IOUs or CAISO as either Supply Resource or Load-Modifying Resource, event-based and non-event based, including price-responsive and reliability DR; (c) consider the role of demand response in avoiding or deferring generation, transmission and distribution infrastructure investment, improving the operational efficiency of existing infrastructure and avoiding high-cost, incremental energy purchases; (d) include an analysis of barriers, and the means to eliminate barriers, to maintaining and increasing levels of demand response resources in the State; and (e) examine the mix of customer end-uses and DR potential within the service territory or sub-regions within the service territory as a factor in determining the DR potential.

    c. The DR Potential Study must be developed and reviewed through a public, transparent process, which fully includes and considers the input of all stakeholders.

    d. The DR Potential Study must be completed and reviewed by the Commission and inform Commission adoption of firm goals as soon as reasonably possible.

    e. The DR Potential Study must include the DR potential associated with best practices for increasing customer participation in event and non-event-based

programs including, but not limited to, rate design, in-home displays, and improved marketing efforts.

f. The DR Potential Study must include new combinations of DR performance characteristics, including consumer response to price signals, that could meet projected needs in 2020 and beyond, while attracting significant customer participation.

g. The DR Potential Study must estimate customer opportunity costs and pricing needs by customer and end-use type and how these costs and pricing needs change as DR adoption increases.

h. The DR Potential Study must evaluate opportunities to integrate DR with other distributed energy resources, such as electric vehicles and distributed solar.

## *B.* *ISSUE AREA* #2: VALUATION[35/] AND PROGRAM CATEGORIZATION; AND *ISSUE AREA #4*: CAISO MARKET INTEGRATION COSTS

***Valuation, Demand Response Program Categorization, and Market Integration Cost Principles.***

1. The topics included in the scope of Phase Three of this proceeding by the April 2 ACR and separately identified as Resource Adequacy Concerns, Demand Response Program Categorization (Supply Resource Issues and Load-Modifying Resources Issues), and CAISO Market Integration Costs,[36/] are, in fact, integrally related and should be addressed and resolved holistically in the manner described in this Settlement Agreement.

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[35/] The terms "value" or "valuation" in this document refers to estimation of the contributions of Demand Response programs to resource adequacy, system reliability or other grid services, as measured, in part, in MW. Other measurement approaches may be considered by the Working Group, described below under Settlement Terms, to the extent that they advance a comprehensive understanding of cost-effectiveness.

[36/] April 2 ACR, at pp. 4-6.

2. Settlement of these interrelated issues or topic areas is guided by the following core principles and complies with the scope for these issues adopted in the April 2 ACR:

   a. Both Load-Modifying Resources and Supply Resources provide value, which may include other values in addition to system and local RA credit or reducing RA requirements, that may be identified in the working groups.

   b. These values will differ depending on the demand response category and on the demand response program or resource characteristics.

   c. Demand response program valuation can be considered separately for programs that extend beyond 2019.

   d. It is possible that the CAISO could make operational changes that would enable better use of certain existing demand response programs that are dispatched by the IOUs.

   e. Certain issues associated with future demand response program characteristics and valuation streams, as well as possible changes to the costs and requirements associated with integrating Supply Resources into the CAISO market, can be better addressed by Settling Party working groups that have specific tasks outlined in the working group charters attached to this Settlement Agreement.

   f. Output and recommendations from the working groups will inform CPUC, CAISO and CEC procurement and planning processes, and work products.

***Resolution of Valuation, Program Categorization, and Integration Cost Issues.***

1. All demand response programs will retain current system and local RA valuation based on existing methodology through 2019.

   a. For SCE's and SDG&E's solicitations resulting from authorizations in the LTPP, and IOU solicitations pursuant to ***DEMAND RESPONSE AUCTION***

***MECHANISM, UTILITY ROLES AND FUTURE PROCUREMENT***, subsection C 3.f, below, which may include requests for new DR contracts that extend beyond 2019, the CAISO should verify the system and local RA treatment for Supply Resource contracts, consistent with CPUC RA counting rules. The RA treatment of the Supply Resource contracts approved by the Commission should continue through the life of the contract unless modified in other Commission proceedings.

b. The Settling Parties agree that the valuation of Load-Modifying Resources after 2019 will be assessed by the working group described in Item 6 below and presented to the Commission for approval. All options are open for how Load-Modifying Resource demand response will be valued after 2019, pending discussions in the working group. The Load-Modifying Resource valuation should be reflected in the program's cost-effectiveness prior to approval of the program.

2. The Settling Parties agree it is only through integration efforts to date and cooperation among entities involved in those efforts that certain barriers/impediments have been identified. To that end, the IOUs will seek to increase cost-effective Supply Resources as barriers to CAISO market integration are overcome, and all Settling Parties will commit to resolving these barriers as cost-effectively and expeditiously as possible, including changes to CAISO processes and IOU program designs, which will be pursued through the Supply Resource Integration Working Group. (See attached Charter for this group.)

3. The Settling Parties agree that they are committed to exploring and implementing improved integration with CAISO operations for event-based Load-Modifying Resources (e.g., enhanced spreadsheet, hard triggers, quasi-market product) and for non-event-based Load-Modifying Resources (e.g., nomograms, elasticity, forecasting,

etc.). This will be done through the Load-Modifying Resource (LMR) Operations Working Group. (See attached Charter.)

4. After the current bridge funding period ends in 2016, and going forward, DR will be designed to provide resources to address pre-determined specific needs. Any such needs will be supported by factual analyses of the services the proposed demand response program can provide and its cost effectiveness in doing so, which may include but are not limited to:

   a. Reducing system peak or flexible capacity needs;

   b. Reducing energy costs for customers;

   c. Reducing distribution costs by avoiding or deferring infrastructure investments or reducing O&M costs;

   d. Reducing environmental impacts;

   e. Reducing LSE system and local capacity cost, either by reducing Resource Adequacy requirements adopted in the RA proceeding or by reducing long-term generation capacity needs as reflected in the LTPP; and

   f. Supporting grid reliability and CAISO operational needs.[37/]

5. After 2019, only Supply Resources that directly meet reliability or CAISO operational needs (e.g., contingency response, system capacity resources, local capacity resources, flexible capacity resources, operating reserves), will be eligible to receive RA adequacy credit.

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[37/] The Settling Parties note that the terms "reliability" or "grid reliability" as used in this Settlement Agreement may be a subject for briefing in connection with cost allocation only. The presence of these terms in the Settlement Agreement does not create a presumption for or against any party's position on cost allocation. Signing the Settlement Agreement shall not foreclose positions that a party may wish to take on cost allocation.

6. Valuation of Load-Modifying Resources to reduce RA requirements, reduce long-term generation need and provide other benefits will be addressed by a Load-Modifying Resource (LMR) DR Valuation Working Group that will include Settlement Parties, will incorporate the IEPR-related responsibilities of the Demand Analysis Working Group-Demand Response Subgroup (DAWG-DR subgroup)/Demand Response Measurement and Evaluation Committee (DRMEC)[38/] and will consider, where possible, actual resource availability and performance in determining resource value. (See attached Charter for LMR DR Valuation Working Group.)

   a. There is no preconceived decision about how Load-Modifying Resources will be valued after 2019. The LMR DR Valuation Working Group will review a full range of options pertaining to Load-Modifying Resource. (This effort may also identify non-resource adequacy value for Supply Resource as well as for Load-Modifying Resources as a consequence of this process.)

   b. The purposes of this working group are: (a) to identify mechanisms that could enable Load-Modifying Resource providers to realize all potential demand response values, and (b) to inform quantification of demand response values for the cost-effectiveness protocols and other proceedings such as resource adequacy and long term procurement. The values should be reflected in the cost-effectiveness determination used in the program approval process.

   c. The DAWG-DR subgroup, in coordination with the DRMEC, will recommend to the Working Group methods for quantifying the impacts of Load-Modifying Resources for purposes of the IEPR demand forecast.

   d. To the extent that values are identified in the working group, Settling Parties agree that Load-Modifying Resource providers should have an identifiable path to

[38/] Including staff from the CEC and CPUC.

realize these potential demand response values, such as: (a) avoiding transmission and distribution investments, and (b) reducing the need for flexible capacity.

e. The Settling Parties agree that the IOUs' costs for any experts who may be hired pursuant to the Charter for Load-Modifying Resource Demand Response (LMR DR) Valuation Working Group will be recorded in existing DR-related balancing accounts to track costs. Pursuant to D.14-01-004 and D.14-05-025, there is no specific budget category for funding these experts. Therefore, the Settling Parties agree that the IOUs would fund their costs for the experts during 2015-2016 from the 2015-2016 DR program authorized budgets as follows:

   i. the funds are not spent or committed and that the IOUs receive appropriate fund-shifting authority for the bridge-funding period for this purpose;

   ii. the IOUs can shift funds currently authorized in D.14-05-025, Ordering Paragraphs 10, 15 and 17 without the limitations of the existing fund shifting rules as defined in D.12-04-045 (Ordering Paragraph 4); and

   iii. the allocation of expert costs among customers for the 2015-2016 bridge period, which is being recorded through existing DR-related balancing accounts, will be subject to briefing and determination by the Commission in this proceeding.

7. A demand response program can be partitioned into a Load-Modifying Resource and a Supply Resource, as long as there is no double counting of participating customers' load reduction. Any partitioning of a demand response program should be done in consultation with the affected third-party DR aggregators, if applicable.

8. IOUs will submit funding and program redesign (or new program) proposals for both Supply Resources and Load-Modifying Resources in their November 2015 applications.

9. A working group will be established whose focus is to reduce CAISO and retail program barriers to participate in CAISO markets as Supply Resources. (See Attached Charter for the Supply Resource Integration Working Group.)

10. The Settling Parties agree to the following policy to apply to existing programs after 2019:

> The transition or "grandfathering" period will be over, and all demand response programs will need to meet the resource adequacy rules in existence in 2020 in order to either reduce the resource adequacy requirement as a Load-Modifying Resource or to count toward meeting the resource adequacy requirement as a Supply Resource, consistent with Item 1 above.

11. The Settling Parties agree that the Commission should determine whether the IOUs are increasing Supply Resources and Load-Modifying Resources at a reasonable pace by using the following tools and processes:

    a. The reports sent to the CPUC to comply with OP 4 of D.14-05-025.

    b. Review annual resource adequacy requirements, after normalizing exogenous factors, to see if resource adequacy requirements are decreasing over time, compared to what they otherwise would be, due to load modifying effects of DR. Documents that may be also reviewed include studies in long-term procurement planning and transmission planning proceedings, and distribution planning studies.

    c. A Preferred Resources Monitoring Report will be created as a tool that may be used to track the development of DR resources and ensure that DR intended to meet long-term reliability needs is showing up when and where it is needed.[39/]

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[39/] Currently the CAISO, CPUC and CEC are involved in jointly monitoring resource development in southern California related to the San Onofre Nuclear Generating Station (SONGS) early retirement. The monitoring approaches created for the SONGS context may be useful in designing a newly created Preferred Resources Monitoring Report that will include all preferred resource development in the CAISO balancing authority area. It would be developed as part of the joint agency monitoring activities and will not be limited to southern California as it is currently structured. Such a report is needed for "off-ramp decisions," i.e., to enable

Another tool is the annual reporting and possible curing process described in Issue #1 Goals settlement terms in which the IOUs will report how they are progressing towards their goals and providing explanations if goals are not met.

d. Other appropriate, relevant sources of information may be used.

e. A process will be required for identifying and addressing how goals can be met, if they are not being met.

12. To use a resource for local reliability, local capacity and integration into the market, a Supply Resource may qualify for local resource adequacy as a Reliability Demand Response Resource (RDRR) in which there would be a contingency trigger that would allow that resource to show up in the CAISO real-time market at a predetermined price. This local resource adequacy resource will not count toward the system resource adequacy cap on reliability resources adopted in D.10-06-034. The implementation provisions for this option and any limit on the amount of contingency local resource adequacy will be established though a CAISO stakeholder process.

### *C. ISSUE AREA* #3: DEMAND RESPONSE AUCTION MECHANISM, UTILITY ROLES AND FUTURE PROCUREMENT

1. Parties agree to work together and with CPUC staff to design and implement a DRAM Pilot program during 2015-2016 to test: (a) the feasibility of procuring Supply Resources for Resource Adequacy (RA) with third party direct participation in the CAISO markets through an auction mechanism, and (b) the ability of winning bidders to integrate their provision of DR into the CAISO market. This DRAM Pilot will not set precedent for future procurement of Supply Resources.

2. Parties agree to initiate a process as soon as reasonably possible (but no later than December 2014) to develop the rules governing a DRAM Pilot and to seek CPUC

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development of a fall back to a needed transmission upgrade or alternative resource type to be triggered if the DR is not developing or performing as intended.

approval of an initial auction to be held in summer of 2015 for delivery in 2016. The DRAM Pilot design, requirements, protocols, standard pro forma contracts and non-binding, cost estimates will be submitted in an advice letter for Commission review and approval prior to the initial auction.[40/] The Parties intend to commence the development of the DRAM Pilot design, requirements, protocol, and standard pro forma contract in workshops prior to the Commission decision on this Settlement in order to achieve the milestones in the attached draft schedule. Authorization to begin the DRAM Pilot design, protocol and standard contracts prior to a Commission decision will be requested from the presiding administrative law judge, through a Motion for an appropriate ruling.[41/]

3. Development of the details of the DRAM Pilot must incorporate, at minimum, the following conditions:
    a. Specific success metrics to inform the Commission of the efficacy of a DRAM and its long-term potential for procurement of Supply Resources.
    b. Consistency with Electric Rule 24/32 and its implementation timelines.
    c. IOUs, as buyers in the auction, will not provide bids in the Pilot. IOUs will evaluate and select bids using their respective valuation processes, and consider the costs of other procurement of demand response in assessing reasonableness. Awards will be paid as-bid prices during the Pilot. Independent evaluators will be retained to ensure the process is conducted in a reasonable and neutral manner.
    d. Bidders will be responsible for meeting all applicable RA requirements and for any financial liabilities that result from participation in the wholesale market.

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[40/] These non-binding cost estimates will assume procurement at the target level based on the best information that is available at the time of filing. If the volume of cost-effective bids exceeds the target, costs may exceed the cost estimate.

[41/] The Motion for Adoption of the Settlement Agreement also contains a request for a ruling authorizing the IOUs to convene a workshop to address the DRAM Pilot related issues as soon as possible.

e. Two auctions will be held over the DRAM Pilot period of 2015-2016. A minimum target of 22 MW to be procured in both the initial auction and the second auction held within the Pilot period is to be allocated among the IOUs as follows: 10 MW for PG&E, 10 MW for SCE and 2 MW for SDG&E. As part of the design of the DRAM Pilot, Parties will consider whether and how an IOU's progress towards its targets may be apportioned between the two auctions, and may revise the allocation between an individual IOU's two auctions. If a utility's DRAM contract(s) from the first auction includes MW commitments after 2016, the MWs from the first auction that continue after 2016 will count towards that utility's MW minimum for the second auction.

f. The IOUs will have the option to conduct non-DRAM RFOs beginning in 2015 for contracts to begin in 2017 and beyond for competitive procurement of Supply Resource and Load-Modifying Resource products that are not being procured in the DRAM (i.e. the RFOs will seek products that have additional features beyond "RA tags" as described in 3.g. below). SDG&E reserves the right to extend the A/C Cycling Summer Saver program. Nothing in this agreement restricts SCE's ability to procure DR resources to meet local reliability needs pursuant to CPUC authorizations in the 2012 long term procurement plan proceeding or as part of SCE's preferred resources pilot. IOUs will follow established CPUC procedures to monitor and review the RFOs, which may include the PRG or CAM review group.

g. The DRAM pilot is only to procure RA value only products (i.e. RA Tags).

h. IOUs will not act as the Scheduling Coordinator (SC) for the Pilot but will provide optional SC and related services to winners of the DRAM Pilot via a third party.

i. Consistency with procurement processes in other CPUC proceedings and CAISO initiatives.

j. The Settling Parties discussed various methods to encourage participation in the DRAM Pilot and the potential interaction of the IOU solicitations for Supply Resources with the DRAM Pilot but did not come to agreement. Parties agreed that the narrowly scoped additional question of whether the DRAM should be a preferred means of procuring Supply DR and if so, with respect to encouraging participation in the DRAM Pilot, the potential interaction of IOU solicitations for Supply Resources with the DRAM Pilot with respect to encouraging participation in the DRAM Pilot and possible limitations on the IOUs' solicitations for Supply Resources, will be briefed and that request is included in the Motion for Approval of this Settlement Agreement.

4. The Settling Parties agree to two auctions in the DRAM Pilot as described below and subject to further development in the workshop or working group process established in this Settlement Agreement:

   a. An initial auction for system RA capacity (i.e. "System RA Tags") only targeted for summer 2015 for 2016 delivery and with results incorporated into the IOUs' monthly RA reports for 2016; parties agree to consider whether this initial auction for System RA Tags may include a longer term (i.e., include 2017-2019 delivery in addition to the 2016 delivery) during the design phase of the DRAM Pilot, contingent on funding approval for the 2017-2019 period.

   b. A second auction held in early 2016 for system, local and flexible RA products (i.e. system, local and flexible RA tags) with results incorporated into the IOUs' annual RA compliance report to be filed in October 2016 for 2017. Contracts for this second auction may extend through 2019.

   c. The Settling Parties acknowledge and agree that DRAM and wholesale market participation may be significantly impacted by: 1) CAISO tariff changes in

response to recent and future Court rulings on FERC Order 745, and 2) CAISO requirements for RA product eligibility.

d. A Draft Schedule for implementation of an initial auction and a second auction are attached to this Settlement Agreement.

5. Among other outcomes, a DRAM Pilot should result in assessing the feasibility of using an auction process to create opportunities for and competition among DR providers to provide cost-effective Supply Resources to meet Loading Order goals.

6. For purposes of evaluating the DRAM Pilot:

   a) IOUs, in collaboration with other stakeholders, will prepare a report describing the "lessons learned" from the auction process.

   b) Subject to appropriate confidentiality protections, the report will include information set forth in a way that protects any confidentiality, trade secret or sensitive information privileges that are applicable, on an aggregated basis if necessary, concerning the capacity bids and selected bids in the DRAM, and any incremental costs and benefits to the IOU from using the DRAM.

   c) Subject to appropriate confidentiality protections, access to information on bids into the CAISO market, CAISO awards, and resource performance may be needed to evaluate integration of the DRAM products into the CAISO market, load impact evaluation, and possibly contract administration. Procedures to provide access to this information, perhaps in aggregated form, will be part of the DRAM design.

7. The Settling Parties agree that the IOUs' costs for the DRAM Pilot, including without limitation, the costs of the auction, the payment of incentives, and the costs of providing optional SC and related services to the winners of the DRAM Pilot via a third party, will be recorded in existing DR-related balancing accounts to track costs. Under D.14-01-004 and D.14-05-025, there is no specific budget category that could completely fund 2015-16 DRAM expenses. Therefore the Settling Parties agree that

the IOUs would fund their costs for the DRAM pilot during 2015 and 2016 from the 2015-2016 DR programs authorized budgets, as follows:

a. the funds are not spent or committed and that the IOUs receive appropriate fund-shifting authority for the bridge-funding period for this purpose;
b. the IOUs can shift funds currently authorized in D.14-05-025, Ordering Paragraphs 10, 15 and 17, without the limitations of the existing fund shifting rules as defined in D.12-04-045 (Ordering Paragraph 4), to fund these costs;
c. if sufficient bridge funding is not available to fund incentives for approved DRAM Pilot contracts in 2016, after the winners of the DRAM auction are determined, the IOUs would file an advice letter to fund those incentives; and
d. the allocation of costs among customers of the 2015-2016 DRAM Pilot-related amounts recorded through existing DR-related balancing accounts shall be subject to briefing and determination by the Commission in this proceeding. The allocation of the DRAM-related amounts in 2017-2019 among customers shall be pursuant to the Commission's decision on cost allocation in this proceeding.

8. In order to implement subsection 7 above, the Settling Parties request in the Motion for Adoption of Settlement Agreement submitted concurrently with this Settlement Agreement that the Commission's decision on the Settlement Agreement determine that the DRAM Pilot be included among the 2015-2016 DR programs to be funded by the budgets authorized in Ordering Paragraphs 10, 15 and 17 of D.14-05-025, which adopted 2015-2016 budgets respectively for PG&E in Attachment 2 , for SDG&E in Attachment 3 and for SCE in Attachment 4 to D.14-05-025. The Settling Parties also request in the Motion for the Adoption of the Settlement Agreement that the Commission decision on the Settlement Agreement authorize the IOUs to shift funds from existing DR categories to cover the costs of the DRAM Pilot costs identified in

subsection 7 above, without the limitations of the existing fund-shifting rules contained in D.12-04-045, Ordering Paragraph 4.

### *D. ISSUE AREA* #4: BUDGET CYCLE

1. The Settling Parties request that the CPUC establish one more three-year budget cycle (2017 2019).
   a. Each IOU's respective demand response portfolio will contain an explanation of an identified need for each program, and must meet CPUC cost-effectiveness requirements in accordance with CPUC guidelines.
   b. The Settling Parties request that the CPUC conduct one (1) mid-cycle review of the IOU DR program activities, via a public workshop, which will allow for parties to provide input on potential mid-cycle revisions to the IOUs' tariffed DR programs to enhance DR program participation and performance. The IOUs may request revisions to the IOUs' tariffed DR programs, taking into account parties' input.
2. To determine whether an extended budget cycle is appropriate, the Settling Parties agree to initiate a process by April 1, 2015 to develop the rules governing a potential extended DR budget cycle by December 31, 2015 for CPUC approval by March 31, 2016.
3. Development of the details of an extended budget cycle must be coordinated with, at minimum, the following issues:
   a. Implementation of Electric Rule 24/32.
   b. CPUC decisions issued on IOU applications pursuant to Public Utilities Code Section 769 (IOU Distribution Plans which are due in July 2015).
   c. Key CAISO stakeholder processes.
   d. Key processes in other CPUC proceedings.

e. Implementation of other key issues in this Settlement.

f. Developments in the Energy Efficiency proceeding concerning budget cycles.

4. Among other details, the process of developing the details of an extended DR budget cycle should result in: (1) a determination of an extended budget cycle length and; (2) how often reviews should occur and the appropriate level of scrutiny.

## III. CONDITIONS

This Settlement Agreement resolves the issues raised by the Settling Parties for Phase Three in R.13-09-011, subject to the conditions set forth below:

1. This Settlement Agreement embodies the entire understanding and agreement of the Settling Parties with respect to the matters described, and it supersedes prior oral or written agreements, principles, negotiations, statements, representations, or understandings among the Settling Parties with respect to those matters.

2. This Settlement Agreement represents a negotiated compromise among the Settling Parties' respective litigation positions on the matters described, and the Settling Parties have assented to the terms of the Settlement Agreement to arrive at the agreement embodied herein. Nothing in the Settlement Agreement should be considered an admission of, acceptance of, agreement to, or endorsement of any disputed fact, principle, or position previously presented by any of the Settling Parties on these matters in this proceeding.

3. This Settlement Agreement does not constitute and should not be used as a precedent regarding any principle or issue in this proceeding or in any future proceeding.

4. This Settlement Agreement is reasonable in light of the testimony submitted, consistent with the law, and in the public interest.

5. The language in all provisions of this Settlement Agreement shall be construed according to its fair meaning and not for or against any Settling Party because that Settling Party or its counsel or advocate drafted the provision.

6. The Settlement Agreement addresses all the issues in Phase Three of the April 2, 2014 *Joint Assigned Commissioner and Administrative Law Judge Ruling and Revised Scoping Memo Defining Scope and Schedule for Phase Three, Revising Schedule for Phase Two and Providing Guidance for Testimony and Hearings*, (April 2 ACR).

7. The Settlement Agreement provides for briefing two Phase Two issues, cost allocation and BUGS, and also a narrowly scoped additional issue, whether the DRAM should be a preferred means of procuring Supply DR and if so, with respect to encouraging participation in the DRAM Pilot, the potential interaction of IOU solicitations for Supply Resources with the DRAM Pilot with respect to encouraging participation in the DRAM Pilot and possible limitations on the IOUs solicitations for Supply Resources.

8. This Settlement Agreement may be amended or changed only by a written agreement signed by the Settling Parties.

9. The Settling Parties shall jointly request Commission approval of this Settlement Agreement and shall actively support its prompt approval. Active support shall include written and/or oral testimony (if testimony is required), briefing (if briefing is required), comments and reply comments on the proposed decision.[42/]

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[42/] Any oral and written testimony that the Commission might require may be prepared and submitted jointly among parties with similar interests.

10. If a Commission Decision regarding this Settlement Agreement contains any material change to the Settlement Agreement, the Settlement Agreement shall be null and void, unless all of the Settling Parties agree in writing to such changes.

11. The Settlement Agreement shall be interpreted and treated as a unified, integrated agreement. In the event the Commission rejects or modifies this Settlement Agreement, the Settling Parties reserve their rights under Rule 12 of the CPUC's Rules of Practice and Procedure, and the Settlement Agreement should not be admitted into evidence in this or any other proceeding.

12. The Settling Parties (a) have read this Settlement Agreement and fully understand all of its terms; (b) agree that they have executed this Settlement Agreement without coercion or duress of any kind; and (c) agree that they understand any rights they may have and sign this Settlement Agreement with full knowledge of any such rights.

13. The Settling Parties further represent that they have had the opportunity to thoroughly discuss all aspects of this Settlement Agreement with their respective legal counsel.

14. This Settlement Agreement may be executed in counterparts, each of which shall be deemed an original.

15. The details of the Settlement Agreement on Issue Areas 1, 2, 3, 4, and 5 are set forth herein. Two other issue areas in this proceeding in Phase Two, Cost Allocation and fossil-fueled back-up generation (BUGs), have not been settled, and the Settling Parties have agreed to brief these two issues and the narrowly scoped additional issue whether the DRAM should be a preferred means of procuring Supply DR and if so, with respect to encouraging participation in the DRAM Pilot, the potential interaction of IOU solicitations for Supply Resources with the DRAM Pilot with respect to encouraging participation in the DRAM Pilot and possible limitations on IOU solicitation for Supply Resources, for decision by the Commission.

16. The undersigned represent that they are authorized to sign on behalf of the Party represented.

## IV. REGULATORY APPROVAL

The Settling Parties agree to use their best efforts to obtain Commission approval of this Settlement Agreement. To that end, the Settling Parties agree to jointly request that the Commission: (1) approve this Settlement Agreement without material change; and (2) find that this Settlement Agreement is reasonable in light of the whole record, is consistent with the law, and is in the public interest.

## V. PERFORMANCE

The Settling Parties agree to perform diligently and in good faith all actions required hereunder, including, but not limited to, the execution of any other documents and the taking of any actions reasonably required to effectuate the Terms and Conditions of this Settlement Agreement, as well as the preparation of exhibits for, and presentation of witnesses at, any hearings required to obtain the Commission's approval and adoption of the Settlement Agreement.[43/] The Settling Parties will use best efforts to ensure that this Settlement Agreement is approved by the Commission as soon as possible.

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[43/] Whereas, the Settling Parties collectively support the commitments to future work described in the Terms and Conditions herein, they recognize that individual Settling Parties may not have the interest, ability, or resources to participate in each and every activity described

## VI. SETTLEMENT EXECUTION

PACIFIC GAS AND ELECTRIC COMPANY
A California Corporation

By: /s/Nick Ho
NICK HO

Title: Director, CES - Demand Response
Date: August 1, 2014

SOUTHERN CALIFORNIA EDISON COMPANY, A California Corporation

By: /s/Ronald O. Nichols
RONALD O. NICHOLS

Title: Senior Vice President, Regulatory Affairs
Date: August 1, 2014

SAN DIEGO GAS & ELECTRIC COMPANY
A California Corporation

By: /s/Caroline A. Winn
CAROLINE A. WINN

Title: Vice President-Customer Services
Date: July 31, 2014

OFFICE OF THE RATEPAYERS ADVOCATES

By: /s/Linda Serizawa
LINDA SERIZAWA

Title: Deputy Director for Energy
Date: August 1, 2014

CALIFORNIA LARGE ENERGY CONSUMER ASSOCIATION

By: /s/Nora Sheriff
NORA SHERIFF

Title: Attorney at Law
Date: August 1, 2014

CONSUMER FEDERATION OF CALIFORNIA

By: /s/Donald P. Hilla
DONALD P. HILLA

Title: Attorney at Law
Date: August 1, 2014

CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION

By: /s/Keith Casey
KEITH CASEY

Title: Vice President, Market and Infrastructure Development
Date: July 28, 2014

THE UTILITY REFORM NETWORK

By: /s/Marcel Hawiger
MARCEL HAWIGER

Title: Attorney
Date: August 1, 2014

ALLIANCE FOR RETAIL ENERGY MARKETS/DIRECT ACCESS CUSTOMER COALITION

By: /s/Daniel W. Douglass
DANIEL W. DOUGLASS

Title: Counsel
Date: August 1, 2014

ENERNOC, INC.,
A Delaware Corporation

By: /s/Matthew J. Cushing
MATTHEW J. CUSHING

Title: General Counsel & Vice President
Date: August 1, 2014

COMVERGE, INC.

By: /s/Frank Lacy
FRANK LACEY

Title: Vice President of Regulatory & Market Strategy
Date: August 4, 2014

JOHNSON CONTROLS, INC.

By: /s/Jennifer Chamberlin
JENNIFER A CHAMBERLIN

Title: Dir. Reg. Affairs – Int. Demand Resources

Date: July 31, 2014

OLIVINE, INC.

By: *___/s/Elizabeth Reid_____*
ELIZABETH REID

Title: Chief Executive Officer
Date: August 2, 2014

ENVIRONMENTAL DEFENSE FUND

By: *___/s/Michael Panfil_____*
MICHAEL PANFIL

Title: Attorney
Date: August 4, 2014

MARIN CLEAN ENERGY

By: *___/s/Elizabeth Kelly_____*
ELIZABETH KELLY

Title: Legal Director
Date: August 4, 2014

ENERGYHUB/ALARM.COM

By: *_____/s/Seth Frader-Thomapson_____*
SETH FRADER-THOMPSON

Title: President, EnergyHub
Date: July 30, 2014

CLEAN COALITION

By: *___/s/Stephanie Wang_____*
STEPHANIE WANG

Title: Policy Director
Date: August 1, 2014

SIERRA CLUB

By: *____/s/Matthew Vespa_____*
MATTHEW VESPA

Title: Senior Attorney, Environmental Law Program
Date: August 1, 2014

# ATTACHMENT A
# TO SETTLEMENT AGREEMENT

# CHARTER FOR SUPPLY RESOURCE DEMAND RESPONSE INTEGRATION WORKING GROUP

# Charter for

# Supply Resource Demand Response Integration Working Group

**July 25, 2014**

1. **Purpose of Working Group:**
   The purpose of the Working Group is twofold: 1) to identify areas where requirements for integration of supply resources demand response into CAISO markets are adding significant cost and complexity, to determine whether these requirements can be simplified or changed without creating operational problems, to prioritize these possible changes, and to resolve them; and 2) to identify program modifications and operational techniques to make demand response programs more suitable and successful as supply resources. This is not a policy group but a technical group to discuss IT, systems, and operational matters.

2. **Products:**
   a. The first Working Group product should be a list of areas for change, priorities, proposed solutions (both from a CAISO perspective and from an IOU program redesign perspective) and a time-line for resolution.
   b. The output of the Working Group will be input into IOU demand response applications, CAISO stakeholder processes, resource adequacy proceedings, long term procurement proceedings, possible review of Rule 24/32 requirements adopted by the CPUC and other possible proceedings as appropriate.

3. **Structure:**
   The Working Group will consist of members of the staffs of the investor-owned utilities (IOUs), demand response providers (DRPs), CAISO, and CPUC, as well as other load-serving entities (LSEs), customer representatives, and public interest groups, if interested. All members should be conversant in the technical aspects of integration of demand response into CAISO markets, Rules 24/32, and resource adequacy requirements.

4. **Governance (process and principles):**
   **Process:** The group should focus on: 1) technical solutions and processes that may decrease the cost and complexity of integration of DR into the CAISO markets, and 2) program design changes or technology solutions that reduce the complexity and cost of integration. While the CAISO is the ultimate entity to approve changes to its requirements, the group should collaborate to find mutually-acceptable solutions.

5. **Schedule:**
   The Working Group should begin meeting by September 2014, with the intention of developing a list of proposed changes, priorities, and a time-line by mid-year 2015, at

which time the Working Group will have no additional tasks unless further agreed by the Working Group members based on experience in 2015. While this time frame precedes a decision in Phases 2 and 3 of R. 13-09-011, discussion to date shows consensus on a number of issues. Since solutions will take time, in order to allow increased integration of DR into CAISO markets sooner rather than later, the group should start working before any December 2014 decision.

6. **How results will be used:**
   The results should be used to inform future CAISO stakeholder processes addressing demand response integration issues and possibly to inform a future review of possible changes to Rule 24/32 or RA requirements. Proposed demand response program design changes will inform the IOUs' 2017-2019 demand response applications.

7. **Prioritization:**
   The Working Group will establish its own priorities for reviewing the areas for possible change already identified and developing new ones. Based on work to date, the following areas are good initial candidates for possible change and additional items will be considered by the group. To the extent that some issues involve policy considerations or policy changes, the Working Group will identify and prioritize but not address such issues:
   a. automating CAISO resource registration and updates (includes bulk-loading registrations and functionality to update existing PDRs)
   b. reconsidering the requirement that each resource must contain customers from a unique LSE
   c. reconsidering of the requirement for LSE approval for utility and non-utility DRPs to bid load of customers into CAISO markets
   d. business systems automation for verifying that no load participates in more than one resource
   e. creating functionality for changes to RDRR locations during the year, at least on a monthly basis, and proposals that qualifying capacity changes of RDRR be accounted for in RA showings per rules established in CPUC RA proceeding for CPUC-jurisdictional LSEs
   f. creating of CAISO stakeholder process to consider adding functionality for constrained or discrete dispatch option for marginal dispatch of DR
   g. automating support of baseline and performance requirements, e.g. for partial dispatch of PDR over monthly use limitations
   h. implementation of statistical sampling rules
   i. creating CAISO stakeholder process to address near real-time data requirements, including exploration of use of AMI local network, KYZ pulse output, and 3rd party systems; may involve review of 1-minute requirement
   j. program dispatch automation

k. enhanced forecasting techniques and methodologies
l. tailored program offerings (one size does not fit all) and incentive structures
m. Consider way to reduce constraints imposed by the 100 kW minimum resource requirement by sub-LAP and LSE. Explore alternatives such as combining LSEs in a single registration or combining sub-LAPs if and where operationally acceptable. Also consider how to better integrate LCAs and SubLAPs.

# ATTACHMENT B
# TO SETTMENT AGREEMENT

# CHARTER FOR LOAD MODIFYING RESOURCE DEMAND RESPONSE VALUATION WORKING GROUP

**Charter for**

**Load Modifying Resource Demand Response (LMR DR) Valuation Working Group**

**July 25, 2014**

**8. Purpose of Working Group:**

a. The Working Group will recommend how LMR DR should be valued after 2019.

b. The Working Group will determine how LMR DR will be incorporated into the California Energy Commission (CEC) IEPR forecasts, both for existing LMR DR programs and for LMR DR programs after 2019. The CEC IEPR forecast will be used to inform the CPUC's resource adequacy, the long term procurement proceeding and the CAISO's transmission planning process.

c. Resource adequacy value is a critical issue identified by the CPUC for this phase of R.13-09-011 (See April 2 ACR). The Working Group will also recommend how LMR DR will be valued for setting and informing resource adequacy proceedings, long term planning proceedings, demand response cost effectiveness determination and future distribution planning needs.

d. The Working Group will look at both event based LMR DR and non-event based LMR DR

e. The Working Group will identify other values that LMR DR may provide and recommend to the CPUC, CEC and CAISO mechanisms related to how that value should be realized by resource owners.

f. The Working Group will seek to identify mechanisms that could enable LMR DR resource owners and ratepayers to realize all potential DR values.

g. The working group will seek to inform quantification of demand response values for the cost-effectiveness protocols and other proceedings such as resource adequacy. (These values may apply to supply-side demand response as well)

9. **Products:**

**a.** The output of Working Group will feed processes and procedures that are incorporated in (i) the CEC IEPR, where the output affects components of the IEPR demand forecast, and (ii) the appropriate CPUC proceedings where other aspects of demand response valuation are relevant.

**b.** The Working Group will recommend how LMR DR should be properly valued in the resource adequacy proceedings, the long term procurement proceedings, and the transmission planning process and as part of future distribution planning needs.

**c.** The Working Group will recommend existing mechanisms or propose new mechanisms to enable LMR DR resource owners to realize each potential demand response value stream.

**d.** The Working Group will develop a plan for coordinating the implementation of each recommended mechanism for realizing DR values through existing and proposed CPUC, CEC and CAISO dockets and initiatives.

**e.** The Working Group recommendations should inform the R. 13-09-011 Phase 4 demand response road map.

**10. Structure:**

a. The Working Group will be public and composed of the members of the Settling Parties from R. 13-09-011 Phase 3, as well as key expert groups such as the DAWG and DRMEC.

b. The ISO has suggested the DAWG – specifically the newly forming DAWG- DR pup - as a core technical team to address methods for incorporating the impacts of LMR DR into the IEPR forecast. To this end the DAWG-DR pup will draw on its experience with incorporating energy efficiency savings into the IEPR forecast, and will coordinate with the DRMEC. The DAWG's existing experience and connection with the IEPR will be beneficial.

c. DRMEC is also an expert group that the Working Group can utilize to provide technical expertise and experience on how demand response impacts are determined.

d. The Working Group should also hire outside third party experts (funding source TBD) as needed to help inform the work of the group.

**11. Governance (process and principles):**

a. Process
- Generally works on consensus basis
  - Should strive to have <u>essential</u> needs met of <u>all</u> parties (no group is "extra special").
- Develop a report with recommendations detailing final recommendations and each party's position that may be presented in a public workshop
  - The report should be used to build the CPUC's record along with public comments
- Include all interested stakeholders

b. Principles:

- Do not over- or under-value demand response due to bifurcation (no intention to diminish value of DR in either category per D. 14-03-026)
- Follow the Loading Order
- Working Group recommendations will be based on evidence and facts, and will use outside experts if needed.
- Valuation should be reflected in the cost effectiveness determination before programs are approved.
- Demand response values should be made fully transparent, with mechanisms to harvest that value made available to ratepayers, third parties and IOUs. DR costs should also be transparent but will be addressed in cost-effectiveness analysis rather than in this Working Group.

**12. Schedule:**

a. Potential members of the proposed Working Group will begin to form and coordinate with DAWG and DRMEC before the CPUC decision so that it can have a fast start. This work should begin after the Settlement has been filed. Because the DAWG-DR pup's tasks must feed into the CEC's 2015 IEPR process in a timely manner, its portion of the work will likely have to begin prior to the CPUC decision.

b. Meet officially within 10 working days of CPUC decision authorizing the Working Group. This is currently expected to be early January 2015.

c. The recommendations should be completed by May 1, 2015 so that they can be factored into the timeline established by the Joint Agency Steering Committee (JASC) and this proceeding and other proceedings:
   - Phase Four of this proceeding, which will develop a DR road map
   - The IOU DR Applications to be filed in November 2015
   - Submitted into the CPUC resource adequacy proceeding that will make a Decision in June 2016 for the 2017 RA rules
   - Go into 2015 IEPR
   - Go into the 2016 long term procurement proceeding

**13. Prioritization:**

A list of items to address for LMR DR valuation will be one of the first tasks the Working Group will prioritize.

# ATTACHMENT C
# TO SETTLEMENT AGREEMENT

# CHARTER FOR LOAD MODIFYING RESOURCE DEMAND RESPONSE OPERATIONS WORKING GROUP

**Charter for**

**Load Modifying Resource Demand Response (LMR DR) Operations Working Group**

**July 25, 2014**

**14. Purpose of Working Group:**

Identify and develop processes that allow the CAISO to better incorporate LMR DR into its operations so that LMR DRs value is fully captured

**15. Products:**

The output of this working group would be a series of proposals for 1) providing greater operational visibility to the CAISO of LSE use of LMR DR, 2) providing CAISO better tools to forecast the impact of LSE-dispatched event or non-event based LM DR on CAISO loads in the day-ahead and real-time markets, and 3) improving the ability of the CAISO to call LMR DR when needed

**16. Structure:**

This working group would consist of members of the staffs of IOUs, the CAISO, the CPUC, and of other LSEs, DRPs, consumer representatives, and public interest groups where of interest. This is not a policy group but a technical group to discuss IT, systems, procedures and operational matters. All members should be conversant in the technical aspects of DR program design and CAISO markets.

**17. Governance (process and principles):**

**Process:** The group should focus on 1) technical solutions and processes that increase the ability of CAISO operators to be aware of LSE dispatch of LMR DR programs and to reflect the use of these programs, whether event or non-event based, in its day-ahead and real-time forecasting, and 2) improving the processes for the CAISO to call LMR DR if needed for reliability purposes. While the CAISO is the ultimate entity to adopt any changes to its operations that may result from this greater visibility and information, the group should collaborate to find mutually-acceptable solutions. Outside experts may be retained if needed (funding source TBD).

**Principles:**

- Follow the Loading Order
- Do not diminish DR value per D. 14-03-026, as long as DR provides similar services and benefits
- Consider whether and how DR can better contribute to price formation in CAISO markets if it is not bid in as SR DR

**18. Schedule:**

The Working Group should begin meeting by September 2014, with the intention of developing a list of proposed changes, priorities, and a time-line in September if possible. The list can be updated going forward based on experiences in 2015, if necessary. While this time frame precedes a decision in Phases 2 and 3 of R. 13-09-011, discussion to date shows levels of agreement on a number of issues. Since solutions will take time, in order to allow increased visibility of LMR DR to the CAISO, including for forecasting purposes, sooner rather than later, the group should start working before any December 2014 decision.

**19. How results will be used:**

The results should be used to inform future CAISO stakeholder processes addressing incorporation of LMR DR information into its load forecasting and operations.

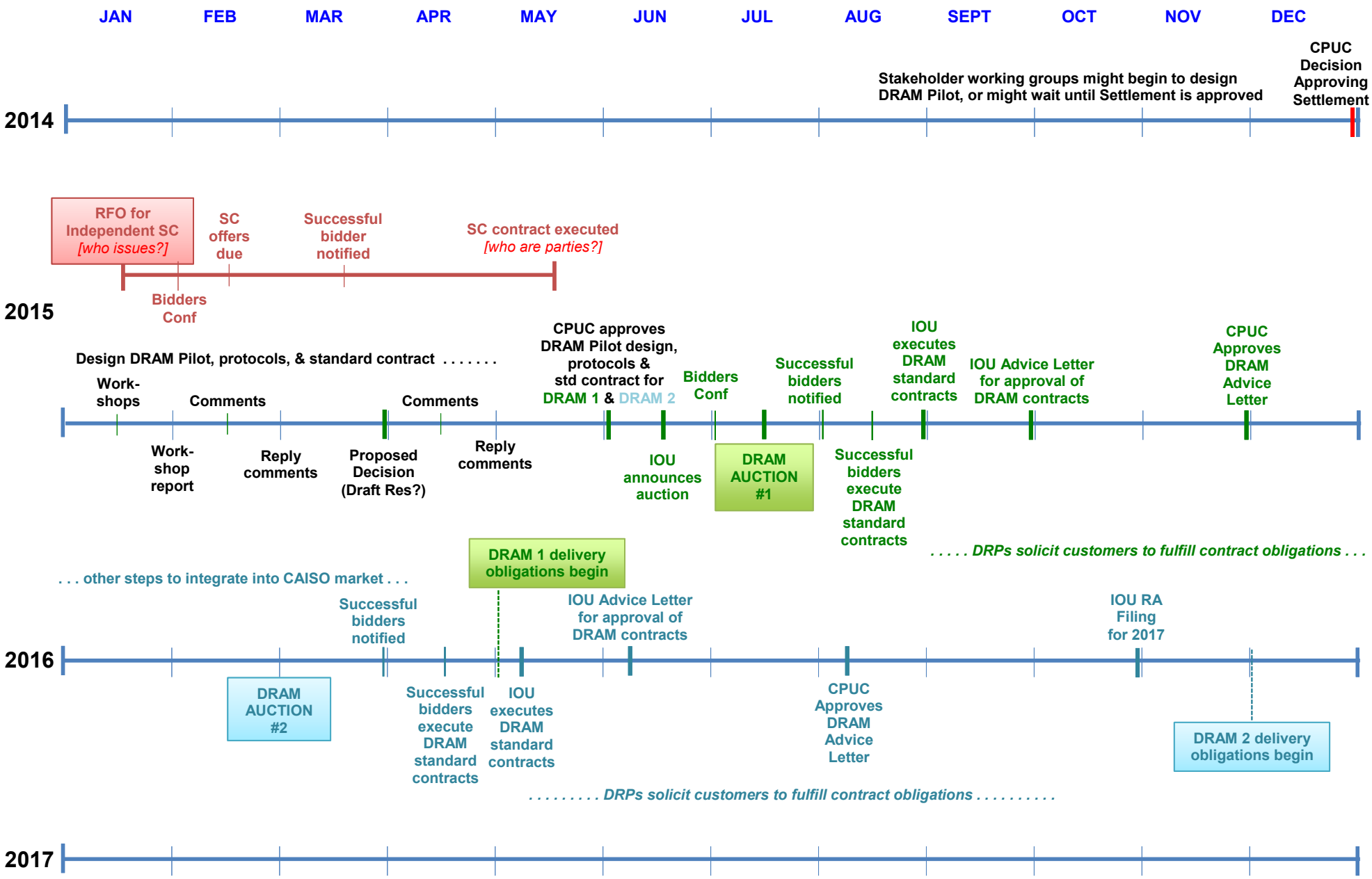
**20. Prioritization:**

a. The Working Group may explore the following ideas:
   - Have "automated" system to get the Daily DR Report into the CAISO system
   - Have "hard" (must dispatch) triggers with specific amounts of MW that can be used in CAISO forecasts
   - "Bid" LMR DR into CAISO market but with no settlement or registration requirement in order to provide the CAISO with visibility to these resources and their dispatch by LSEs; consider other means of providing visibility as well
   - Include Dispatchable LMR in CAISO market via Load bid
   - Determine whether and how LSE dispatch of LM DR could be reflected in CAISO forecasting
   - Determine whether some form of low-cost telemetry can be used to provide visibility to the CAISO of dispatched LMR DR
   - Consider whether LMR DR can affect requirements for ancillary services
   - Other ideas were included in the testimony of Dr. Papalexopoulos and PG&E December 13, 2013 comments

# ATTACHMENT D
# TO SETTLEMENT AGREEMENT

## DRAFT SCHEDULE TO COMPLETE TWO DRAM AUCTIONS

# DRAFT SCHEDULE TO COMPLETE TWO DRAM AUCTIONS, 2015 (System only) & 2016 (System, Local & Flexible)




*ADDITIONAL DRAM AUCTIONS?*

*JNA/Sierra draft2 for DRAM Working Group call, 7/11/14*

**ATTACHMENT B**
**TO MOTION**

**COMPARISON EXHIBIT**

**Comparison Exhibit - Original Party Positions and Settlement Outcome for Issues from April 2, 2014 Ruling and Revised Scoping Memo**

| Party | Goals | Resource Adequacy | Integration Costs | Supply Resources/DR Auction Mechanism | Load Modifying Resources | Application Process | Cost Allocation | |
|---|---|---|---|---|---|---|---|---|
| PG&E | > goals should be not be quantitative<br>> CPUC should implement plan to maximize DR MWs | > Supply Resources (SR) and Load Modifying Resources (LMR) should receive comparable RA value | > Integration costs likely to be significant<br>> A transition period is needed to gain experience and reduce costs | > SR is DR program that provides a product CAISO directly procures<br>> No current PG&E programs have SR characteristics<br>> PG&E can offer 10-20MW of DR as SR<br>> DRAM is complex and requires further examination | > LMR are programs that do not have SR characteristics<br>> LMR provide value similar to SR<br>> LMR can work in CAISO wholesale market | > 10 year rolling program cycle with annual adjustments | | |
| SCE | > Any goals for DR should be determined by first identifying system needs, then understanding how a balanced portfolio of resources can meet those needs, and finally defining what role DR can play among that portfolio of resources | > primary concern related to RA, specific to the bifurcation framework, is that dispatchable DR programs that currently receive RA value should continue to receive RA value, regardless of how these programs are categorized | > defers to June 2nd DR Direct Participation (Rule 24) cost recovery application | > Utilities and third parties can both be effective providers of Supply Resource DR while Load Modifying Resource DR relies on utility rates and a utility-centric model<br>> supports competitive procurement of preferred resources but recommends that the ED's DRAM Proposal be deferred until at least 2017 to align with the next DR funding cycle and to allow time for lessons learned from other efforts to be implemented | > Utilities and third parties can both be effective providers of Supply Resource DR while Load Modifying Resource DR relies on utility rates and a utility-centric model; | > SCE supports a longer program budget application process, with the specific cycle length and process details to be determined after other policy issues in the Revised Scoping Memo are resolved | | |
| SDG&E | > Specified goals not needed<br>> CPUC should approve and encourage all cost-effective DR programs<br>> Current rate design discourages economically efficient DR > The most economically efficient form of DR is DR in response to accurate price signals | > Not clear how LMR will provide RA<br>> SR will bear additional costs to directly bid into the CAISO markets and will also be exposed to any non-availability charges and underperformance costs.<br>> it is expected that LMR's impact on RA would be reduced | > Provides cost estimates to integrate DR programs | > SR defined as PDR or RDRR<br>> CBP and BIP are SRs<br>> Recommends process evaluation to improve DR program response<br>> The proposed DRAM should be rejected | > LMR are programs that do not have SR characteristics<br>> LMR provide value similar to SR<br>> LMR can work in CAISO wholesale market | > Longer program cycles (up to 10 years) would provide benefits | | |
| CAISO | > In the context of the loading order, the Commission should establish annual supply-side demand response goals tied to the Commission's long-term procurement authorizations | > Supply side demand response should count as resource adequacy capacity; load modifying demand response should not count as resource adequacy capacity but can lower resource adequacy requirements. | There are opportunities to reduce cost and complexity related to integrating DR as a supply resource and CAISO is committed to continuing engagement with stakeholders to identify areas for improvement and investigate viable alternative approaches. | > A supply-side resource is a resource that can be scheduled in day-ahead or real-time operation and that a system operator can include in system-wide dispatch when needed, where needed, and for a needed quantity<br>> Emergency and local DR providing RA should be a SR<br>> As the CAISO noted during the recent long term procurement proceeding, the Commission should ensure that adequate tracking processes are in place to monitor the development and effectiveness of supply-side demand resources, particularly in critical areas such as southern California | > Load modifying programs, like critical peak pricing or conservation requests do not normally result in a targeted outcomes<br>> For ratepayer funded load modifying demand response programs that are event-based, the Commission should apply similar, if not identical, performance obligations and non-compliance penalties to utility programs as those applied to third-party demand response providers who operate under the utilities' aggregator managed portfolio programs. | | | |
| ORA | > 5% goal is reasonable<br>> goal si to maximize cost-effective DR | > ED adjustments to ex-ante load impacts used in establishing RA capacity are not clearly defined and understood and should not be made in an ad hoc manner<br>> provide additional guidance so the ED's adjustments are done in a transparent manner<br>> there is no well-defined process for determining the amount of conventional generation resources avoided by LMRs<br>> establish a formal process in collaboration with the CEC to determine how load modifying programs are accounted for in the CEC's load forecast | > Reasonableness of integration costs should be judged in terms of the overall cost effectiveness of DR programs<br>> Defers to CAISO on PG&E recommendations to reduce integration costs | > Agrees generally with the bifurcation of programs noted in D.14-03-026<br>>The CAISO and DR providers should collaborate on finding innovative ways to reduce DR integration costs consistent with the level of visibility of DR resources necessary for operating the grid in a reliable manner.<br>> DRAM: concurs with ED target goals; auction should be as-bid with a cost cap of weighted average of bids received.<br>> DRAM: concerned about long term contracts (customer retention); limiting frequency of auctions; clarify emergency program bidding | > Agrees generally with the bifurcation of programs noted in D.14-03-026<br>> ED should review and direct IOUs to improve load forecasting<br>> There should be no specific goals for LMR impacts | > A longer program cycle would avoid bridge funding<br>> DR aggregators have not shown that they can recruit a customer over a longer term<br>>Cost effectiveness and annual performance still must be evaluated at regular intervals to identify underperforming contracts. | | |
| DACC/AReM | | | | > The Commission does not have jurisdiction to require ESPs to procure through the proposed DR auction mechanism. | | | Should be decided in this proceeding | |
| Clean Coalition | > proposes a needs-based approach for developing DR goals. The purpose is to set goals that can be readily translated into increased 10 reliance on demand response in procurement plans and transmission plans<br>> recommended framework for setting demand response goals will also 20 reveal how much demand response will be available to meet operational needs | | | | | | | |
| CLECA | > It is premature to set goals for demand response now; the goals should be informed by the record under development in this track and the experiences of at least this summer | Since all demand response affects resource requirements for Resource Adequacy, the Commission must ensure that all demand response is taken into consideration and affects procurement requirements and levels | > Costs associated with integration into CAISO markets can reduce the cost-effectiveness of supply resource demand response programs, and integration costs imposed on individual customers and the system as a whole must be mitigated to avoid rendering such demand response programs cost-ineffective | > Two criteria should be used to categorize demand response programs as supply resources: first, whether CAISO dispatch is required for the program to provide its intended service; second, whether the integration costs are not so great that they make the program cost-ineffective<br>> There are many threshold questions on the DRAM that need to be worked through before its implementation, even on a preliminary basis<br>> It is not necessary to include reliability DR in the DRAM<br>> The apparent assumption that the federal Net Benefits Test is a substitute for a Commission determination on cost-effectiveness is misguided<br>> Forecasting the impact on the load shape of dynamic pricing and having the CAISO take that impact into account is just as important as expanding dynamic pricing; | | > Longer program cycles and program stability are warranted | | |

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| EDF | Goals should be driven by creating transparent valuation of all DR benefits, and enabling those to be harvested by utilities, third parties, and ratepayers | RA should be used as an incentive mechanism to induce all types of DR, including those contributing T&D benefits; or an alternative mechanisms, such as comprehensive valuation, should be adopted. | | > Auction should include event-based programs (CBP, DBP, BIP, SmartAC, etc)<br>> Longer term contracts and improved forecasting are needed<br>> Significant time needed to develop effective DRAM | LMR should be comprehensively valued, including by time and place. Similarly, more granular (geographic) forecasting is needed to esure that LMR's contributions are fully reflected in IEPR and associated planning proceedings. | | | |
| Joint DR Parties | > 5% goal is reasonable starting point; Commission needs to examine reasons why DR resource success is not greater; need to address concerns with wholesale market integration;<br>> integrate DR in utility resource planning<br>> encourage greater DR participation | > The rules that would apply to DR resources that participate in the wholesale market for RA purposes, and are, therefore, eligible for a capacity payment, have not been settled and may take longer than expected to achieve FERC approval. LMRs should not be valued less than supply-side resources for RA purposes. JDRPs are concerned about the discontinuity in the way DR resources are counted for local resource adequacy purposes but not counted toward meeting a local capacity requirement in the LTPP. JDRPs also wanted to have better alignment between how DR resources are paid and counted for RA purposes.<br>> A must-offer obligation is not an efficient method of dispatching DR<br>> the IOUs should be able to utilize a resource for distribution level needs | > Integration costs are significant and may likely be higher than other markets (PJM and ERCOT) | > Participation of and requirements for DR resources in wholesale markets remains unsettled<br>> There are numerous shortcomings to resolve to create a DRAM. Expectations as to frequency of dispatch of DR resources increasing by virtue of participating in the wholesale market must be tempered due to the reality of use limitations, low market clearing prices, customer opportunity costs, etc. The role of the utility may need to be examined, depending upon the types of services that will be provided. | > LMRs can be either resources that are exposed to rate changes through utilities tariffs or are dispatchable based upon system conditions.<br>> Utilities are likely to be the most significant, if not the exclusive, provider of these services. | > Longer program cycles are desirable | | |
| MCE | | | | > DRAM should not apply to CCAs | > Utility centric DR programs are anti-competitive | > supports longer program cycles | | |
| Sierra Club | > Appropriate to adopt measurable transition goals > April 2nd ruling proposed goals (Attach B) are sufficient; PJM goal is 14%<br>> Success in achieving goals depends on removing barriers & integrating with RA & LTTP | | > Integration cost barrier may be signficant; others can be mitigated | > Concurs with bifurcation of programs in Hymes' initial PD<br>> Depending on its implementation, the proposed DRAM may retard, rather than promote, the growth of DR and provides recommendations to improve it<br>> Proposed bid cap may lead to suboptimal results<br>> Transition of Supply Resources to CAISO should be staged gradually | > LMR success depends on clear & correct price signals, customer-friendly tariff designs, & effective utility marketing | | | |
| TURN | > strongly concerned that an arbitrary goal linked to procurement requirements could significantly increase costs due to a lack of technical potential or supplier market power if there is insufficient market competition<br>> recommends that the Commission use the proposed price cap (based on a weighted average of bid prices) in conjunction with an exogenous benchmark based on a measure of cost effectiveness | | | > generally agrees with the preliminary categorization as shown in Table 2 of D.14-03-026, with one caveat concerning permanent load shifting resources<br>> The characteristics of particular Supply Resources are influenced both by customer preferences and the extent of control and communications technology automation<br>> TURN supports DRAM as a vehicle to reduce program costs and increase cost transparency<br>> Require all supply resource demand response to participate in the DRAM starting in 2017 and 2018<br>> Provide for a specific review and reauthorization of the DRAM after piloting the program for 2016 and 2017<br>> Additional testimony (Woodruff) details clarifications and modifications required for DRAM | > generally agrees with the preliminary categorization as shown in Table 2 of D.14-03-026, with one caveat concerning permanent load shifting resources<br>> concerned about PLS as a LMR | | | |
| Opower | > CPUC should create participation goals<br>> Provides recommendations to improve marketing of DR programs | | | | | | | |
| Energy Hub | > Expand participation of DR in residential market | | > agree with PG&E's list of actions that will likely reduce integration costs | > believe that the existing proposed auction schedule can be improved by including opportunities to supply interim or monthly auctions that complement the annual auction process<br>> In order to most effectively capture the opportunity of demand response in the residential sector, it is critical that aggregators have the ability to offer bids into the auction process without identifying the specific resources or customers prior to the performance period | | | | |
| NRDC | | | | | | | | |
| **Settlement Outcome** | •The Parties acknowledge the Energy Action Plans DR goal of 5% of each IOUs' peak demand by 2020 by event-based DR programs as an | •All existing IOU DR programs will retain their current System and Local RA valuation through 2019. | •Barriers will be pursued through a SR DR Integration Working Group. | The IOUs agree to seek to increase cost effective SR DR as barriers to CAISO market integration are overcome | •IOUs will submit funding and program redesign (or new programs) proposals for SR DR and LMR DR programs in their November 2015 applications. | •The Settling Parties request the CPUC to approve another three-year program cycle (2017-2019). | | |
| | • A new goal for cost – effective DR will be determined based on a DR Potential Study that has active Stakeholder participation and reflects needs identified in the LTPP, RA, TPP and other planning and procurement processes. | •Valuation of LMR DR after 2019 for reducing RA requirements and other benefits will be addressed by a LMR DR Valuation Working Group, in coordination with the Demand Analysis Working Group (DAWG) and Demand Response Measurement and Evaluation Committee (DRMEC). | •Improved CAISO integration of LMR DR will be addressed in a LMR Operations Working Group | •Parties will convene a series of working group meetings and/or workshops by December 2014 to develop the design, protocol, and standard offer contracts of a DRAM Pilot. The design, protocol and standard offer contracts will be submitted to the Commission for approval. | •A DR program can be partitioned into a LMR DR resource and a SR DR resource. | •The parties request that the CPUC conduct one (1) mid-cycle review of the IOU DR program activities, via a public workshop, which will allow for parties to provide input on potential mid-cycle revisions to the IOUs' tariffed DR programs to enhance DR program participation and performance. The IOUs could propose revisions to their tariffed DR programs based on parties' input. | | |

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| | •The DR Goal should account for DR procurement approved in all CPUC proceedings; may be IOU specific and will include non-event based DR | •A SR DR resource may qualify for Local RA as a RDRR if there is a contingency trigger allowing it to show up in the Real-Time Market at a predetermined price; such resources will not count toward the cap on reliability resources adopted in D.10-06-034. | | •An initial DRAM Pilot auction will be conducted in 2015 for 2016 delivery for SR DR providing System RA in the following minimum quantities: 10 MW for SCE, 10 MW for PG&E and 2MW for SDG&E. | | •Parties agree to initiate a process by April 1, 2015 to develop the rules governing a potential extended DR budget cycle by December 31, 2015 for CPUC approval by March 31, 2016. |
| | •All types of DR will count toward the DR Goal, both supply resource (SR) and load modifying resource (LMR). | •After 2019, only SR DR that meets specific reliability needs will be eligible to receive RA credit. | | •Another DRAM Pilot auction will be conducted in 2016 for delivery beginning in 2017 and potentially beyond for SR DR providing Systems, Local and Flexible RA in the following minimum quantities: 10 MW for SCE, 10 MW for PG&E and 2 MW for SDG&E. | | •Development of the details of an extended DR budget cycle must be coordinated with Electric Rule 24, and other key CPUC proceedings and CAISO stakeholder processes. |
| | •Application of the DR Goal shall not be subject to penalties or sanctions for failure to meet the goal or to incentives to meet that goal | | | •The IOUs will not bid into the two pilot auctions but will have some discretion to select the winning bids; winning bidders will be paid as-bid. | | |
| | •Future DR Goals will be firm, subject to reasonable off-ramps. | | | •IOUs will not act as the Scheduling Coordinator (SC) for the Pilot but will provide optional SC and related services to winners of the DRAM Pilot via a third party. | | |
| | | | | •The IOUs will have the option of conducting RFOs in 2015 for delivery in 2017 and beyond for SR DR and LMR DR products that differ from those procured through the DRAM Pilot. | | |
| | | | | •The IOUs' costs for the DRAM pilot will be recovered through a CPUC-authorized cost recovery mechanism, pursuant to the CPUC's decision on cost allocation in this proceeding. | | |
| | | | | •Issue to brief: Parties agree that an issue to be briefed in this proceeding and decided by the CPUC in its Settlement decision is whether the DRAM should be a preferred means of procuring Supply Resource DR and if so, how (e.g. caps or limits on IOU DR programs) . | | |