

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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Order Instituting Rulemaking Regarding
Policies and Protocols for Demand Response
Load Impact Estimates, Cost-Effectiveness
Methodologies, Megawatt Goals and
Alignment with California Independent
System Operator Market Design Protocols.

Rulemaking 07-01-041
(Filed January 25, 2007)

**REPLY COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES
ON THE PROPOSED DECISION ADOPTING A METHOD
FOR ESTIMATING THE COST-EFFECTIVENESS OF DEMAND
RESPONSE ACTIVITIES**

SUDHEER GOKHALE

Senior Utilities Engineer
Division of Ratepayer Advocates
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Phone: (415) 703-2247
Facsimile: (415) 703-2905
Sudheer.Gokhale@cpuc.ca.gov

LISA-MARIE SALVACION

Attorney for the
Division of Ratepayer Advocates
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Phone: (415) 703-2069
Facsimile: (415) 703-2262
Lisa-Marie.Salvacion@cpuc.ca.gov

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I. INTRODUCTION

Pursuant to Rule 14.3 of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure, the Division of Ratepayer Advocates ("DRA") hereby submits these reply comments in the Proposed Decision ("PD") of Administrative Law Judge ("ALJ") Jessica T. Hecht's in Phase 1 of Rulemaking (R.) 07-01-041.

II. DISCUSSION

Because of time and resource constraints, it has been a challenge to conduct a thorough examination of Energy Division ("ED") and E3's proposed Avoided Cost Calculator ("ACC") and the Demand Response ("DR") Reporting Template. DRA largely relied on the ED's and E3's presentations and materials provided at the November 2nd workshop ("Workshop").

Based on parties' opening comments, it appears there are significant errors with the proposal. In addition, key issues may need to be further clarified before the protocols and the template could be adopted for use in investor owned utilities' ("IOUs") 2012-2014 DR Program Cycle applications. Given the extent of issues and errors raised by parties in comments, it becomes apparent that there should have been more forthright discussion of these concerns at the November 2 workshop—or even earlier—so that at least some those issues could have been resolved. Accordingly, DRA recommends the Commission not adopt the Proposed Decision at this time, and allow further discussion and development of the 2010 Protocols through additional comment periods and/or workshops. While DRA discusses some of the arguments raised by parties in their opening comments, this does not necessarily mean that DRA agrees with the positions of parties not discussed below.

III. REPLY TO COMMENTS BY PARTIES

A. Pacific Gas and Electric Company (PG&E)

1. Competitive Solicitations Should Not Be Exempted From Use of the Cost-Effectiveness Protocols in Evaluating the Final DR Contracts

PG&E asserts that “the proposed 2010 Protocols should not be used to evaluate offers received in a competitive solicitation.”¹ PG&E argues that “requiring utilities to use a model to evaluate bidders that is transparent and readily duplicated by bidders and others is contrary to the goal of a competitive solicitation.”² PG&E further argues that “preference for using publicly-available data and the E3 Avoided Cost Calculator in the Proposed Decision is not appropriate for competitive solicitations, i.e. using public data would not increase the transparency of the calculation of demand response costs and benefits since the results and offers could not be publicly released.”³

Although DRA understands that PG&E may want to use its proprietary, confidential price forecasts and models to evaluate bidders, any DR contract PG&E elects to submit for approval must still be subject to the cost-effectiveness tests and other requirements in the protocols. It is not the internal process which a utility uses to evaluate and select the final bids that are important, but rather whether the end product resulting from that process—the final contracts—meet the Commission’s requirements for cost-effectiveness based on the adopted protocols. From a ratepayer’s perspective, DR obtained through competitive bidding is no different than any other DR resource.

The current Commission thinking appears to be that all DR is good and therefore there should be no limit on DR, regardless of the unnecessary cost it imposes on ratepayers. This is erroneous thinking. At a minimum, the Commission should prescribe a megawatt limit on DR aggregator contracts to ensure that there is a real competition among them if the Commission decides that they should not be subjected to the proposed 2010 Protocols.

¹ PG&E’s Opening Comments, p.3.

² *Id.*

³ *Id.*, p.4.

2. Pilots Should Be Included In Calculating the DR Portfolio's Cost-Effectiveness

PG&E recommends that costs for DR pilots and programs intended for research purposes not be included in calculating the DR portfolio benefit-cost ratio. PG&E clarifies that this includes DR pilots, emerging technology programs, analysis work for developing new programs and developing new products for the CAISO markets.⁴ DRA disagrees. This is too broad an exclusion. The cost of pilots that would directly benefit load serving entities' ("LSEs") programs should be included in their portfolio cost-effectiveness analysis. For example, ratepayers would not have incurred the costs of Participating Load ("PL") and Proxy Demand Resource ("PDR") pilots but for the need to develop DR programs that can participate in the CAISO's markets.

B. Southern California Edison Company (SCE)

1. The Issue Whether Load Impacts Of DR Programs Should Be Based On the DR Load Impact Protocols or On The Net Qualifying Capacity Needs Further Discussion And Clarification By The Commission

SCE argues the Commission should adopt load impacts based on DR Load Impact Protocols because they are documented in a transparent way and are subject to review.⁵ On the other hand, SCE argues that the Energy Division often de-rates the load impacts of some DR programs based on their own expert judgment, a less transparent process.⁶ DRA understands it is the NQC that determines the resource needs of a utility in an RA proceeding. Therefore, ratepayers get the capacity value of DR based on how much NQC it provides regardless of the capacity indicated by the DR Load Impact Protocols. Accordingly, DRA recommends using NQC. If more transparency is required on how NQC is determined ED should make an effort to provide additional explanation about how it exercises its judgment when it derates the load impacts.

⁴ PG&E's Opening Comments, p. 9.

⁵ *Id.*

⁶ *Id.*

C. The Utility Reform Network (TURN)

1. DRA Agrees With TURN That In The Long Run, DR Should Be Valued Based On Actual Market Costs Avoided

TURN argues that using a combustion turbine (“CT”) proxy method with an assumed resource balance is inconsistent with how the Commission should be moving to integrate DR within the Market Restructuring and Transmission Upgrade (“MRTU”) and RA frameworks.⁷ TURN argues the current CT-proxy method should be temporary until the DR is valued based on the actual costs avoided.⁸ DRA agrees the Commission should move DR in the direction of earning revenues in the actual RA and MRTU markets, just like conventional generation resources currently do.

Once the markets start determining the value of products DR provides, there would no longer be a need for the myriad assumptions and proxies employed in the cost-effectiveness framework. DRA recommends the Commission clarify the direction it wants in terms of how DR would be valued in the long-run.

D. The California Large Energy Consumers Association (CLECA)

1. Resource Adequacy

Because DRA questioned whether DR avoids generation-related costs if it does not count for RA purposes at the Workshop, CLECA suggests that DRA undermines the principles and terms of the settlement in D.10-06-034 in Phase 3 of this proceeding.⁹ DRA corrects CLECA’s interpretation of DRA’s comment and further explains the point.

The stated purpose of the November 12, 2010 workshop was (1) to allow the ED and its consultant, E3, to explain the proposed cost-effectiveness protocols and (2) to provide a forum for interested parties to ask clarifying questions about the proposed protocols. In that spirit, DRA raised the question that if a party proposes a DR program that does not meet the requirements of the Commission’s RA counting rules, should that DR program be assigned the avoided capacity generation value provided in the proposed

⁷ TURN’s Opening Comments, p. 5.

⁸ *Id.*, p. 6.

⁹ *Id.*, pp. 5-6.

protocols? While DRA supports the existing Settlement, this is a larger question that deserves clarification.

The Phase 3 Settlement was adopted in D.10-06-034 with specific terms and conditions under which the current emergency-type DR programs will be transitioned for bidding into the CAISO's new Reliability Demand Response Product ("RDRP"). The Settlement provides that DR programs that qualify to use the new RDRP product may not exceed, in aggregate, two percent of CAISO's system peak by 2014 in order to be counted towards the LSEs' RA obligation.¹⁰ The Settlement, however, also provides there is no limit on how many RDRP megawatts the CAISO may accept—the two percent limit is just on the megawatts that count toward RA.¹¹ Clearly, one could imagine that a party may want to bid into RDRP to receive the payment provided in the RDRP product even though it may not count for any RA credit. Similarly, a party may negotiate a DR arrangement/program with a utility to provide emergency load reduction in case of a transmission emergency only even though such an arrangement/program may not count towards RA. Therefore, this is a legitimate question in need of clarification.

IV. CONCLUSION

In summary, DRA recommends the Commission provide additional time to resolve important issues and correct errors in the PD that parties have identified in their opening comments. Even if this entails pushing back the current due date for filing of 2012-2014 DR Program Cycle applications to February, it is extremely important to get the new protocols in place without any significant errors and with all the important issues resolved. DRA is not concerned about small inaccuracies resulting from the adoption of default factors because on the whole default factors do bring more transparency and consistency to the process. Similarly, DRA is not concerned about small inaccuracies resulting from the use of publicly available data because that makes the calculation verifiable to all parties. However, any and all errors in the calculator and template should be corrected and all major issues should be resolved before the adoption of new cost-effectiveness protocols.

¹⁰ Reliability Based Demand Response Settlement (D.10-06-034), Appendix A, Section A.4 b.

¹¹ *Id.*, p. 3.

Respectfully submitted,

/s/ LISA-MARIE SALVACION

Lisa-Marie Salvacion
Staff Counsel

Attorneys for the Division of Ratepayer
Advocates

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Phone: (415) 703-2069
Fax: (415) 703-2262

November 19, 2010

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of **“REPLY COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES ON THE PROPOSED DECISION ADOPTING A METHOD FOR ESTIMATING THE COST-EFFECTIVENESS OF DEMAND RESPONSE ACTIVITIES”** to the official service list in **R.07-01-041** by using the following service:

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Executed on **November 23, 2010** at San Francisco, California.

/s/ REBECCA ROJO

Rebecca Rojo

SERVICE LIST
R.07-01-041

CCole@currentgroup.com;
Case.Admin@sce.com;
CentralFiles@semprautilities.com;
Dave.Hanna@itron.com;
Jennifer.Shigekawa@sce.com;
LDavidson@semprautilities.com;
LWrazen@semprautilities.com;
MAGq@pge.com;
Paul.karr@trilliantnetworks.com;
SRH1@pge.com;
Saeed.Farrokhpay@ferc.gov;
Service@spurr.org;
abb@eslawfirm.com;
abesa@semprautilities.com;
ag2@cpuc.ca.gov;
agartner@energyconnectinc.com;
agc@cpuc.ca.gov;
ahmad.faruqui@brattle.com;
alex.kang@itron.com;
aliddell@icfi.com;
ames_doug@yahoo.com;
andrea.horwatt@sce.com;
apetersen@rhoads-sinon.com;
arg@enertechnologies.com;
barrettlarry@comcast.net;
bboice02@yahoo.com;
bcragg@goodinmacbride.com;
bdicapo@caiso.com;
bdille@jmpsecurities.com;
bernardo@braunlegal.com;
bhines@svlg.net;
bobgex@dwt.com;
brbarkovich@earthlink.net;
brian.theaker@dynegy.com;
bschuman@pacific-crest.com;
bsk@cpuc.ca.gov;
carl.silsbee@sce.com;
cec@cpuc.ca.gov;
cem@newsdata.com;
cfpena@sempra.com;
chris@emeter.com;
clamasbabbini@comverge.com;
clark.bernier@rlw.com;
clark.pierce@us.landisgyr.com;
claufenb@energy.state.ca.us;
cmkehrein@ems-ca.com;
cpjoe@gepllc.com;
cpuccases@pge.com;
cpucdockets@keyesandfox.com;
crmd@pge.com;
crv@cpuc.ca.gov;
dan.violette@navigantconsulting.com;
david.reed@sce.com;
david@nemtow.com;
dbarker@semprautilities.com;
dcengel@fscgroup.com;
demorse@omsoft.com;
dgrandy@caonsitegen.com;
dhungerf@energy.state.ca.us;
dnl@cpuc.ca.gov;
douglass@energyattorney.com;
dserio@ecsgrid.com;
dwood8@cox.net;
dwylie@aswengineering.com;
e-recipient@caiso.com;
edd@cpuc.ca.gov;
edf@cpuc.ca.gov;
elaine.s.kwei@pjc.com;
elvine@lbl.gov;
emahlon@ecoact.org;
eric@strategyi.com;
filings@a-klaw.com;
garwacrd@sce.com;
gayatri@jbsenergy.com;
gayres@energycoalition.org;
gesmith@ecsny.com;
glbarbose@lbl.gov;
hcf@cpuc.ca.gov;
hvidstenj@kindermorgan.com;
hxag@pge.com;
irene@igc.org;
ja_boothe@yahoo.com;
janet.combs@sce.com;
janreid@coastecon.com;
jc8@cpuc.ca.gov;
jcluboff@lmi.net;
jeff@jbsenergy.com;
jeffgray@dwt.com;
jellis@resero.com;
jgoodin@caiso.com;
jhe@cpuc.ca.gov;
jholmes@emil.com;
jlaun@apogee.net;
joc@cpuc.ca.gov;

jody_london_consulting@earthlink.net;
joshdavidson@dwt.com;
joyce.leung@sce.com;
joyw@mid.org;
jpn@cpuc.ca.gov;
jshields@ssjid.com;
jweil@aglet.org;
jwwd@pge.com;
jyamagata@semprautilities.com;
ka-wing.poon@sce.com;
karen@klindh.com;
kcooney@summitblue.com;
kea3@pge.com;
keith.mccrea@sablax.com;
kkm@cpuc.ca.gov;
klatt@energyattorney.com;
kmills@cfbf.com;
kowalewska@calpine.com;
ksmith2@semprautilities.com;
larry.cope@sce.com;
laura.rooke@pgn.com;
lhj2@pge.com;
liddell@energyattorney.com;
lms@cpuc.ca.gov;
lnavarro@edf.org;
lwhouse@innercite.com;
marcel@turn.org;
marian.brown@sce.com;
mark.s.martinez@sce.com;
martinhomec@gmail.com;
mary.lynch@constellation.com;
mflorio@turn.org;
mgillette@enernoc.com;
mgm@cpuc.ca.gov;
mgo@goodinmacbride.com;
miino@rroads-sinon.com;
mjd@cpuc.ca.gov;
mpa@a-klaw.com;
mrh2@pge.com;
mrw@mrwassoc.com;
msherida@energy.state.ca.us;
mtierney-lloyd@enernoc.com;
nes@a-klaw.com;
nplanson@consumerpowerline.com;
nquan@gswater.com;
peter.maltbaek@cpowered.com;
philha@astound.net;
pk@utilitycostmanagement.com;
rcounihan@enernoc.com;
regrelcpuccases@pge.com;
rmccann@umich.edu;

rmettling@bluepointenergy.com;
rogerl47@aol.com;
rogerv@mid.org;
rquattrini@energyconnectinc.com;
rschmidt@bartlewells.com;
rwalther@pacbell.net;
salleyoo@dwt.com;
sas@a-klaw.com;
saw0@pge.com;
sdebroff@rroads-sinon.com;
sdhilton@stoel.com;
sean.beatty@mirant.com;
sharon@emeter.com;
shawn_cox@kindermorgan.com;
skg@cpuc.ca.gov;
smithmj@calpine.com;
snuller@ethree.com;
spatrick@sempra.com;
srovetti@sfgwater.org;
sschare@summitblue.com;
ssmyers@att.net;
stephen.baker@constellation.com;
stevek@kromer.com;
steven@sfpower.org;
sue.mara@rroadvisors.com;
tburke@sfgwater.org;
tcarlson@rrienergy.com;
tcr@cpuc.ca.gov;
ted@energy-solution.com;
theresa.mueller@sfgov.org;
tjs@cpuc.ca.gov;
tomk@mid.org;
ttutt@smud.org;
tylerb@poweritsolutions.com;
vwood@smud.org;
wbooth@booth-law.com;
wtr@cpuc.ca.gov;