



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

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Application of Pacific Gas and Electric Company  
(U 39-E) for Approval of Demand Response  
Programs, Pilots and Budgets for 2012-2014.

A.11-03-001  
(Filed March 1, 2011)

And Related Matters

A.11-03-002  
A.11-03-003

**COMMENTS OF NORTH AMERICA POWER PARTNERS LLC  
ON PROPOSED DECISION ADOPTING DEMAND RESPONSE ACTIVITIES AND  
BUDGETS FOR 2012 THROUGH 2014**

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Pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure, North America Power Partners LLC (NAPP) respectfully submits these Comments on the Proposed Decision (PD) of Administrative Law Judge Hymes Adopting Demand Response Activities and Budgets for 2012 through 2014.

**I. INTRODUCTION**

As parties have consistently reiterated, demand response (DR) has been placed at the top of the loading order by the State's Energy Action Plan. However, in many respects, the PD if adopted, threatens to decrease customer participation in DR and discourage investment in the infrastructure necessary to develop DR. While stakeholders are working to make integration into the California ISO (CAISO) market a reality, the 2012-2014 DR program period must be structured in a way to maintain DR capacity resources, ensure the cost-effectiveness of DR

programs and facilitate competition in the marketplace. Accordingly, NAPP urges the Commission to adopt the following recommendations and modify the PD as discussed herein:

- All of the investor-owned utilities (IOUs) should be permitted and required to extend their existing contracts in the same manner the PD permits extension of Pacific Gas & Electric's (PG&E) current Aggregator Managed Program (AMP) contracts;
- The IOUs should be authorized to solicit additional DR resources from DR aggregators in order to maintain the full DR contract quantities at existing contract levels;
- The baseline study should be expanded to include other accepted baseline methodologies;
- The IOUs should hold solicitations for new Proxy Demand Resource contracts that would allow for the participation of load in the CAISO market once the rules for direct participation and proxy demand resource are established;
- The dual/multiple participation options for customers should be maintained and expanded, and not limited as recommended by the PD; and
- The current incentive payment structure for Automated Demand Response should be retained.

## **II. DUAL PARTICIPATION RULES: EXISTING DUAL PARTICIPATION OPTIONS SHOULD BE EXPANDED RATHER THAN LIMITED THROUGH REVISED RULES**

The PD appropriately finds that the dual participation rules have promoted customer participation.<sup>1</sup> NAPP supports the PD's retention of dual participation, which gives customers more options and the flexibility to reduce load. However, the PD also proposes a number of revisions to the dual participation rules, including the addition of a new rule that allows for dual participation only if the two programs are offered by the same DR provider. While the PD appropriately denies parties' proposals to eliminate multiple program participation,

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<sup>1</sup> PD at p.46, Findings of Fact 15 at p.201.

NAPP cautions against any efforts to use revised rules to limit dual participation in the CAISO market.

Other markets have adopted rules that allow resources to participate in multiple markets and with more than one DR provider. For instance, PJM Interconnection (PJM) allows for resources to participate with two separate DR providers - one for Capacity and another for the Energy and Ancillary Services markets, and PJM ensures that the resources do not receive multiple payments for the same load drop. The Commission should adopt more flexible dual participation options with the appropriate controls and cautions in light of the fact that California DR aggregators face an unsettled regulatory landscape with respect to direct participation in the CAISO market. Further restrictions and limitations on dual participation as recommended by the PD could negatively impact customers and increase market uncertainty.

Currently, Rule (b) permits dual participation in up to two DR activities, if one provides energy payments and the other provides capacity payments. The PD modifies the Rule to address two concerns: (1) if both program events overlap, dual participation does not effectively increase load reduction and (2) if the events do not overlap, the utility could experience double procurement and ultimately impact cost-effectiveness of dual participation.<sup>2</sup> The PD revises Rule (b) to allow for dual participation in up to two demand response activities, if one provides energy payments *based on avoided energy costs without any explicit or implicit capacity elements* and the other provides capacity payments.<sup>3</sup> With respect to the revised Rule (b), the PD should be modified to make clear that customers may continue to participate in a capacity program and Critical Peak Pricing, which has a capacity component, but the

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<sup>2</sup> PD at p.48.

<sup>3</sup> PD at p.50.

Commission has deemed an energy payment program for purposes of dual participation.<sup>4</sup> The PD should also be revised to clarify that the dual participation rules are only applied to energy and capacity resources and that these rules do not restrict a DR resource's ability to participate as an ancillary services resource.

While the current dual participation rules prohibit participation in two day-ahead DR programs or two day-of DR programs, the PD proposes to further restrict participation in 1) *two DR programs that provide RA qualifying capacity value* and 2) *two DR programs that participate in the CAISO's Proxy Demand Resource (PDR) or one in PDR and the other in Reliability Demand Response Product (RDRP)*.<sup>5</sup> Rather than adding further restrictions on customers' ability to participate in multiple DR programs, the existing dual participation rules should be expanded to allow customers to participate in any combination of day-of or day-ahead programs subject to the restriction of one capacity and one energy payment program, foregoing the energy payment for coincident events.<sup>6</sup> Multiple program participation maximizes the amount of DR capacity and maximizes the benefit that DR can provide to utilities and customers. Ultimately, the ability of a customer to participate in more than one DR program should be preserved, provided that sufficient safeguards exist to prevent duplicative payments for a single load drop. This approach maximizes the availability and value of the DR resources to the marketplace to the benefit of all ratepayers. Just as generation resources are able to operate and receive payment for the various types of resources that they provide – capacity, energy and reserves – so too should DR resources be eligible to participate fully and to receive comparable treatment and compensation.

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<sup>4</sup> PD at p.48.

<sup>5</sup> PD at p.50.

<sup>6</sup> Opening Brief of North America Power Partners at p.4.

**III. BASELINE METHODOLOGY: STUDY AND COMPARISON ANALYSIS OF BASELINE METHODOLOGIES AND BASELINES AT VARIOUS CAP RANGES IS IMPORTANT TO IMPROVING THE EXISTING BASELINE AND APPROPRIATELY COMPENSATING CUSTOMERS**

The PD appropriately underscores the importance of an accurate customer baseline in order to compensate customers for their actions. NAPP supports the PD's directives that the IOUs provide an analysis to compare baseline settlement results at varying cap percentages. As part of the baseline comparison analysis, NAPP recommends consideration of a set of baseline methodologies that can be applied to DR resources with varying characteristics. For instance, PJM allows for the use of several different baseline methodologies, including same day, comparable day and regression analysis to determine a resource's baseline. Providing different baseline methodologies recognizes the fact that DR resources have varying usage and operating characteristics, and one particular baseline methodology may not be the best method of estimating what the load would have been absent an event or test.

NAPP agrees with the DR Aggregators that the cap on the day-of adjustment should be removed to improve the accuracy of the existing 10-in-10 adjusted baseline and to provide customers with appropriate compensation for verified reductions in demand.<sup>7</sup> The PD properly concludes a change in the 20 percent cap is needed.<sup>8</sup> NAPP agrees with the PD's findings that further studies are necessary to determine the accuracy of baselines at various cap ranges. NAPP urges the Commission to expand the scope of the study to include an evaluation of other accepted baseline methodologies. Establishing an accurate baseline is an essential component of the DR compensation structure, and it is in the interest of all parties to allow for a broad study and evaluation of the baseline methodologies that are currently being employed in various markets and programs.

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<sup>7</sup> Opening Brief of North America Power Partners at p.2, 7-8.

<sup>8</sup> PD at p.56.

The PD directs the IOUs to provide a comparison analysis of their baseline settlement results using both individual and aggregated baseline with cap percentage adjustments of 20, 30, 35, 40, 50 and no cap for the months of July, August, and September of the prior year and to compare the annual baseline settlement results with the Measurement and Evaluation results for the same year.<sup>9</sup> NAPP agrees with the PD's directive that the utilities conduct a study that compares baseline settlement results using individual and aggregate baselines at various cap ranges. However, the PD should be modified to specify that the study must also include evaluation of other accepted baseline methodologies to allow the Commission to consider approving a set of baseline methodologies to be used by DR resources with varying characteristics. Additionally, NAPP supports the PD's directives that the IOUs address the baseline comparison analysis as part of the annual Load Impact workshop and that solicitation of other parties' input on improving the baseline comparison studies is required prior to the workshop.<sup>10</sup> Third parties, including DR providers, should be allowed and encouraged to contribute to the study and analyses.

**IV. THIRD PARTY DEMAND RESPONSE CONTRACTS: THE PROPOSED DECISION SHOULD BE MODIFIED TO AUTHORIZE ALL IOUs TO EXTEND CURRENT CONTRACTS OR ALTERNATIVELY, TO NEGOTIATE WITH OTHER DR AGGREGATORS TO PROVIDE SUFFICIENT RESOURCES NEEDED TO MAINTAIN DR CAPACITY RESOURCES AT THE CONTRACTED LEVEL**

The PD authorizes PG&E to extend its contracts for no more than three years contingent upon PG&E renegotiating the terms of the contracts to be more cost-effective.<sup>11</sup> The PD appropriately recognizes issues regarding the uncertainty of the CAISO market development and the direct participation rules, and while PG&E did not seek funding for the AMP contracts in

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<sup>9</sup> PD at Ordering Paragraph (OP.) 6.

<sup>10</sup> PD at p.58.

<sup>11</sup> PD at OP. 9.

2013 and 2014, the PD authorizes PG&E to request up to a three-year extension of its current AMP contracts, pending renegotiation of the contracts for improved cost-effectiveness.<sup>12</sup>

During the 2012-2014 program period, third party DR aggregators face substantial barriers to direct participation in the CAISO's markets because the rules have yet to be finalized. If the PD is adopted, aggregators must wait until the direct participation and PDR rules are established before the IOUs can conduct competitive solicitations. Therefore, DR contracts are vital to prevent a gap in the available DR resources that would occur if existing contracts expire before direct participation and PDR opportunities are available, and to encourage the continued investment in the infrastructure necessary to develop DR. The PD aims to preserve PG&E's current AMP resources during the transition period of 2013-2014 by allowing PG&E to request up to a three-year extension, but offers no discussion on whether Southern California Edison's (SCE) bilateral contracts can be extended and denies PG&E's request for an RFP for new AMP contracts.

NAPP agrees in principle with the PD's recommendation that PG&E's existing contracts should be extended for three years, provided that the contracts are renegotiated to be more cost-effective. NAPP urges the Commission to modify the PD to not only allow PG&E to negotiate with DR providers currently under contract, but to the extent that PG&E cannot maintain the level of contracted resources from the extended renegotiated contracts, to authorize PG&E to solicit additional resources from other DR aggregators to maintain the current contract levels for DR resources. In the absence of direct negotiations, NAPP would urge the Commission to authorize competitive solicitations to maintain the currently contracted resource levels. The goal behind competitive solicitations would be to achieve the PD's objectives for cost-effectiveness.

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<sup>12</sup> PD at p.71.

If the Commission adopts the PD's recommendation to extend the existing AMP contracts for PG&E, then in the interest of promoting consistency among the utilities' programs,<sup>13</sup> the Commission should also authorize SCE to extend its existing contracts, which expire in 2012, for an additional three years.<sup>14</sup> The PD notes that SCE did not seek renewal of its current DR contracts or authorization to solicit a new set of contracts. With regard to the issue of third party contracts, SCE considered it "prudent for the Commission to leave open the option for the future."<sup>15</sup> The PD's recommendation to extend the existing AMP contracts for PG&E recognizes the importance of maintaining the resource adequacy (RA) capacity resources provided by the AMP contracts.<sup>16</sup> The same reasoning that supports extension of PG&E's contracts applies to the extension of SCE's DR contracts.

The direct participation rules in the CAISO markets are in such a state of infancy that waiting would result in a gap in an effective resource and loss of SCE's current portfolio of reliable load. Allowing a three-year extension of both the PG&E and SCE contracts provides more time for stakeholders to develop and implement rules for direct participation and RA. NAPP urges the Commission to authorize SCE to negotiate extensions of DR contracts with current aggregators to maintain the level of contracted DR resources. To the extent that SCE is unable to maintain the contracted level of DR resources, SCE should be authorized to solicit additional resources from current DR aggregators to maintain resources at the current contracted levels. Alternatively, SCE should be directed to conduct a competitive solicitation for new contracts. Given the uncertainty of the CAISO's market condition and the inability to determine

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<sup>13</sup> The scoping memo lists "consistency" across utility programs as one of the factors in determining the reasonableness of a program. Scoping Memo at 8.

<sup>14</sup> SCE is a party to five DR contracts with four aggregators, all of which will expire in 2011 or 2012. SCE's contracts provide 280 total MW for 2012, and 105 MW in resource adequacy qualifying capacity. SCE-03 Testimony, SCE Authorized Demand Response Contracts, V-28, pp.69-70.

<sup>15</sup> PD at p.66.

<sup>16</sup> PD at p.64.

when DR providers may directly participate in the CAISO's markets, there must be a mechanism to maintain existing DR resources or a means to procure new resources until the necessary CAISO direct participation rules are in place.

V. **FUTURE CONTRACTS: PROXY DEMAND RESOURCE AND RELIABILITY DEMAND RESPONSE PRODUCT ARE ENERGY PRODUCTS THAT WITHOUT CAPACITY PAYMENTS CANNOT REPLACE THE NEED FOR UTILITY CONTRACTS WHICH DRIVE INVESTMENT AND PARTICIPATION**

The PD directs the IOUs to hold solicitations for new PDR contracts as part of its RA portfolio after the rules for both direct participation and PDR are established.<sup>17</sup> NAPP agrees that holding competitive solicitations for future contracts increases competition in the marketplace, and allows for the negotiation of more cost effective contracts. However, there is a misperception about PDR and its ability to replace the existing utility contracts. As currently designed, PDR and RDRP are energy products. To the extent that these products are modified to be eligible for RA, there must be a mechanism that allows the resources to receive a capacity payment for its RA value. Until then, PDR and RDRP as presently designed, do not replace the need for utility contracts, which provide capacity payments.

Eligibility for DR resources to receive full payment for the value that they provide as capacity resources is necessary to encourage investment and continued participation in the DR market. In PJM for instance, between 2008 and 2011, there was a decline in DR participating in PJM's energy market.<sup>18</sup> By contrast, there was a dramatic increase in the amount of DR that has cleared the PJM capacity auctions between delivery years 2007/2008 through 2014/15.<sup>19</sup> This is evidence that capacity payments are needed to incent continued investments in the infrastructure

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<sup>17</sup> PD at OP. 10, pp.70-71.

<sup>18</sup> See 2011 Quarterly State of the Market Report for PJM: January through September, p.17, available at [http://www.monitoringanalytics.com/reports/PJM\\_State\\_of\\_the\\_Market/2011/2011q3-som-pjm-sec2.pdf](http://www.monitoringanalytics.com/reports/PJM_State_of_the_Market/2011/2011q3-som-pjm-sec2.pdf).

<sup>19</sup> See 2011 Quarterly State of the Market Report for PJM: January through September, p.138, available at [http://www.monitoringanalytics.com/reports/PJM\\_State\\_of\\_the\\_Market/2011/2011q3-som-pjm-sec5.pdf](http://www.monitoringanalytics.com/reports/PJM_State_of_the_Market/2011/2011q3-som-pjm-sec5.pdf).

essential to support DR participation in the market. NAPP supports the PD's orders for the IOUs to conduct competitive solicitations for contracts, in which those bilateral contracts should provide RA value and a capacity payment for end use customers and participating DR aggregators.

NAPP also urges the Commission to establish clear deadlines for finalizing the policies and rules under development in the Commission's direct participation proceeding. To the extent that the rules remain in flux, this creates uncertainty for end use customers and market participants who may be interested in investing in this market.

**VI. EMERGING AND ENABLING TECHNOLOGIES: THE PROPOSED DECISION SHOULD BE MODIFIED TO CONTINUE THE CURRENT INCENTIVE PAYMENT STRUCTURE FOR AUTOMATED DEMAND RESPONSE**

With respect to Automated Demand Response (Auto DR) programs, the Commission should not adopt the IOUs' proposal to divide the incentive payment into an initial 60 percent payment upon project completion and a 40 percent payment a year later contingent upon the customer's performance.<sup>20</sup> Currently, enrollment is sufficient for customers to qualify for the incentive payment and performance is not required. Especially in today's economic climate where the imposition of an upfront capital cost may present a hardship, the current framework for incentive payments should remain unchanged. Modifying Auto DR to implement a 60/40 incentive payment discourages customers from participating in Auto DR by imposing an upfront cost on end use customers.

Auto DR technology is particularly valuable for promoting higher participation in DR programs and improving performance since it enables customers to shed load without manual intervention. However, the PD's modifications to the program threaten to dramatically decrease investment in DR-enabling technologies, which are important to the evolution of the

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<sup>20</sup> PD at p.134.

Smart Grid and are necessary tools that combined with a smart meter enable demand elasticity. Considering the significant investment that California has made in its metering infrastructure, it would be imprudent for the Commission to alter the program that provides incentives to install tools that enable customers to utilize the information gathered from the meters. Further, such revisions to the Auto DR program will reduce the level of customer participation by requiring customers, equipment vendors and aggregators to carry 40 percent of the technology upgrade cost until a year after the enabling technology has been installed. The PD's assessment that a one-year investment for customers is a minor inconvenience in comparison with the improved cost-effectiveness overlooks the fact that installation costs for Auto DR equipment can be very expensive.<sup>21</sup> Deferring the incentive payment will likely have the unintended effect of deterring customer participation and ultimately decreasing available demand response.

Moreover, NAPP is aware that the U.S. Department of Energy (DOE) has granted equipment vendors, such as Honeywell Utility Solutions, Smart Grid Investment Grants (SGIG) to implement Auto DR.<sup>22</sup> With this grant, customers who typically would not enroll in Auto DR because of the considerable out-of-pocket project costs, could receive grants for the full costs of equipment needed to participate in the Auto DR program. Under the PD's revisions to the Auto DR program, part of the SGIG funding may be wasted. The SGIG program terminates at the end of 2012 and customers enrolling in 2012 will not be able to take full advantage of the grant money under the PD's recommendation. The DOE grant could cover the 60 percent upfront costs for projects enrolled in 2012, but the customer would bear the remaining 40 percent of the

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<sup>21</sup> PD at p.134.

<sup>22</sup> Grant No. DE-OE0000314; *see also* Awards Summary at <http://www.recovery.gov/Transparency/RecipientReportedData/pages/RecipientProjectSummary508.aspx?AwardIdSur=111472>.

costs until it could qualify for the performance-based incentive in 2013, after the DOE SGIG is completed.

NAPP urges the Commission to revise the PD to retain the current incentive payment structure so that customers may continue to be encouraged to participate in Auto DR and funding from sources such as the DOE's SGIG is not wasted.

## **VII. CONCLUSION**

NAPP respectfully requests that the Commission revise the Proposed Decision in the manner consistent with the recommendations made herein. Specifically, NAPP urges the Commission to adopt a modified Proposed Decision that (1) permits and requires all of the investor-owned utilities to extend their existing contracts in the same manner the Proposed Decision permits extension of Pacific Gas & Electric's current Aggregator Managed Program contracts; (2) permits the investor-owned utilities to solicit additional DR resources from third party aggregators in order to maintain the full demand response contract quantities at existing contracts levels; (3) requires a baseline comparison analysis that studies other accepted baseline methodologies; (4) authorizes the investor-owned utilities to hold solicitations for new Proxy Demand Resource contracts that would allow for the participation of load in the CAISO market once the rules for direct participation and proxy demand resource are established; (5) maintains

and expands dual/multiple participation options for customers; and (6) maintains the current incentive payment structure for Automated Demand Response.

Respectfully submitted this 17<sup>th</sup> day of November, 2011 at San Francisco, California

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