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

Order Instituting Rulemaking Regarding)
Policies and Protocols for Demand)
Response Load Impact Estimates, Cost-)
Effectiveness Methodologies, Megawatt) Rulemaking 07-01-041
Goals and Alignment with California)
Independent System Operator Market)
Design Protocols.)
_____)

**COMMENTS OF PACIFIC GAS AND ELECTRIC COMPANY (U 39 E)
ON THE PROPOSED DECISION ON PHASE FOUR DIRECT
PARTICIPATION ISSUES**

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April 12, 2010

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**COMMENTS OF PACIFIC GAS AND ELECTRIC COMPANY (U 39 E)
ON THE PROPOSED DECISION ON PHASE FOUR DIRECT
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In accordance with Article 14 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure, Pacific Gas and Electric (PG&E) files these comments on the March 23, 2010, Proposed Decision on Phase Four Direct Participation Issues (PD) in this proceeding. PG&E supports the PD with the clarifications discussed in these comments. In these comments, PG&E focuses on five proposed clarifications to the PD. The attached appendix provides PG&E's recommended changes to the PD's findings of fact, conclusions of law, and ordering paragraphs.

1. The PD should be modified to clarify that PG&E's stated plan for implementing Proxy Demand Resource (PDR) by utilizing PG&E's PeakChoice program to participate in the California Independent System Operator's (CAISO) day-ahead energy market for summer 2010 is a reasonable pilot and is acceptable to the Commission;
2. The PD should be modified to confirm that PG&E is not required to include non-PG&E Demand Response Providers (DRPs) into its 2010 PDR pilot;
3. The PD should be modified to clarify that Energy Service Providers (ESPs) can use their own load to participate in PDR pending completion of the next phase of this proceeding, but only so long as the respective investor owned utility (IOU) is not the meter data management agent or meter service provider for the load;

4. The PD should be modified to clarify that ESPs cannot use their own load to participate in PDR pending completion of the next phase of this proceeding if that the load is enrolled in an IOU demand response (DR) program; and
5. The Commission must modify the PD to accelerate the timetable for the next phase of the proceeding if the Commission wants to allow non-IOU DRPs to participate in the CAISO market directly by summer 2011. This is because the March 2011 date set forth in the PD for resolution of the next phase will not allow sufficient time for a summer 2011 implementation.

I. THE FINAL DECISION SHOULD APPROVE PG&E'S STATED PLAN TO IMPLEMENT PROXY DEMAND RESOURCE ON A PILOT BASIS FOR 2010 BY UTILIZING ITS PEAKCHOICE PROGRAM

PG&E has consistently stated that its plan for PDR for summer 2010 is to implement the changes necessary to allow its PeakChoice DR program to bid into the CAISO day-ahead energy market through the PDR mechanism.¹ The PD should be modified to approve PG&E's plan to participate in PDR during the summer of summer 2010 on a pilot basis using its PeakChoice DR program.

PG&E does not support the idea of resurrecting its already-completed "Participating Load" pilot² as a PDR pilot. PG&E proposed its Participating Load pilot to run through 2009, and to work on programmatic changes for the provision of ancillary services in early 2010³. PG&E reported the findings of the PL pilot on December 31, 2009.⁴ PG&E is also working on a proposal "to make at least one new or existing demand response program or option within a

¹ For PG&E to be able to utilize its PeakChoice program in PDR, Advice Letter 3558-E, which PG&E filed with the Commission on November 13, 2009, must be approved to allow the notification time for PeakChoice to be changed to 2:00 pm the day ahead. The notification time change to 2:00 pm for PeakChoice participants is required because the CAISO will post market awards at 1:00 pm and PG&E will require some time to notify customers that they will need to curtail load the next day. The current PeakChoice tariff only allows a noon notification at the latest, which is before the CAISO market award notification time under PDR. Without the proposed notice time modification, even if PG&E received a market award, PG&E would not be able to provide timely notification to all PeakChoice participants to curtail load the next day.

In addition, Advice Letter 3635-E, filed by PG&E on March 18, 2010, must be approved to allow PG&E to dispatch PeakChoice participants based on a CAISO market award. PG&E indicated in this filing that bidding of PDRs by PG&E is estimated to start in the summer or early fall of 2010.

² D.08-12-038, December 18, 2009, pp. 37-38, Ordering Paragraph 1.

³ A.08-06-003, Appendix 2C (Exhibit 205.)

⁴ In D.09-08-027, August 20, 2009, pp. 240, Ordering Paragraph 24a.

program comply with the 10-minute dispatch notification time requirements for participation in the CAISO's ancillary services market as either Proxy Demand Resource or Participating Load".⁵

Utilizing the PeakChoice program to bid into the CAISO market will be much more beneficial to the CAISO. Using PeakChoice as the pilot will help all parties to understand the implications of converting an entire program to participate in the CAISO markets through the PDR mechanism. Integrating an entire DR program has significant challenges, and requires sophisticated systems and procedures that are capable of handling the volume of information necessary to properly coordinate actions and the responses to these actions. To use PeakChoice as a PDR pilot requires several internal systems to be automated, including settlements, bidding, metering and data submission to the CAISO, as well as systems to receive notifications from the CAISO and provide notification to the customers participating in PeakChoice.

PG&E initially expects the amount of PDR converted to be several MWs, while the Participating Load pilot (PLP) customers' combined load drop was less than 1 MW and utilized only three small participants, which were each located in a different sub Load Aggregation Point (subLAP). Thus, it is not possible to continue this ancillary services pilot as an ancillary services pilot in a PDR format due to the minimum requirement that a PDR resource must be able to provide at least 1 MW of load drop in order to participate in the ancillary services. Even under the CAISO's proposal to reduce this limit to 500 kW, each PDR is limited to customers in a single subLAP. Therefore, these customers would still be too small to be transitioned over into a PDR pilot for ancillary services, which was how the PLP was used.

In contrast to the value that would be provided by using PeakChoice as PG&E's PDR pilot, relatively little incremental value would be gained from PG&E performing its PDR pilot in the exact same vein as its previous PLP. While PG&E's PLP was very successful, it investigated different things than what PG&E has proposed as its stated plan for summer 2010. More would

⁵ In D.09-08-027, August 20, 2009, pp. 240, Ordering Paragraph 26.

be gained from using PG&E's PeakChoice program as PG&E's PDR pilot, and PG&E requests that the PD be modified to make clear that this is an appropriate path for PG&E to follow.

PG&E currently believes it will not need to request any additional funding to implement this plan for 2010. The funding is already covered in D.09-08-027 and in the Market Redesign and Technology Upgrade (MRTU) memo account.⁶ Also, PG&E does not need to file the Advice Letter referenced in Ordering Paragraph 5, if the Commission agrees that PG&E PeakChoice program is its 2010 pilot. However, if the Commission does not confirm PG&E's stated plan to use PeakChoice as its pilot program, as proposed above, PG&E will require an extension to the ten day deadline imposed for a tier 2 advice letter filing under Ordering Paragraph 5 to prepare its response, as additional funding may be needed.

II. THE FINAL DECISION SHOULD CONFIRM THAT PG&E IS NOT REQUIRED TO INCLUDE THIRD PARTY DEMAND RESPONSE PROVIDERS INTO ANY PG&E 2010 PDR PILOT

PG&E has consistently described its plans to implement the changes necessary to allow full functionality of PDR.⁷ PG&E has targeted the summer of 2011 to enable non-PG&E DRPs to utilize PG&E's bundled customers. Meeting this target will require Commission decisions in the next phase of this proceeding to be made by the third quarter of 2010.

At this point in time, it is not feasible for PG&E to include non-PG&E DRPs in any PDR pilot this year. For example, without Commission decisions on the settlement mechanism, criteria for rejecting or approving PDRs to participate in the market, metering responsibilities and costs, credit requirements and liabilities, and methods of customer protection, PG&E cannot implement the systems, processes, and procedures required to allow non-PG&E DRPs to utilize PG&E bundled load to participate in any PDR pilot for 2010. Under the PD as currently written,

⁶ Pacific Gas And Electric Company, 2009-2011 Demand Response Programs And Budgets Amended Prepared Testimony, September 19, 2008, pp. 3-6, referencing Resolution E-4093 (June 7, 2007) where the Commission approved PG&E to establish a MRTU Memorandum Account and was modified by PG&E's Advice 3281-E-A (July 23, 2008) to record the costs associated with revising infrastructure and procedures for demand response in the MRTU memorandum account.

⁷ Compliance Filing Of Southern California Edison Company (U 338-E) – Report On Direct Participation Phase Workshops, January 8, 2010, pp. C-2, C-3.

these critical determinations that would be required to allow non-PG&E DRPs to use PG&E bundled load will not be made until March 2011, at the earliest.

In contrast to PG&E, SDG&E's previous pilot project did incorporate potential third parties. In workshop comments, SDG&E was open to transforming their participating load pilot to a PDR pilot and incorporating third parties.⁸ PG&E is supportive of SDG&E's comments and believes that SDG&E's pilot could be the test ground for the interactions between the IOUs and non-IOU DRPs.

III. THE FINAL DECISION SHOULD CLARIFY THAT ENERGY SERVICE PROVIDERS CAN USE THEIR OWN LOAD TO PARTICIPATE IN PDR PENDING THE NEXT PHASE OF THIS PROCEEDING, BUT ONLY SO LONG AS THE INVESTOR OWNED UTILITIES ARE NOT THE METER DATA MANAGEMENT AGENT OR METER SERVICE PROVIDER FOR THE LOAD

Among the central topics that the Commission needs to address in the coming phase of this proceeding is that of metering, including the responsibilities, costs, obligations, and services for metering necessary to implement PDR. For example, substantial additional metering requirements above those needed to implement direct access will be necessary to implement PDR. This will have to include the cost of providing such metering services. Until this is addressed, it will not be possible for ESPs to utilize the PDR mechanism to bid a non-bundled load's DR for which an IOU is the meter data management agent or meter service provider.

IV. THE FINAL DECISION SHOULD CLARIFY THAT ENERGY SERVICE PROVIDERS CANNOT USE THEIR OWN LOAD TO PARTICIPATE IN PDR PENDING THE NEXT PHASE OF THIS PROCEEDING TO THE EXTENT THAT THE LOAD IS ENROLLED IN A DEMAND RESPONSE PROGRAM

The PD makes it clear that "dual participation" in demand response programs, where a single customer service account is enrolled or participates in the DR program of more than one DRP, will not be authorized at this time. However, the PD's conclusion of law 3, which addresses ESPs' use of their own load to participate in PDR, does not contain such a qualifier.

⁸ *Ibid*, pp. C-2.

Also, Ordering Paragraph 4 is clear that the DRP must inform customers that they cannot participate with another DRP if they are enrolled in an IOU DR program.

In order to eliminate any possible confusion, PG&E proposes that conclusion of law 3 be modified to make clear that ESPs cannot use their load to participate in PDR to the extent that the load is already enrolled in another demand response program.

V. THE TIMETABLE THE COMMISSION HAS ADOPTED FOR THE SUBSEQUENT PHASE OF THIS PROCEEDING MAY NOT ALLOW NON-INVESTOR OWNED UTILITY DEMAND RESPONSE PROVIDERS TO PARTICIPATE IN THE CAISO MARKET DIRECTLY BY SUMMER 2011

The Commission has indicated that March of 2011 will be the date for the final decision that will settle many of the outstanding issues related to PDR. This timetable is significantly later than the one outlined by PG&E in its comments.⁹ PG&E had proposed that the next phase of this proceeding be concluded by the third quarter of 2010.

The later timetable in the PD will not provide PG&E sufficient time, after the issuance of the decision in the subsequent phase, for the implementation and testing of the functionality required to allow non-IOU DRPs to utilize the bundled customers of an IOU for DR purposes.¹⁰ If the Commission wishes to allow non-IOU DRPs the opportunity to participate in the CAISO markets directly by summer 2011 using bundled load, the Commission should adopt a more aggressive schedule as outlined by PG&E in its comments.

PG&E recommends that the Commission authorize the participants of this proceeding to create a working group to try to achieve a consensus on the issues of settlements, credit requirements, responsibilities, obligations, and liabilities, communications requirements,

⁹ Comments Of Pacific Gas And Electric Company (U 39 E) On The Demand Response Order Instituting Rulemaking For Direct Participation In The California Independent System Operator Markets, December 4, 2009, pp. 15-18.

¹⁰ Even if a decision is not issued until March of 2011, PG&E's plan to transition its Capacity Bidding Program to DRP by summer 2011 is still feasible. This would allow aggregators to participate in PDR via participation in the Capacity Bidding Program. However, this would not enable direct participation in PDR by a non-IOU DRP using bundled load through a program of its own design.

metering contracts, requirements, and payment structure. This will aid the Commission in meeting an earlier timeline as suggested by PG&E in its earlier comments.

Respectfully Submitted,

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Appendix

Proposed Changes to Findings of Fact, Conclusions of
Law, and Ordering Paragraphs

Findings of Fact

1. There are substantial complexities associated with dual participation in the context of direct participation in the CAISO markets.
2. The Commission should consider issues related to dual (or multiple) participation after sufficient experience is gained with PDR.
3. IOUs San Diego Gas & Electric Company should solicit and incorporate third-party DRPs into ~~their~~ its 2010 PDR ~~pilots~~ pilot as a way to gain experience with real-time DRP/LSE interaction and report as part of their pilot report .
4. The CAISO only tracks PDR performance at an aggregate level and does not see the end use customer.
5. A registration and certification process for DRPs should be developed in a subsequent phase of this proceeding.
6. The reasons that an IOU may reject a PDR registration should be enumerated by the Commission in a subsequent phase of this proceeding.
7. The Commission should revisit the question of whether there should be more than one DRP per customer account in a subsequent proceeding.
8. The Commission should revisit the question of whether dual participation should be restricted at the retail level in a subsequent proceeding.
9. The details related to settlement, information sharing, logistical system questions, and other dual participation issues should be resolved in a subsequent proceeding.
10. ~~The~~ Southern California Edison Company and San Diego Gas & Electric Company's PLP programs should be leveraged to incorporate PDR pilot programs for the summer of 2010. Pacific Gas & Electric Company should continue developing its systems and processes to allow its PeakChoice program to be able to bid into the CAISO markets in summer 2010 as its PDR pilot.

Conclusions of Law

1. Consistent with FERC Order 719 and Order 719A, DR in wholesale markets cannot go forward in California except as allowed by the Commission and consistent with the terms and conditions established by the Commission.

2. The Commission has the jurisdictional authority to restrict IOU customers from directly participating in the CAISO markets.
3. Energy Service Providers may engage in direct participation on behalf of their customers, pending the subsequent phase of this proceeding to develop a DRP registration and certification process, only if an IOU is not the Meter Data Management Agent or Meter Service Provider for the customers, and only if the load is not already participating in an IOU demand response program.
4. The Commission has a role in consumer protection.
5. The Commission may, among other things, resolve customer complaints related to DRPs, establish financial responsibility standards for DRPs, and require DRPs to inform customers that enrolling with the DRP will mean that they will be unenrolled from DR programs offered by another carrier.
6. To the extent that existing funds for the PLP programs are insufficient for PDR pilot programs, PG&E, SCE, and SDG&E may seek to shift funds pursuant to D.09-08-027.

IT IS ORDERED that:

1. There shall be only one Demand Response Provider per customer account.
2. There shall be no dual-party or multi-party participation at the retail level.
3. Except as set forth below, the demand response of retail customers will not be bid directly into the California Independent System Operator's wholesale electric and ancillary services markets.
4. A Demand Response Provider shall inform direct access customers that are in Investor Owned Utility demand response programs that they cannot directly participate without leaving the Investor Owned Utility's demand response program. Bundled customers of IOUs may not participate in PDR except through the IOU as the DRP.
5. ~~Pacific Gas and Electric Company~~, Southern California Edison Company, and San Diego Gas & Electric Company will each file a tier 2 advice letter within 10 days of the effective date of this decision to modify its Participating Load Pilot program to Proxy Demand Response pilot programs for summer 2010. Pacific Gas and Electric Company will be allowed to continue developing its systems and processes to allow its PeakChoice program to be able to bid into the CAISO markets in summer 2010 as its PDR pilot.

CERTIFICATE OF SERVICE BY ELECTRONIC MAIL

I, the undersigned, state that I am a citizen of the United States and am employed in the City and County of San Francisco; that I am over the age of eighteen (18) years and not a party to the within cause; and that my business address is Pacific Gas and Electric Company, Law Department B30A, 77 Beale Street, San Francisco, CA 94105.

I am readily familiar with the business practice of Pacific Gas and Electric Company for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, correspondence is deposited with the United States Postal Service the same day it is submitted for mailing.

On the 12th day of April, 2010, I served a true copy of:

**COMMENTS OF PACIFIC GAS AND ELECTRIC COMPANY (U 39 E)
ON THE PROPOSED DECISION ON PHASE FOUR DIRECT
PARTICIPATION ISSUES**

[XX] By Electronic Mail – serving the enclosed via e-mail transmission to each of the parties listed on the official service list for **R.07-01-041** with an e-mail address.

[XX] By U.S. Mail – by placing the enclosed for collection and mailing, in the course of ordinary business practice, with other correspondence of Pacific Gas and Electric Company, enclosed in a sealed envelope, with postage fully prepaid, addressed to those parties listed on the official service list for **R.07-01-041** without an e-mail address.

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 12th day of April, 2010, at San Francisco, California.

/s/
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