

DRAFT

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

I.D. #6892
RESOLUTION E-4103
September 6, 2007

R E S O L U T I O N

Resolution E-4103. San Diego Gas & Electric's (SDG&E) request to expand the Demand Reduction Agreement for a Distributed Resource Project with EnerNOC, Inc is denied SDG&E may seek approval of expansion of the Agreement by filing an application.

By Advice Letter (AL) 1896-E filed on May 11, 2007.

SUMMARY

This Resolution denies SDG&E's request for approval through Advice Letter 1896-E for authorization to expand a Demand Reduction Agreement for a Distributed Resource Project between SDG&E and EnerNOC, Inc. (EnerNOC). SDG&E may seek approval of expansion of the agreement by filing an application under their AB 57 procurement plan and serving that application on R.06-02-013.

BACKGROUND

On June 9, 2004, the Commission issued Decision D.04-06-11 approving five proposals SDG&E presented to meet its short-term and long-term grid reliability needs. As a result, SDG&E filed Advice Letter 1673-E seeking Commission approval to enter into contract with Celerity Energy Partners San Diego, LLC (Celerity). On April 21, 2005, the Commission adopted Resolution E-3926 which approved SDG&E's Agreement with Celerity for electric load curtailment and/or the aggregation of net electrical output generated by qualified facilities. Subsequently, in May of 2006, the assets of Celerity, including this Agreement, were acquired by EnerNOC, Inc (EnerNOC).

The original agreement under section 8.1 states that SDG&E may expand the Contract Capacity by up to an additional twenty-five (25) MW under the original terms and conditions. Resolution E-3926, OP 5, advises SDG&E to file an advice

letter requesting Commission approval if it plans to expand the Contract Capacity beyond the current maximum of 25 MW. Although the rate for the additional capacity and energy will remain the same, the total cost of the Agreement will double from \$20.7 million to \$41 million due to the additional 25 MW of generated capacity, for a total of 50 MW. SDG&E's existing agreement with EnerNOC is estimated to have an upper limit of \$20,768,750 over 8.5 years based on 25 MW capacity and 80 hours of annual dispatch. The additional capacity and energy would be provided by new program participants. Payments made by SDG&E for the additional capacity will be fully recoverable in rates through the Energy Resources Recovery Account (ERRA). SDG&E notes that the economics of the Agreement compare favorably to offers recently received in SDG&E's 2008 Local Peaker RFO for new capacity in SDG&E's service territory

The Agreement calls for EnerNOC to provide a minimum of five (5) MWs of Contract Capacity and a maximum Contract Capacity of twenty-five (25) MWs, either through demand reduction and/or export to the SDG&E grid. Under the contract EnerNOC must acquire the right to control end-use customer load or to operate one or more electrical generators located at various end-use customer facilities within SDG&E's retail service territory. Each facility must have the capacity to curtail or produce not less than 250 kW of capacity and, if generation based, be operable on natural gas, diesel or a mixture of natural gas and diesel fuel. Resources must be dispatchable within 10 minutes of notification from SDG&E. Dispatch will be for no more than eight hours each day, not more than two times each day for a maximum of eighty hours annually.

In a response to an informational request from Energy Division to SDG&E, Energy Division learned that SDG&E triggers the program under three possible conditions. Under condition one SDG&E may call on the program when their alternative energy cost forecast is greater for the hours of dispatch than the contact price of energy. Under Condition two SDG&E may dispatch the program when a peak load forecast exceeds 3,500 MW to help ease load on the grid to avoid potentially higher real-time prices. Under condition three SDG&E will dispatch the program when CAISO or SDG&E's Grid Operations request a dispatch to help manage an operational situation. Each of the trigger conditions model those associated with peak power generator units as opposed to strictly demand response resources.

NOTICE

Notice of AL 1896-E, was made by publication in the Commission's Daily Calendar. SDG&E has stated that a copy of the Advice Letters was mailed and distributed in accordance with Section III-G of General Order 96-A including parities in R.01-10-24.

PROTESTS

No protests were filed.

DISCUSSION

The original program as presented to the Commission had some characteristics of Demand Response.

In its proposed decision regarding the subject Agreement, the Commission declined to grant approval on the grounds that the proposal did not comport with the "legalistic" interpretation of a demand response project. Upon further review of the proposal the Commission reversed its assessment and approved the proposal in Decision D.04-06-011. The Commission found that Celerity's program was directed at customers who could perform load reduction or who have existing diesel back up generators. The Commission also highlighted one of the key elements of the Celerity proposal to be the conversion of existing diesel units to dual-fueled units that primarily burn natural gas. Thus in D.04-06-011, the Commission concluded that the program, with its operational characteristic of dual-fuel units and load-reduction arrangements, is consistent with spirit and intent of the Demand Response Vision Statement (D.03-06-032) and authorized SDG&E to complete contract negotiations with Celerity.

Resolution E-3926, which approved SDG&E's demand reduction contract with Celerity, characterized the original proposal as a "dispatchable network of a variety of demand reduction resources, including load shedding or load transfer arrangements and customer-owned generation."¹

¹ Resolution E-3926 at page 1 (April 21, 2005).

The current program operates less like demand response than originally proposed and now operates as a distributed generation program.

Energy Division, through a series of informational requests, has learned from representatives at both EnerNOC and SDG&E that the current program does not utilize load reduction as originally proposed to and contemplated by the Commission in D.04-06-011 or as approved in Resolution E-3926. All current program participants are back-up generation participants that provide capacity to the grid when the program is dispatched. During discussions with SDG&E and EnerNOC, Energy Division learned that EnerNOC does not envision load reduction demand response resources as participants in the expansion of the program. This means that program no longer has characteristics of a demand response resource but operates like a supply-side resource program.

In a letter from Celerity to SDG&E dated April 4, 2005, Celerity explained that plans to retrofit the diesel units to natural gas with bi-fuel equipment that would meet ATCM requirements was not possible as there was no commercially available technologies that could achieve the level of natural gas fueling needed to meet ATCM requirements. Celerity therefore pursued re-permitting the diesel units and retrofitting them with emissions reduction equipment. EnerNOC has continued this practice.

Thus what was originally proposed to the Commission as a demand response resource utilizing load reduction and dual-fuel fired back-up generators has become a diesel-fired back-up generator supply-side resource.

PG&E proposed a similar back-up dual fuel fired generator program in September 2006 when the Commission sought proposals to expand demand response programs following the summer 2006 heat wave. The Commission rejected PG&E's back-up generator program in D.06-11-049 citing TURN's argument that counting a back-up generator program as demand response would, "turn the Commission's preferred resource loading order on its head."² The Commission further stated its objective in funding demand response programs is to "reduce system demand, not substitute system electricity with

² Decision 06-11-049 at p. 58 (November 30, 2006),

electricity generated by off-grid natural gas facilities”³ Also, in D.05-01-056 the Commission found that back-up generation is not a true demand response resource.

Because the program as it exists now no longer has any characteristics of a demand response resource, Energy Division concludes that consideration of its expansion via an advice letter is not appropriate and therefore recommends that the Commission reject SDG&E’s advice letter filing. The program operates as a distributed generation resource and thus its expansion should be evaluated according to the Commission’s rules for long term procurement. Energy Division therefore recommends that SDG&E be authorized to seek approval for expansion of the program by filing an application under their AB 57 procurement plan and serving that application on R.06-02-013.

COMMENTS

Public Utilities Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution was neither waived or reduced. Accordingly, this draft resolution was mailed to parties for comments, and will be placed on the Commission's agenda no earlier than 30 days from today.

FINDINGS

SDG&E’s program as currently implemented does not utilize load reduction as originally proposed to and contemplated by the Commission in D.04-06-011 or as approved in Resolution E-3926.

³ Id.

The program no longer has characteristics of a demand response resource but operates like a supply-side resource program.

SDG&E's agreement and program with EnerNOC was originally proposed to the Commission as a demand response resource utilizing load reduction and dual-fuel fired back-up generators but in practice has become a diesel-fired back-up generator supply-side resource.

The Commission in D.05-01-056 found that back-up generation is not a true demand response resource.

The Commission rejected PG&E's similar back-up generator program in D.06-11-049 finding that the program was not a Demand Response resource.

The expansion of the Demand Reduction Agreement for a Distributed Resource Project does not comport with the Commission definition or vision of a Demand Response Resource as the program currently exists, therefore SDG&E's request for approval in Advice Letter 1896-E should be denied.

SDG&E's request to expand its Agreement with EnerNOC via an advice letter is not appropriate and should be rejected.

Because the program operates as a distributed generation resource its expansion should be evaluated according to the Commission's rules for long term procurement.

SDG&E should be authorized to seek approval for expansion of the program by filing an application under their AB 57 procurement plan and serving that application on R.06-02-013.

THEREFORE IT IS ORDERED THAT:

1. Advice Letter 1896-E is denied.
2. SDG&E is authorized to seek approval for the expansion of the Demand Reduction Agreement for a Distributed Resource Project with EnerNOC,

Inc by filing an application under their AB 57 procurement plan and serving that application on R.06-02-013.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on September 6, 2007; the following Commissioners voting favorably thereon:

Paul Clanon
Executive Director

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



August 7, 2007

I.D.#6892
RESOLUTION E-4103
September 6, 2007

TO: PARTIES TO SDG&E ADVICE LETTER 1896-E:

Enclosed is draft Resolution Number E-4103 of the Energy Division. It is in response to SDG&E's AL 1896-E and will appear on the agenda at the next Commission meeting held 30 days after the date of this letter. The Commission may vote on this Resolution at that time or it may postpone a vote until a later meeting. When the Commission votes on a draft Resolution, it may adopt all or part of it as written, amend, modify or set it aside and prepare a different Resolution. Only when the Commission acts does the Resolution become binding on the parties.

All comments on the draft Resolution are due by **August 23, 2007**. Comments shall be served on parties, as outlined below.

1) An original and two copies, along with a certificate of service to:

Honesto Gatchalian
Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Email: ijnj@cpuc.ca.gov

2) Parties described above (attached).

3) Jason R. Salmi Klotz
Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Email: jk1@cpuc.ca.gov

Comments shall be limited to five pages in length plus a subject index listing the recommended changes to the draft Resolution, a table of authorities and an appendix setting forth the proposed findings and ordering paragraphs.

Comments shall focus on factual, legal or technical errors in the proposed draft Resolution.

Replies to comments on the draft resolution may be filed (i.e., received by the Energy Division) on **August 30, 2007**, and shall be limited to identifying misrepresentations of law or fact contained in the comments of other parties. Replies shall not exceed five pages in length, and shall be filed and served as set forth above for comments.

Late submitted comments or replies will not be considered.

An accompanying declaration under penalty of perjury shall be submitted setting forth all the reasons for the late submission.

Please contact Jason R. Salmi Klotz at 415-703-2421 if you have questions or need assistance.

Sincerely,

Bruce Kaneshiro
Program and Project Supervisor
Energy Division

Enclosure: Service List

Certificate of Service

CERTIFICATE OF SERVICE

I certify that I have by electronic mail this day served a true copy of Draft Resolution E-4103 on all parties on the service list for SDG&E Advice Letter 1896-E or their attorneys as shown on the attached list.

Dated August 7, 2007 at San Francisco, California.

Jason R. Salmi Klotz

NOTICE

Parties should notify the Energy Division, Public Utilities Commission, 505 Van Ness Avenue, Room 4002 San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the Resolution number on the service list on which your name appears.

Parties to SDG&E Advice Letter1896-E

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