BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

FILED
3-12-15
04:59 PM

Application of Pacific Gas and Electric Company (U39E) for Recovery of Costs to Implement Electric Rule 24 Direct Participation Demand Response	Application 14-06-001 (Filed June 2, 2014)
And Related Matters.	Application 14-06-002 Application 14-06-003

COMMENTS OF THE DIRECT ACCESS CUSTOMER COALITION AND ALLIANCE FOR RETAIL ENERGY MARKETS ON PROPOSED DECISION

Sue Mara
RTOADVISORS, L.L.C.
164 Springdale Way
Redwood City, CA 94062
Telephone: (415) 902-4108
E-mail: sue.mara@rtoadvisors.com

CONSULTANT TO
DIRECT ACCESS CUSTOMER COALITION
ALLIANCE FOR RETAIL ENERGY MARKETS

March 12, 2015

TABLE OF CONTENTS

SUBJECT INDEX OF RECOMMENDATIONS

1. The PD should be modified to direct that, because Rule 24 and Rule 32 are available and applicable solely to bundled customers, the utilities' costs of implementing Rule 24 and Rule 32 must be recovered from the bundled customers through their generation rates to properly comply with the demand response cost allocation principle established by the Commission in Decision 14-12-024.
2. The PD should be modified to remove the factual errors indicating that electric service providers ("ESPs") receive meter services pursuant to Rules 24 and 32, when such services are solely provided to ESPs through Rules 22 and 25.

TABLE OF AUTHORITIES

CPUC Decisions, Dockets, Rules

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Recovery of Costs to Implement Electric Rule 24 Direct Participation Demand Response (U39E).	Application 14-06-001 (Filed June 2, 2014)
And Related Matters.	Application 14-06-002 Application 14-06-003

COMMENTS OF THE DIRECT ACCESS CUSTOMER COALITION AND ALLIANCE FOR RETAIL ENERGY MARKETS ON PROPOSED DECISION

The Direct Access Customer Coalition[1] ("DACC") and Alliance for Retail Energy Markets[2] ("AReM") submit these comments on the proposed decision ("PD") issued February 20, 2015 by Administrative Law Judge Kelly A. Hymes, addressing the applications ("Applications") filed on June 2, 2014 by each of California's three investor-owned utilities ("IOUs") – Pacific Gas & Electric Company ("PG&E"), San Diego Gas & Electric Company ("SDG&E"), and Southern California Edison Company ("SCE"). These comments are filed in accordance with Section 14.3 of the Commission's Rules of Practice and Procedure.

DACC and AReM focus their comments on the PD's conclusion regarding the allocation of costs incurred by the IOUs to implement Rule 24 (for PG&E and SCE) and Rule 32 (for

[1] DACC is a regulatory alliance of educational, commercial, industrial and governmental customers who have opted for direct access to meet some or all of their electricity needs. In the aggregate, DACC member companies represent over 1,900 MW of demand that is met by both direct access and bundled utility service and about 11,500 GWH of statewide annual usage.

[2] AReM is a California non-profit mutual benefit corporation formed by electric service providers that are active in the California's direct access market. This filing represents the position of AReM, but not necessarily that of a particular member or any affiliates of its members with respect to the issues addressed herein.

SDG&E) for direct participation by bundled customers in markets operated by the California Independent System Operator ("CAISO") through programs offered by third-party DR Providers. In summary, the PD errs in its application of the demand response ("DR") cost allocation principle set forth in Decision ("D.") 14-12-024 and contains factual errors in support of its conclusion that all implementation costs should be collected from distribution customers. When these errors are corrected, the PD must be modified to conclude that all implementation costs should be collected from generation customers.

I. THE PD IMPROPERLY APPLIES THE DR COST ALLOCATION PRINCIPLE ESTABLISHED IN D.14-12-024.

In this proceeding, DACC and AReM provided substantial and detailed evidence demonstrating that the DR cost allocation principle adopted in D.14-12-024 requires that the IOUs' implementation costs that are subject to this proceeding must be recovered from bundled customers through their generation rates.[3] In summary:

1. The Commission determined in *2010* that direct access customers could engage in direct participation of CAISO markets *without* any additional Commission rules or requirements and that third-party DR Providers could immediately enroll direct access customers in their programs;[4]
2. The Commission further determined in *2012* that direct access customers are *exempt* from Rules 24/32,[5] which are applicable *solely to direct participation by bundled customers* through programs offered by third-party DR Providers;[6] and

[3] DACC/AReM Opening Brief, pp. 7-9; DACC/AReM Reply Brief, pp. 4-7.
[4] D.10-06-002, Conclusion of Law 3 and D.10-12-060 (modifying D.10-06-002), Ordering Paragraph 1b.
[5] D.12-11-025, p. 23 and Ordering Paragraph 4.
[6] D.12-11-025, Ordering Paragraph 3.

3. Therefore, applying the D.14-12-024 DR cost allocation principle[7] requires that *bundled customers* pay the associated direct participation implementation costs for Rules 24 and 32 *through their generation rates*.

All of the parties to the proceeding who filed briefs addressing cost allocation agreed that the DR cost allocation principle established in D.14-12-024 should apply to the costs in this proceeding, but disagreed on *how* to apply that principle. As the PD notes, "[a]ll parties, except for DACC/AReM, support the allocation of costs to distribution customers."[8] While these parties, the three IOUs, The Utility Reform Network, Office of Ratepayer Advocates, and California Large Energy Consumers Association, came to the same conclusion – costs should be allocated to distribution customers -- they presented no unified position to substantiate their conclusions, and instead set forth a number of varied and often conflicting rationales to attempt to justify having direct access customers, who are *exempt* from an IOU's rule, nevertheless be required to *pay* for the rule's associated implementation costs. This is not surprising, because each of these entities represent constituencies that, in whole or in part, benefit when direct access customers are required to pay costs that should be borne by bundled customers. However, in Reply Briefs, DACC/AReM addressed and refuted in detail each of these party's arguments.[9]

In fact, the PD ignores the plain words of D.14-12-024, as well as extensive analysis provided by DACC and AReM, in concluding as follows:

> First, in regards to the issue of cost allocation, we look to our latest decision n the demand response rulemaking. Pursuant to D.14-12-024, because the direct

[7] D.14-12-024, p. 48.
[8] PD, p. 47. DACC/AReM further suggests that the PD be corrected to state more accurately that all parties "filing briefs on cost allocation" had this view. Specifically, the Joint DR Parties and OhmConnect did not take a position on cost allocation and at least one party, Marin Clean Energy, which may have a different view on cost allocation, did not file briefs.
[9] DACC/AReM Reply Brief, pp. 7-11.

> participation rules *apply to services that involve all customers*, the costs for implementation should be borne by all customers. (emphasis added)[10]

The PD thus concludes that "pursuant to D.14-12-024," because the rules include "services that involve all customers," the costs should be "borne by all customers." However, the DR cost allocation principle set forth in D.14-12-024 includes no discussion of "services" and the concept of "services" as a determinant for cost allocation is not found anywhere in the discussion of cost allocation in the Decision.[11] What is addressed in D.14-12-024 – and what that decision turned on – was whether a particular utility program or tariff was *available* and *applicable* to a customer. Specifically, the Decision states:

> DACC/AReM recommends that tariffs which are *available* and *applicable* only to bundled customers should have their costs assigned only to those bundled customers. We find this reasonable.[12]

D.14-12-024 then specified the following cost allocation principle:

> [I]f a program or tariff is only available to bundled customers, that program's costs shall be allocated solely to generation rates.[13]

Thus, D.14-12-024 specifies that utility tariffs and programs that are both "*available*" and "*applicable*" to bundled customers should be paid for by those bundled customers. Rules 24 and 32 are *available and applicable* to bundled customers, but they *exempt* direct access customers. One can hardly find a clearer directive than this one. In accordance with D.14-12-024, the Rule 24 and Rule 32 implementation costs at issue in this proceeding must be allocated to bundled customers through generation rates. In short, the PD directly conflicts with the DR cost allocation principle established in D.14-12-024, and therefore must be modified to comply.

[10] PD, p. 48.
[11] D.14-12-024, pp. 44-48.
[12] D.14-12-024, p. 48, footnote omitted and emphasis added.
[13] D.14-12-024, p. 48.

II. THE PD IS FACTUALLY INCORRECT IN CONCLUDING THAT THE IOUS PROVIDE METER DATA SERVICES TO DIRECT ACCESS CUSTOMERS PURSUANT TO RULE 24 AND RULE 32.

The PD supports its conclusion that implementation costs be recovered from all customers through distribution rates as follows:

> First, in regards to the issue of cost allocation, we look to our latest decision n the demand response rulemaking. Pursuant to D.14-12-024, because the direct participation rules apply to services that involve all customers, the costs for implementation should be borne by all customers. For example, as noted by TURN, *if an energy service provider seeks to enroll only direct access customers to bid into CAISO markets, that load serving entity could still require an investor-owned utility service pursuant to Rule 24, if the load serving entity has elected the investor-owned utility to be its meter data management agent or meter service provider.* We agree with TURN's conclusion that the direct participation rule requires the investor-owned utility to act as the meter data management agent for all community choice aggregation customers. Hence, the cost for implementation of direct participation shall be allocated to distribution customers.[14]

The highlighted statement is factually incorrect. Specifically, each IOU's direct participation rule includes the following provision (PG&E's is cited here) in Section F.1.c:

> c. For Direct Access service accounts where PG&E is the Meter Data Management Agent (MDMA), no incremental fees under this rule are required. *Metering services shall be provided pursuant to Electric Rule 22*.[15]

Thus, Rules 24 and 32 specify that meter services for electric service providers ("ESPs") are provided pursuant to the separate ESP rules, Rule 22 for PG&E and SCE and Rule 25 for SDG&E, and *not pursuant to Rule 24 or Rule 32*. PG&E's and SCE's Rule 22, or Rule 25 in the case of SDG&E, are the rules governing ESPs and *direct access*. Thus, not only are ESPs and direct access customers *exempt* from Rule 24, they receive *no* IOU meter services pursuant to Rule 24. All such services are provided under *separate* IOU rules governing direct access. Thus, the PD errs and must be corrected.

---

[14] PD, p. 48; footnote omitted and emphasis added.

[15] PG&E Rule 24, Section F.1.c, Sheet 20; emphasis added. SCE's corollary provision appears on Sheet 19 of its Rule 24 and SDG&E's on Sheet 17 of its Rule 32.

In addition, Finding of Fact 54 incorrectly states that the direct participation rules "require" the IOUs to "act as the meter data management agent for customers." This statement is factually incorrect for direct access customers. Rules 22 and 25 permit ESPs the ability to choose their own provider for meter services – or to provide the service themselves. See, for example, PG&E's Rule 22, Section G.1.a:

> These package services may be provided by PG&E or an ESP, and the parties may subcontract these services to third parties. An ESP may also subcontract with PG&E for the provision of any component service of any package, and PG&E may provide such service.[16]

The Attachment to these comments provides a modification to Finding of Fact 54 to correct this factual error.

III. THE PD MUST BE MODIFIED TO CORRECT THE IDENTIFED ERRORS.

As documented above, the PD has erred by (1) improperly applying the DR cost allocation principle established in D.14-12-024 and (2) supporting its conclusion based on factual errors. Accordingly, DACC and AReM respectfully request that the PD be modified to correct these errors. The Attachment to these comments contains recommended changes to the Findings of Fact (numbers 51 through 55), which clarify that Rule 24/32 implementation costs at issue in this proceeding are properly recovered from bundled customers through generation rates pursuant to the Commission's DR cost allocation principle established in D.14-12-024 and correct factual errors. In addition, DACC and AReM propose the following corollary modifications to the Ordering Paragraphs set forth in the PD:

10. Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company are authorized to allocate the

[16] PG&E Rule 22, Sheet 19. SCE's corollary provision is in Rule 22, Sheet 17 and SDG&E's in Rule 25, Sheet 16.

costs of the implementation of third party demand response direct participation to ~~distribution~~ **generation** customers

11. Pacific Gas and Electric Company is authorized to ~~use its Demand Response Expenditure Balancing Account to~~ track its third party demand response direct participation Initial Implementation Step costs **and to recover those costs through its Energy Resource Recovery Account**.

12. Southern California Edison Company is authorized to use the funds previously approved in Decision 12-04-045 earmarked for direct participation to fund the costs of its Initial Implementation Step of third party demand response direct participation **and to recover those funds through its Energy Resource Recovery Account**.

13. San Diego Gas & Electric Company (SDG&E) is authorized to establish a new memorandum account to track the costs of its third party demand response direct participation Initial Implementation Step **and to recover those funds through its Energy Resource Recovery Account**. Within 45 days from the issuance of this decision, SDG&E shall file a Tier 1 Advice Letter establishing the memorandum account.

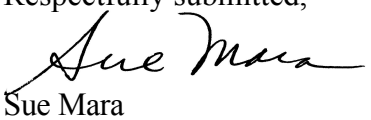
IV. CONCLUSION

DACC and AReM have actively participated in this proceeding and provided extensive evidence on the proper application of the DR cost allocation principle established in D.14-12-024. It is extremely troubling to see that the PD contains a significant retrenchment from the cost allocation principle that was so clearly expressed in D.14-12-024. That decision found it reasonable that tariffs which are *available* and *applicable* only to bundled customers should have

their costs assigned only to those bundled customers. As demonstrated above, Rules 24 and 32 specifically *exempt* direct access customers, making such rules *not applicable* to direct access customers. In addition, the PD supports its cost allocation conclusion on factually incorrect assumptions. Therefore, DACC and AReM respectfully request that the PD be modified as described above to:

1. Direct that, because Rule 24 and Rule 32 are available and applicable solely to bundled customers, the IOUs' costs of implementing Rule 24 and Rule 32 must be recovered from the bundled customers through their generation rates; and
2. Remove the factual errors indicating that ESPs receive meter services pursuant to Rules 24/32, when such services are solely provided to ESPs through Rules 22 and 25.

Respectfully submitted,



Sue Mara
RTOADVISORS, L.L.C.
CONSULTANT TO
DIRECT ACCESS CUSTOMER COALITION
ALLIANCE FOR RETAIL ENERGY MARKETS

March 12, 2015

ATTACHMENT

PROPOSED MODIFICATIONS TO FINDINGS OF FACT

51. All parties **filing briefs on cost allocation**, except for DACC/AReM, support the allocation of costs for the implementation of third party demand response direct participation.

52. Unbundled customers are exempt from the rules of direct participation ~~but can participate in demand response direct participation~~.

53. Because **unbundled customers are exempt from** the direct participation rules ~~apply to services that involve all customers~~, the costs of implementation should be borne by ~~all~~ **bundled customers** customers.

54. The direct participation rule requires the investor-owned utilities to act as the meter data management agent for **bundled** customers.

55. No party opposes the use by PG&E of its Demand Response Expenditure Balancing Account to track expenses incurred by the implementation of third party demand response direct participation**, if costs were to be recovered through distribution rates**.