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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Enhance the Role of Demand Response in Meeting the State's Resource Planning Needs and Operational Requirements.	Rulemaking 13-09-011 (Filed September 19, 2013)

PETITION OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) ON BEHALF OF THE WORKSHOP PARTICIPANTS FOR MODIFICATION OF DECISION 17-10-017'S ADOPTION OF STEPS FOR IMPLEMENTING THE COMPETITIVE NEUTRALITY COST CAUSATION PRINCIPLE

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I.

INTRODUCTION

Pursuant to Rule 16.4 of the Commission's Rules of Practice and Procedure, Southern California Edison Company (SCE, U 338-E) submits this Petition for Modification (PFM) of Decision (D.) 17-10-017 (Decision). This PFM is filed within a year of the issuance of D.17-10-017. SCE submits this PFM on behalf of San Diego Gas & Electric Company (SDG&E, U 902-E), Pacific Gas and Electric Company (PG&E, U 39-M) (jointly, the Utilities), Marin Clean Energy (MCE), the Alliance for Retail Energy Markets (AReM), the Direct Access Customer Coalition (DACC), Sonoma Clean Power (SCP), the California Choice Energy Authority (CCEA), and the California Large Energy Consumers Association (CLECA) (collectively, the "workshop participants").[1] On June 27, 2018, the Energy Division held an initial workshop on

[1] Pursuant to Rule 1.8(d), representatives for SDG&E, PG&E, MCE, AReM, DACC, SCP, CCEA, and CLECA have authorized SCE to transmit and serve this PFM on their behalf.

implementation of competitive neutrality cost causation pursuant to Ordering Paragraph (OP) 4 of the Decision to develop consensus. The workshop was attended by representatives of Energy Division, the Office of Ratepayer Advocates (ORA), MCE, AReM, DACC, SCP, CCEA, CLECA, SCE, SDG&E, and PG&E. The workshop identified: (1) consensus topics on which agreement was reached; (2) non-consensus topics which required further discussion; and (3) topics that required further clarification and guidance from the Commission through a PFM process. To provide the workshop participants an opportunity to address the non-consensus topics, the Energy Division noticed a second workshop, which was held on July 11, 2018, and attended by the workshop participants identified above.

As a result of the workshop discussions, the workshop participants identified three areas requiring changes and clarification to the Decision in order to ensure an efficient implementation of the Decision's directives:

1. Changes to the definition of "affected customers" as described in Step Three's directive to the Utilities to send a letter to "affected customers" explaining the implementation of the competitive neutrality principle. Currently Finding of Fact (FOF) 20 defines "affected customers" as "the Competing Provider's customers to whom the Competing Provider will market the demand response program deemed similar."
    - This PFM requests a change to FOF 20 to define "affected customers" as only customers who are enrolled in the utility program, either directly or through an aggregator.
2. Consistent with the above change and D.14-12-024, this PFM requests a clarification in Step Four that the bill credit for cost recovery would go to **all** of the involved CCA/ESP's customers, not just those "affected customers" as defined in FOF 20 or in Step Three.
3. Confirm that the Utilities' obligation under Step Three to send letters by the 60th day to "affected customers" only requires the Utilities to send the notification

letter to their directly enrolled customers and the third-party DR providers/aggregators.

- This PFM seeks an explicit requirement in the Decision that the third-party aggregators are responsible for communicating with their customers.

II.

WORKSHOP PARTICIPANTS PROPOSE CHANGES TO D.17-10-017 TO ENABLE A MORE EFFECTIVE AND LESS CONFUSING IMPLEMENTATION OF THE COMMISSION'S COMPETITIVE NEUTRALITY COST CAUSATION DIRECTIVES.

Several of the workshop participants noted that the discussions of the Step Three letter at pages 27 and 28 of the Decision varied in the description of who should receive the letter. The Step Three discussion on page 27, and in Attachment 1 to the Decision, references the customers of the Community Choice Aggregation (CCA) or the Energy Service Provider (ESP) who are in the utility's DR program determined to be similar to the CCA/ESP DR program, as the "affected customers". Then, on page 28, the Decision states that the letter should go to the "affected customers" who are the CCA/ESP's customers to whom that provider will market the demand response program(s) deemed similar. In addition, Finding of Fact (FOF) 20 defines "affected customers" as the CCA/ESP's customers to whom it will market the demand response program deemed similar.

Extensive discussion led the workshop participants unanimously to conclude that the letter described in Step Three should only go to the CCA/ESP customers who are enrolled in the utility's similar program, either directly or through an aggregator. Trying to identify to whom the CCA/ESP would market their similar DR program was problematic and the workshop participants agreed that sending the letter to all the CCA/ESP's customers to make sure all potential CCA/ESP participants were covered would create confusion and potential misunderstanding.

In order to implement the solution supported by the workshop participants, the Decision needs to be modified to identify clearly that the letter in Step Three only goes to CCA/ESP

customers enrolled in the utility's similar DR program, directly or through an aggregator. To achieve this, the workshop participants propose to modify FOF 20, as set forth below in strike-out and underlined font.

> **FOF 20: <u>For purposes of the letter described in Step Three</u>**, affected customers are defined as the Competing Provider's customers **<u>who are enrolled in the Competing Utility's</u>** ~~**to whom the Competing Provider will market the**~~ demand response program deemed similar, **<u>either directly or through an aggregator</u>. <u>The definition in this finding of fact shall not apply to Step Four</u>**.

The change to FOF 20 would apply to clarify the description of "affected customer" in Step Three to refer only to the CCA/ESP's customers who are in the utility's similar DR program, and not to the CCA/ESP customers to whom the CCA/ESP will be marketing.

Consistent with the proposed modification to FOF 20 for the definition of "affected customers," the workshop participants also seek a modification to Step Four of Attachment 1 of the Decision to ensure that the bill credit is provided to <u>all</u> customers of the CCA or ESP involved.[2] In fact, D.14-12-024, which established the competitive neutrality cost causation principle, specifies that result.[3] Moreover, Finding of Fact 11 in D.17-10-017 clearly anticipated that all of the CCA's or ESP's customers would receive the bill credit.[4]

The proposed revision to FOF 20 presented above would limit the definition of "affected customers" to customers who would receive the Step Three notification letter. Without modification, the current definition of "affected customers" in FOF 20 could limit the credit to the CCA/ESP's customers "to whom the Competing Provider will market its demand response program deemed similar." If the existing or proposed change to FOF 20's definition of "affected customers" were to describe who receives the credit under Step Four, the CCA/ESP's customers

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2 Step Four is also described on page 28 and notes that "affected customers shall receive a bill credit for the similar program(s)".

3 D.14-12-024, Ordering Paragraph 8b, emphasis added: "Once a direct access or community choice provider implements its own demand response program, the competing utility shall, no later than one year following the implementation of that program: i) ***end cost recovery from that provider's customers*** for any similar program …"

4 FOF 11 reads: "The Commission should require the use of the bill credit on Competing Provider's customers' bills to end cost recovery of the Competing Utility's similar demand response program."

to whom the CCA/ESP does not market or those customers not currently enrolled in a utility DR program, would not get the bill credit. The workshop participants agreed that result would be inequitable, inconsistent with the intent of the Decision and would violate the requirements established in D.14-12-024, as explained above. The workshop participants request modification of Step Four in Attachment 1 (and on page 28 of the Decision) as follows:

> **Step Four:**
>
> Within one billing cycle following the end of the cost recovery and targeted marketing by the Competing Utility to the Competing Providers' customers of the similar demand response program(s), ~~**affected**~~ **all** customers **of the CCA/ESP identified as the Competing Provider** shall receive a bill credit for cost recovery of the similar program(s).

III.

WORKSHOP PARTICIPANTS REQUEST CHANGES TO D.17-10-017 TO CONFIRM THE COMPLIANCE OBLIGATIONS OF THE IOUS AND THE THIRD-PARTY DR AGGREGATORS WHEN COMMUNICATING TO CUSTOMERS

Step Three requires the letter to "affected customers" to go out by the 60th date after the date of the Commission resolution determining that a CCA/ESP DR program is similar to a utility program.[5] To the extent "affected customers" are in aggregator portfolios, the utility will need to include the aggregators in the process, to enable them to work with their customers who will lose eligibility for the utility's similar program, and to address collateral impacts, such as possible effects on the composition of their CAISO resources. In the joint-Utilities' January 30, 2018 filing,[6] the Utilities agreed to send letters to participants directly enrolled in utility DR programs and to the third party aggregators, but noted their position that third-party DR

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5 The Decision does not specify whether the letter should be sent in hard copy or electronically. PG&E, SCE and SDG&E interpret the Decision as allowing either hard copy or electronic transmittal of the letter, especially since some customers identify electronic communications as their preferred method of communication with their utility.

6 *See Pacific Gas and Electric Company's, San Diego Gas & Electric Company's, and Southern California Edison Company's Proposed Approach to Determine Cost Refunds to Eligible Community Choice Aggregator and Direct Access Customers*, filed January 30, 2018, at p. 6.

aggregators would be responsible for further communicating with their customers about the CCA/ESP DR program deemed similar and their removal from the IOU DR program.

The Utilities' position is consistent with Commission precedent where the Commission has acknowledged that aggregators have the relationship with their customers. Specifically, in its *Decision Adopting Guidance for Future Demand Response Portfolios and Modifying Decision 14-12-024*, the Commission held: "Because aggregators are the direct contact for customers in aggregator programs, it is the responsibility of the third-party aggregator to provide such notification and outreach."[7] In addition, in a recently issued Final Resolution approving the Utilities' prohibited resources restrictions for DR programs, the Commission held: "We agree with SCE that requiring coordination with aggregators on outreach creates an additional unnecessary administrative burden, inconsistent with the existing guidance in tariff and contract language. Because aggregators are the primary contact for customers in aggregator programs, they bear the sole responsibility to conduct customer outreach."[8] Consistent with Commission precedent, the Utilities proposed that a notification letter to the aggregators would fulfill their 60th day compliance obligation under Step Three. Thus, this PFM seeks explicit confirmation that the utility's notification to the aggregators fulfills their compliance obligation. The proposed changes needed for Step Three, Attachment 1, are set forth below.

> **Step Three:**
>
> If the outcome of the resolution determines that the Competing Provider's proposed demand response program is similar, the Competing Utility has 30 days from the issuance of the resolution to begin the process to cease cost recovery by and targeted marketing to the Competing Provider's customers of the similar program. By the **60th** day, a letter shall be sent to the affected customers notifying them of the change. The letter will also explain to customers of the Competing Provider currently enrolled in the Competing Utility's similar demand response program that they will cease to be eligible for that program at the end of the year, but will be eligible to participate in the Competing Provider's similar demand response program. No later than 365 days following the issuance of the resolution, the Utility shall complete the changes.

7 *See* D.16-09-056 at p. 33.

8 *See* Resolution E-4906 (issued June 21, 2018), at p. 80.

The Utilities shall comply with this directive by sending a notification letter to their directly enrolled customers and a notification letter to the third party aggregators. The third party aggregators shall communicate to their customers the pending changes.

IV.

CONCLUSION

The workshop participants agreed that proposed revisions to the Decision will enable a more effective and less confusing implementation of the Step Three letter. In addition, the revisions in this PFM would align the Decision language with provision of the bill credit to all the CCA/ESP customers who pay the utility demand response authorized costs in distribution rates.

Respectfully submitted,

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