

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



**FILED**

04/10/19  
04:59 PM

Application of Pacific Gas and Electric  
Company (U39E) for Approval of Demand  
Response Programs, Pilots and Budgets for  
Program Years 2018-2022.

Application 17-01-012  
(Filed January 17, 2017)

And Related Matters.

Application 17-01-018  
Application 17-01-019

**REPLY COMMENTS OF  
CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT COUNCIL ON  
ADMINISTRATIVE LAW JUDGE'S RULING DIRECTING RESPONSES TO  
QUESTIONS RESULTING FROM THE FEBRUARY 11-12, 2019 DEMAND RESPONSE  
AUCTION MECHANISM WORKSHOP AND COMMENTS ON PROPOSALS TO  
IMPROVE THE MECHANISM**

Dated: April 10, 2019

Melanie Gillette, Senior Policy Director  
California Efficiency + Demand Management Council  
1111 Broadway, Suite 300  
Oakland, CA 94607  
[policy@cedmc.org](mailto:policy@cedmc.org)

## SUBJECT INDEX

	<i>Page</i>
Subject Index .....	i
Table of Authorities .....	ii
I. INTRODUCTION.....	1
II. REPLY COMMENTS .....	1
A. Resource Adequacy Need Should Have No Impact on the Future of DRAM. ....	2
B. The Commission Should Ensure Continuity in the DRAM Rather Than the “Start-and-Stop” Approach Proposed by the IOUs .....	3
C. The Bridge Period DRAM Budget Should Be No Lower Than the 2019 Budget. ....	6
D. The Proposal Contained in the Joint Response Represents a Balanced, Feasible and Comprehensive Interim Solution.....	7
E. Instituting a Feedback Loop Between Demonstrated Capacity and Qualifying Capacity Would Be Ineffective and Problematic.....	7
F. Monthly Reporting is Unnecessary. ....	8
G. DRAM Should Be Allowed To Compete on a Level Playing Field with IOU DR Programs. ....	10
H. The Use of DR Load Impact Protocols is Burdensome and Unnecessary. ....	10
I. The Commission Should Use an Independent Monitor. ....	11
III. CONCLUSION.....	12

**TABLE OF AUTHORITIES**

**CPUC DECISIONS**

Decision (D.) 16-09-056 .....2

**COMMISSION RULES OF PRACTICE AND PROCEDURE**

Commission Rules of Practice and Procedure .....1

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

Application of Pacific Gas and Electric Company (U39E) for Approval of Demand Response Programs, Pilots and Budgets for Program Years 2018-2022.

Application 17-01-012  
(Filed January 17, 2017)

And Related Matters.

Application 17-01-018  
Application 17-01-019

**REPLY COMMENTS OF  
CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT COUNCIL ON  
ADMINISTRATIVE LAW JUDGE’S RULING DIRECTING RESPONSES TO  
QUESTIONS RESULTING FROM THE FEBRUARY 11-12, 2019 DEMAND RESPONSE  
AUCTION MECHANISM WORKSHOP AND COMMENTS ON PROPOSALS TO  
IMPROVE THE MECHANISM**

**I. INTRODUCTION**

The California Efficiency + Demand Management Council (the “Council”)<sup>1</sup> respectfully submits these Reply Comments on the Administrative Law Judge’s Ruling Directing Responses to Questions Resulting from the February 11-12, 2019 Demand Response Auction Mechanism (“DRAM”) Workshop and Comments on Proposals to Improve the Mechanism, issued in this proceeding on February 28, 2019 (“ALJ Ruling”). These comments are timely filed pursuant to the California Public Utilities Commission’s (“CPUC” or “Commission”) Rules of Practice and Procedure and the ALJ Ruling.

**II. COUNCIL REPLY COMMENTS**

The Council appreciates the opportunity to respond to the comments of other stakeholders on the future of the DRAM. Our positions are listed below and expanded on in subsequent sections:

---

<sup>1</sup> More information about the Council, including the organization’s current membership, Board of Directors, and antitrust guidelines, can be found at <http://www.cedmc.org/>. The views expressed by the Council are not necessarily those of its individual members.

- Resource Adequacy Need Should Have No Impact on the Future of DRAM;
- The Commission Should Ensure Continuity in DRAM Rather than the “Stop-and-Start” Approach Proposed by the IOUs;
- The Bridge Period DRAM Budget Should Be No Lower than the 2019 DRAM Budget;
- The Proposal Contained in the Joint Response Represents a Balanced, Feasible and Comprehensive Interim Solution;
- Instituting a Feedback Loop Between Demonstrated Capacity and Qualifying Capacity Would Be Ineffective and Problematic;
- Monthly Reporting is Unnecessary;
- DRAM Should be Allowed to Compete on a Level-Playing Field with IOU DR Programs;
- The Use of DR Load Impact Protocols is Burdensome and Unnecessary; and
- The Commission Should Use an Independent Monitor.

**A. Resource Adequacy Need Should Have No Impact on the Future of DRAM.**

In Pacific Gas and Electric Company’s (“PG&E’s”) opening comments, there were several instances where PG&E cited the need for the DRAM to meet a specific Resource Adequacy (“RA”) need.<sup>2</sup> This notion that DRAM must meet a specific RA need as a predicate for its continuation is completely contrary to the role of demand response (“DR”) in the State’s Loading Order. According to the Loading Order, cost-effective, feasible, and reliable energy efficiency and DR are considered Preferred Resources, followed by renewables and distributed generation.<sup>3</sup> As a Preferred Resource, DR (with energy efficiency (“EE”)) is meant to be the most preferred resource in the state with no mention of RA need as a condition. If the totality of preferred and non-preferred resources in the state exceeds the RA need, then DR (and EE) should be the last resources considered for reduction.

The Council notes that PG&E has not cited an RA need as a justification for the Commission to approve its own DR programs. In fact, in the testimony for its 2018-2022 portfolio, PG&E does not cite a specific RA need to support its request for approval of its DR programs and budget, only that its proposed programs address System and Local RA needs.<sup>4</sup> In addition, in Decision (D.) 16-09-056, which provided guidance to the investor-owned utilities (“IOUs”) for their 2018-2022 application, the Commission did not cite a specific RA need for which the IOU DR programs were needed.

---

<sup>2</sup> Opening Comments of PG&E, at pp. 2-3.

<sup>3</sup> 2003 California Energy Action Plan, May 8, 2003, p. 4.

<sup>4</sup> PG&E Opening Testimony, at pp. 1-2, lines 11-12.

Finally, it would be highly discriminatory for the DRAM to be discontinued or unreasonably limited simply based on the absence of a specific RA need, since IOU DR programs continue irrespective of RA need. Furthermore, to the Council's recollection, a specific RA need has not been cited as a justification for Commission approval of IOU EE programs, the California Solar Initiative, the Self-Generation Incentive Program, the renewable portfolio standard, or energy storage procurement targets, so it is unclear why RA need should be cited now. This argument tying DRAM procurement to RA need, with the understanding that DRAM is an RA product, likely arises due to the absence of a clear goal and objective for DR. The State has mandated the procurement of renewable resources, energy storage and energy efficiency, so no party questions the need for these resources toward meeting a State objective. Unfortunately, DR has no such protection. There is no stated goal, there is no mandate to procure, except through the DRAM pilot, and there is no stated benefit derived from DR to the benefit of consumers or the grid, either locally or systemwide. If there is a question as to why DR has not grown as anticipated over the years, the lack of State support for this resource other than through the Loading Order is a significant reason.

**B. The Commission Should Ensure Continuity in the DRAM Rather Than the “Start-and-Stop” Approach Proposed by the IOUs.**

It is critical that the Commission keep in mind that DR resources and programs are comprised of customers who choose to participate and who can choose not to participate. If there are gaps in the DRAM, it is difficult for demand response providers (“DRPs”) to just “park” these participants, especially if the participants are expecting revenues through their participation. If participants are not being paid (or compensated in some way), it is not clear, especially after such a short history of participating in the DRAM, why these customers would sit on the sidelines for a possible (but not certain) future opportunity to participate in the DRAM again. In addition, the start and stop approach also creates tension and pressure on the relationship between the DRP and the customer, and additional costs on the DRP. If a DRP must constantly search for new customers because the current slate of recruited customers declines to sit passively for a year, that is a significant cost burden to the DRP.

One of the great successes of the DRAM so far has been its ability to attract new participants to DR. It would be harmful to adopt a timeline that would cause these new participants to leave DR through a disruption of service, creating a potential that these new

participants may never come back. This would send a very poor message to the public that participating in DR (or perhaps any other program) has uncertain regulatory support and is a waste of time and resources. Furthermore, the impact on DRPs could be severe. One of the DRAM goals is to attract new entrants to the DR market in California. However, for a new DRP to enter the market, especially if that DRP's sole market is in California, a gap in the DRAM could cause them to run out of operating capital through no fault of their own and force them to close their doors. In such an instance, the DRAM would actually be discouraging potential new entrants because the regulatory risks would be perceived as being too great. Also, with very few options for customers to place their capacity, except Capacity Bidding Program ("CBP"), the opportunity to grow third-party DR is stunted. Even the IOU DR budgets are capped at 2017 levels until 2020 which limits their ability to grow third-party DR.

Unfortunately, the IOUs' proposed timelines for a bridge auction would result in significant gaps in the DRAM that would very likely result in the negative outcomes described above. For example, for the bridge auction, PG&E proposes that bridge auction deliveries should only begin in August 1, 2020,<sup>5</sup> SCE proposed June 1, 2020,<sup>6</sup> and SDG&E proposes July 3, 2020.<sup>7</sup> That would leave a five- to seven-month gap in the DRAM between the conclusion of 2019 deliveries and resumption of new deliveries in 2020. This is unacceptable. There is no reason why a one-year bridge for 2020 deliveries has to begin halfway, or more than halfway, into the delivery year. Delaying 2020 delivery until later in the year would prevent DRPs from providing Local RA which, according to the DR Potential Study, is and will continue to be needed in several transmission-constrained areas.<sup>8</sup>

Alternatively, the Council has proposed a series of timelines, all of which maintain the continuity of the DRAM while accounting for the IOUs to submit advice letters (if needed) to implement an initial round of DRAM improvements.<sup>9</sup>

The Council has similar concerns regarding the IOUs' responses to Question 6 in the ALJ Ruling on procedural steps to address the remaining questions regarding the DRAM. The IOUs

---

<sup>5</sup> Opening Comments of PG&E, at p. 6.

<sup>6</sup> Opening Comments of SCE, at p. 6.

<sup>7</sup> Opening Comments of SDG&E, at p. 6.

<sup>8</sup> 2025 California Demand Response Potential Study – Phase 2 Result, at pp. 1-8 and 2-4.

<sup>9</sup> Opening Comments of the Council, at pp. 7-8.

are unanimous in their contention that the issue of the permanent status of the DRAM cannot be decided in a December 2019 decision.<sup>10</sup> They all insist that a decision cannot be made until the DRAM changes approved in the July decision can be evaluated in summer 2021.<sup>11</sup>

None of the IOUs indicate whether there would be a series of one-year bridge auctions until then. The Council strongly disagrees with the approach proposed by the IOUs. First and foremost, applying the Council's proposed Scenario 3 in response to Question 6 would provide a sufficient amount of time to develop a succinct and detailed set of solutions for working group issues addressed in parties' February 6 working group proposals from which the Commission could choose in a December decision for implementation in 2021. The Council's Scenario 3 would entail the Commission immediately resuming the working group process which would provide four months for parties to continue developing solutions by the end of August.

Second, the IOUs' insistence that the permanent status of the DRAM not be addressed until summer 2021 seems overly conservative given that DRAM has been in operation for over three years. As the Council stated in its opening comments, there was no conclusion in the Evaluation Report that the DRAM's shortcomings were so catastrophic as to make the DRAM irredeemable<sup>12</sup>. Furthermore, the IOUs provide no details about what criteria or metrics would be used when deciding on the permanency of the DRAM. Without a clear set of criteria, the Council fears that the IOUs would simply keep moving the goalposts on what constitutes an acceptable level of improvement to justify making the DRAM permanent. The Council is confident that if the Commission approves a standing, ongoing mechanism for identifying areas of improvement in a June/July decision by which the success of any improvements approved in a December 2019 decision can be assessed, the IOUs should have confidence that the DRAM will be refined as needed going forward. The Commission should approve Scenario 3 in the Council's response to Question 6 to further develop the record for a December decision, and approve the Council's proposal in its response to Question 7 to ensure there is a standing process going forward to assess the success of changes approved in 2019.

---

<sup>10</sup> Opening Comments of PG&E, at p. 7; Opening Comments of SCE, at pp. 7-8 and Opening Comments of SDG&E, at p. 7.

<sup>11</sup> *Id.*

<sup>12</sup> Opening Comments of the Council, at p. 14.



### **C. The Bridge Period DRAM Budget Should Be No Lower Than the 2019 Budget.**

The IOUs and Public Advocates Office (“PAO”) all advocate for reduced budgets compared to 2019 but none of them address the impacts to DRPs and their customers.<sup>13</sup> When considering the next DRAM budget, the Commission should carefully consider the signal it wants to send to the market and, by extension, the impact of that signal on the DRAM’s success.

A common theme throughout the positions taken by the Council regarding the DRAM is the need for continuity and certainty. Without these, DRPs will be less likely to enter the market, incumbents will invest less, and fewer customers will participate. Reducing the DRAM budget will reduce the number of megawatts of capacity procured which will force DRPs to drop customers many of whom, as discussed above, may likely never participate in a DR program again. In addition, those DRPs who submit competitive bids but are not selected due to a reduced budget, risk having stranded costs they had incurred based on the expectation that the DRAM budget would remain level, if not increase over time. At minimum, the Commission should maintain the 2019 budget but, as the Council discussed in its opening comments, for DRAM to continue to attract new DRPs and new participants (which are key goals for the DRAM) the budget needs to grow.<sup>14</sup>

Consistently growing budgets has already led to a great deal of success in the first three years of the DRAM. As the Evaluation Report cites, 16 DRPs bidding into DRAM I-III had never participated in an IOU DR program, with 15 of these winning at least one contract during this time.<sup>15</sup> Similarly, the Evaluation Report states that between 74%-95% of customers participating in DRAM in 2016-2017 had never participated in an IOU DR program out of a pool of 12,500 (2016) to 52,000 (2017) customers.<sup>16</sup> This is a significant achievement and a significant rate of growth in participation from one year to the next. Given that the 2016 and 2017 budgets were \$9 million and \$13.5 million, respectively, it would not be unreasonable to expect continued dramatic growth in participants due to the \$27 million 2019 budget. If the Commission reduces the DRAM budget, it is inevitable that many of these customers will be

---

<sup>13</sup> Opening Comments of PG&E, at p. 5; Opening Comments of SCE, at p. 5; Opening Comments of SDG&E, at p. 5 and Opening Comments of PAO, at p. 6.

<sup>14</sup> Opening Comments of the Council, at pp. 5-6.

<sup>15</sup> Evaluation Report, at p. 23.

<sup>16</sup> *Id.*, at p. 47.

dropped by DRPs which could permanently stunt DR growth in California if they choose not to return in the future.

**D. The Proposal Contained in the Joint Response Represents a Balanced, Feasible and Comprehensive Interim Solution.**

The proposal jointly submitted by CPower, Enel X North America, Inc. (Enel X), EnergyHub, Olivine, Inc. (Olivine), and Stem, Inc. (Stem) appears to represent a good-faith effort to put forth a comprehensive set of changes that attempt to address several parties' concerns.<sup>17</sup> Furthermore, these proposed changes can be feasibly made in time for an auction for a full 2020 delivery period. The proposed changes to the DRAM contract, though requiring an advice letter, are relatively minor and could likely utilize an abbreviated (or waived) comment and Commission approval period. Furthermore, as stated in the joint response, these proposals are not meant to be precedential so they could be re-considered as necessary in the Step 2 process. If the Commission were to adopt the proposal, it could utilize either the Council's proposed Scenario 1A timeline (if a June 13 decision) or Scenario 2A timeline (if a July 11 decision) proposed by the Council in its response to Question 4 in its opening comments.<sup>18</sup> Because both scenarios assume Commission review of the DRAM contracts, the scenarios could be made less constrained if the Commission chooses to waive its review of the DRAM contracts which would save 14 days in Scenario 1A and 10 days in Scenario 2A.

**E. Instituting a Feedback Loop Between Demonstrated Capacity and Qualifying Capacity Would Be Ineffective and Problematic.**

In their opening comments, San Diego Gas & Electric (SDG&E) and the PAO recommend that the Commission adopt a feedback loop such that the demonstrated capacity ("DC") in a given month would impact the qualifying capacity ("QC") value that can be claimed for later Supply Plans.<sup>19</sup> Though this may appear to be a simple solution at face value, there are significant potential risks from using DC from one month to inform the supply plan capacity in future months. The Council recognizes that accurate DCs are important but due to the complexity of the issue, as the Council will demonstrate, it should be discussed further in Step 2.

---

<sup>17</sup> Joint Response of CPower, Enel X, EnergyHub, Olivine and Stem.

<sup>18</sup> Opening Comments of the Council, at pp. 7-8.

<sup>19</sup> Opening Comments of SDG&E, at pp. 4-5 and Opening Comments of PAO, at p. 10.

The first complication needing consideration is that weather conditions can change considerably from a given delivery month to the month whose supply plan capacity is affected. Following a delivery month, it can take a month or longer to get performance data to inform the Supply Plan capacity in a later month, so that introduces a minimum 30-day delay. In addition, because supply plans are due 60 days in advance of the delivery month, that introduces an additional 60-day delay from when the DC can be applied to the QC. The combined 90-day lag is an entire season so for DRPs with weather-sensitive load, it would be highly problematic to have, for example, a resource's performance in April impact the amount of supply plan capacity that could be claimed in August when temperatures are typically highest. One option could be to look at performance in prior years but because test events were only initiated in 2018, there may not be a lot of performance data available yet.

In addition, applying a feedback loop to the DRAM creates a higher standard than any other DR program or any other RA resource. For example, the IOUs claim the RA for their DR programs based upon their ex ante load impacts, irrespective of how those programs actually performed in that year. If the performance is less than expected, that will be somewhat reflected in the ex ante load impacts for the next year, but it does not adjust the amount of RA that the IOUs can claim relative to their DR programs in the current year. Creating a monthly dynamic as suggested by SDG&E and PAO is creating a much higher standard for RA treatment for DRAM than IOU DR programs. Further, RA generators are subject to one test per year which determines their RA value for the year. The capacity credited for RA may be modified if the units experience unplanned outages of 25% of their availability for a month. The Commission should reject any suggestions to create a higher bar for third-party DR than is provided for any other RA resource, especially IOU DR programs.

#### **F. Monthly Reporting is Unnecessary.**

The Council is supportive of collecting DRAM data for the purposes of performing regular evaluations. The Evaluation Report has been very useful in identifying opportunities for improvement and the Council would support annual or biennial reporting albeit on a more modest scale. For annual or biennial evaluations, monthly reporting is unnecessarily burdensome and unhelpful. In their opening comments, PG&E and SCE propose that DRPs be required to provide the Energy Division with monthly public reports similar to the IOUs'

Interruptible Load and Demand Response Programs (“ILP”) reports.<sup>20</sup> SCE’s rationale for this monthly data collection is to allow the IOUs and Energy Division to provide feedback to the DRAM Sellers.<sup>21</sup> According to SCE, this report should include the number of service accounts, ex ante estimated MW and ex post estimated MW.<sup>22</sup>

The Council contends that though the IOU’s ILP reports provide a wide range of information, little of it would be very useful outside of an annual/biennial cycle, and what would be useful can be acquired through an audit by the IOU or Commission subpoena of the CAISO. For example, the number of service accounts, estimated ex ante MW, estimated ex post MW, average ex ante and ex post load impact/customer, program expenditures, event information, and program incentives paid are provided in the IOUs’ ILP reports. Ex ante and ex post load impacts in the ILP reports do not reflect the actual load impacts of the IOU DR programs on a month-to-month basis; these ex post and ex ante values are derived by multiplying the number of service accounts in a given program in a given month by the average per-customer ex ante and ex post load impact from the most recent Annual Load Impact Report which is completed in April of each year. Program expenditures and incentives paid are proprietary information for each DRP and are not likely relevant to the actual performance of the DRAM. Number of service accounts can be accessed through an IOU audit and event data can be subpoenaed from the CAISO. So, it is clear that the data in an ILP report would be not useful in assessing the DRAM on a month-to-month basis or it can be obtained through existing channels as mentioned above.

The frequency of data collection should reflect the frequency of DRAM evaluations. Specifically, if the Commission adopts an annual or biennial evaluation, that should dictate the frequency of any data collection. If the Commission insists on adopting monthly reporting, the Council recommends that the DRAM be made a permanent program first. Imposing the burden and cost of monthly reporting on participants in a pilot seems impractical and overzealous, and the scope of the reports should be considered carefully. Adopting monthly reporting for the sake of reporting with no clear benefit will unnecessarily raise the costs of participating in the DRAM.

---

<sup>20</sup> Opening Comments of PG&E, at pp. 18-19 and Opening Comments of SCE, at p. 23.

<sup>21</sup> Opening Comments of SCE, at p. 23.

<sup>22</sup> *Id.*

### **G. DRAM Should be Allowed to Compete on a Level Playing Field with IOU DR Programs.**

In its remarks on what the goal of the DRAM should be, SDG&E characterized the DRAM as a carve-out and asserted that because it is at the top of the State's loading order as a clean energy resource, it "must be compared with other clean resources procured in solicitations."<sup>23</sup> SDG&E's insistence that DRAM compete with other resources ignores the fact that its own DR programs do not compete on a level playing field vis a vis DRAM resources, which the Council has pointed out previously in this proceeding.<sup>24</sup> The Council also notes that IOU DR programs benefit from administratively-determined incentive levels whereas DRAM bidders must compete based on prices. Also, IOUs are not penalized if the DC of their DR programs diverges significantly from the QC values reported in their year-ahead RA filings.

This double standard is further reflected in PG&E's and SDG&E's proposed conditions for default for DRAM contracts. PG&E and SDG&E propose that, as part of a DC penalty structure for DRAM resources, a DRP would be considered in default of its contract if the DC is below 90% of the QC across all resources and dispatch hours for two months (PG&E), or more than two months of performance that is lower than 85% of contracted capacity (SDG&E).<sup>25</sup> These standards are unreasonable and far stricter than PG&E and SDG&E apply to their own third-party programs. Neither IOU provides any sort of justification for such strict standards so the Commission should reject them. If the Commission seeks to put the DRAM on a more level playing field, it should do so relative to IOU DR programs.

### **H. The Use of DR Load Impact Protocols is Burdensome and Unnecessary.**

In their opening comments, SCE and SDG&E propose the use of the DR Load Impact Protocols ("LIPs") to determine the QC of Sellers' resources.<sup>26</sup> The Council recommends that the Commission reject these proposals because the LIPs are burdensome, better suited for IOU DR programs, and usurp the right of a DRP to determine its own QC.

The LIPs are resource intensive and require a lot of time to perform. Analysis for the Annual DR Load Impact Report (Load Impact Report) is performed by outside consultants with

---

<sup>23</sup> Opening Comments of SDG&E, at p. 9.

<sup>24</sup> Response of the Council to Applications of PG&E, SCE, and SDG&E for Approval of DR Programs, Pilots and Budgets for 2018-2022, dated February 27, 2017, at pp.10-11.

<sup>25</sup> Opening Comments of PG&E, at p.13 and Opening Comments of SDG&E, at p. 5.

<sup>26</sup> Opening Comments of PGSCE, at p.13 and Opening Comments of SDG&E, at p. 13.

support from the IOUs, so even the IOUs do not have the internal staff to perform their ex post and ex ante load impact analyses. Furthermore, the time needed to perform the analysis is significant. Assuming work is initiated after the summer period (ending October 31) and given that the most recent draft Load Impact Report was issued in mid-March in 2019, that leaves November through mid-March (~4.5 months) to perform the analysis. Subjecting DRPs to an effort even remotely close to this would be unnecessarily burdensome, especially when it is unclear if the added work would yield results that are more accurate than the DRPs' calculations.

In addition, because of the backward-looking nature of the LIPs, the IOUs' ex post load impacts from one year inform the ex ante load impacts for the coming year. For an IOU DR program with relatively static enrollment levels and a widely distributed participant base, using the LIPs may be acceptable (albeit inaccurate) because the IOUs are not penalized if the DC of their own DR programs is substantially lower than their QC as reported in their year-ahead RA showings. However, based on the expectation that DRPs' DCs will need to more closely align with their QCs, using the LIPs would not necessarily yield more accurate results.

In all other FERC-jurisdictional markets in which DR participates, load impacts are not required and the DRP is paid based upon their commitment, which is synonymous with contract quantity, unless performance falls below that level, at which point a penalty for failure to deliver is imposed upon the shortfall. All of the markets assume that the market structure provides a disincentive, through penalties, to over-estimate the performance capability of the resource. That should be adequate for California as well. The Council also has serious concerns that requiring the DRPs to use a Commission-required methodology would take out of the hands of the DRPs the ability to determine, based on their own analytical tools, what their QC is rather than having it imposed on them. If the Commission is intent on exploring this approach further, it should be addressed as a Step 2 issue because there is not enough information and analysis to support its adoption in Step 1.

#### **I. The Commission Should Use an Independent Monitor.**

Based on parties' February 6 proposals and their opening comments in response to the February 28 ALJ Ruling, it is evident that there is a high degree of distrust among the IOUs and DRPs in the context of the DRAM. The Commission should address this by directing the Energy Division to retain an independent monitor (IM) to the extent one is needed to perform certain functions. For example, if the Commission adopts the use of a plausibility test or an

annual/biennial evaluation, it would be appropriate for an IM to perform these roles. For the purpose of maintaining impartiality, the IM should be hired by the Energy Division. Should the Commission approve the use of an IM, the Council strongly recommends that the IM have a robust familiarity with the differences between IOU DR programs and the DRAM, and CAISO processes.

### **III. CONCLUSION**

The Council appreciates the Commission's consideration of these positions:

- Resource Adequacy Need Should Have No Impact on the Future of DRAM;
- The Commission Should Ensure Continuity in DRAM Rather than “Stop-and-Start” Approach Proposed by the IOUs;
- The Bridge Period DRAM Budget Should Be No Lower than the 2019 DRAM Budget;
- The Proposal Contained in the Joint Response Represents a Balanced, Feasible and Comprehensive Interim Solution;
- Instituting a Feedback Loop Between Demonstrated Capacity and Qualifying Capacity Would Be Ineffective and Problematic;
- Monthly Reporting is Unnecessary;
- DRAM Should be Allowed to Compete on a Level-Playing Field with IOU DR Programs;
- The Use of DR Load Impact Protocols is Burdensome and Unnecessary; and
- The Commission Should Use an Independent Monitor.

Dated: April 10, 2019

/s/ MELANIE GILLETTE

Melanie Gillette  
California Efficiency + Demand Management Council  
1111 Broadway, Suite 300  
Oakland, CA 94607  
[policy@cedmc.org](mailto:policy@cedmc.org)