



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

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Application of Pacific Gas and Electric
Company (U 39 E) for Approval of its Demand
Response Programs, Pilots and Budgets for
Program Years 2023-2027.

Application No. 22-05-002
(Filed May 2, 2022)

And Related Matters.

Application No. 22-05-003
Application No. 22-05-004

JOINT MOTION FOR ADMISSION OF EXHIBITS
PERTAINING TO PHASE 1 SCOPED ISSUE REGARDING
DEMAND RESPONSE AUCTION MECHANISM

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I. INTRODUCTION

Pursuant to Rules 13.7 and 13.8 of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission), and the September 16, 2022 Administrative Law Judge’s ruling (ALJ Ruling), Pacific Gas and Electric Company (PG&E) respectfully files this Joint Motion for Admission of Exhibits Pertaining to Phase 1 Scoped Issue Regarding Demand Response Auction Mechanism (DRAM), identified in Section II below.

Pursuant to the process discussed in the September 9, 2022 Meet and Confer held in this proceeding, and in the ALJ Rulings issued July 5, and September 21, 2022, the parties identified in footnotes 1 and 3 below, stipulate to and request admission of the exhibits identified in Section II below, into evidence without cross-examination.

The ALJ Ruling also instructed “[i]f any exhibit is not moved into evidence without objection, the Joint Motion must include the moving party’s proffer and the objecting party or parties’ objection(s).” PG&E has not received any objection to any of the exhibits listed by exhibit number, on pages 2 to 3 of this pleading.

However, there is disagreement over whether or not an exhibit identified as Exhibit SCE-09 (shown on Attachment B) being proffered by Southern California Edison Company (SCE)

should be included on the Exhibit list and admitted into evidence. Therefore, in compliance with the ALJ Ruling’s instructions in the September 22 ruling, Section III of this motion contains the moving party(s) proffer and the objecting party(s) objections with respect to Exhibit SCE-09.

II. EXHIBITS FOR WHICH THERE ARE NO OBJECTIONS TO THEIR RECEIPT INTO EVIDENCE

On September 9, 2022, certain parties in this proceeding met and conferred on the need for hearings and the admission of exhibits on the Phase 1 DRAM issues into the evidentiary record.¹ The participants in the Meet and Confer agreed upon a process to identify and confirm that Phase 1 DRAM testimony exhibits can go into evidence without cross-examination.

Pursuant to that process, PG&E circulated a draft of this motion and the updated exhibit list, Attachment A², to the parties that sponsored testimony on Phase 1 DRAM issues³ and CLECA. A final circulation went to the service list, excluding decision makers, on September 22, 2022. None of these parties have objected to the admission of the exhibits on Phase 1 DRAM issues listed below:

SCE: Exhibits SCE-7 and SCE-8

SDG&E: Exhibits SDGE-1C and 2C

Cal Advocates: Exhibits Cal Advocates-02, -03-Conf, -04-Conf, -05-Conf, and -06

¹ Parties that support this motion participated in the Meet and Confer were Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E), the Public Advocates Office at the California Public Utilities Commission (Public Advocates), OhmConnect, Inc. (OhmConnect), California Efficiency + Demand Management Council and Leapfrog Power Inc. (Council+Leap, or separately Council or Leapfrog), Voltus, Inc. (Voltus), and CPower (CPower). The California Large Energy Consumers Association (CLECA) also attended the Meet and Confer, but has not sponsored prepared testimony on the Phase 1 DRAM issues. Pursuant to Commission Rule 1.8(d), SCE, SDG&E and Cal Advocates have authorized counsel for PG&E to state that they support the motion. OhmConnect, Council, CPower, Voltus, and Leapfrog support the Motion’s request to admit the Exhibits listed in Section II, pages 2 to 3. With respect to other parties not otherwise named in this footnote, counsel for PG&E states on information and belief that parties who have not responded to PG&E’s request for their position on admission of exhibits, do not oppose admission of the Exhibits listed in Section II, pages 2 to 3.

² Attachment A also includes exhibits the admission of which the parties previously stipulated to, which relate to non-DRAM 2023 Bridge Year, Phase 1 issues.

³ In addition to the Parties sponsoring this motion, the California Energy Storage Alliance (CESA) sponsored testimony on the Phase 1 DRAM issues and received drafts of the motion and updated exhibit list for review and supports admission of the exhibits listed in Section II, pages 2 to 3 into evidence.

PG&E: Exhibits PG&E-2 (Chapter 5), -4, and -6⁴

Council+Leap: Exhibits Council/Leap-02 and -03

CPower: Exhibit CPower-1

OhmConnect: Exhibits OhmConnect-02 and -03

Voltus: Exhibit Voltus-01

CESA: Exhibit CESA-01

All of the above exhibits are included in Attachment A and have been served on the service list. They are available at the Commission web page using the “supporting documents” hyperlinks indicated in Attachment A. The moving parties’ agreement to the entry of these exhibits into the evidentiary record of this proceeding does not constitute agreement with the statements contained therein, and the parties reserve all rights, including the right to separately move for the admission of any other evidence, and the right to oppose any such motion.

Additional exhibits will be identified later in the proceeding for Phase 2 after the schedule is set.

III. CONTESTED EXHIBIT TO WHICH THERE ARE OBJECTIONS TO ITS PROFFER AND RECEIPT INTO EVIDENCE

ALJ Toy’s Ruling issued September 22, 2022, required: “If an exhibit is not moved into evidence without objection, the Joint Motion must include the moving party’s proffer and the objecting party or parties’ objections.” By this Joint Motion, Southern California Edison Company is a “moving party” that proffers an exhibit that it identifies as Exhibit SCE-09. Following SCE’s “proffer” of Exhibit SCE-09 below, the California Efficiency + Demand Management Council, CPower, Voltus and Leapfrog provide their objections to the identification and receipt into evidence of Exhibit SCE-09, which is then followed by other parties’ positions.

⁴ Exhibit PG&E-1 which includes both Phase 1 DRAM and other 2023 Bridge Year Phase 1 issues is also the subject of the motion for admission of exhibits filed August 17, 2022 in this proceeding. PG&E has also discovered that its September 5, 2022 rebuttal on DRAM Phase 1 issues was incorrectly numbered Exhibit PG&E-5. It should have been numbered Exhibit PG&E-6. That correction has been made in Attachment A, the exhibit list that contains PG&E’s exhibit numbers. PG&E has also reserve its September 2, 2022, rebuttal testimony, with the correct number on the cover page.

To clearly designate between those Exhibits to which no objections are raised to their admission into evidence, which are listed in Section II. above, and this Contested Exhibit, this Joint Motion includes and appends hereto two Exhibit Lists, one labeled “Exhibit List Uncontested Exhibits” (Attachment A) and a second list labeled “Exhibits List Contested Exhibit Only” (Attachment B).

a. SCE’S PROFFER

1. Introduction

Exhibit SCE-09⁵ (the Nexant Report) is a central document in this proceeding that is admissible under the Commission’s Rules of Practice and Procedure (Rules) and applicable precedent. The admission of this document is not only appropriate but necessary to facilitate a proper record, as the document was attached to the Scoping Memo and has been the centerpiece of party testimony. Parties had an opportunity to join a workshop hosted by Nexant to address the report, to seek discovery from Nexant regarding the report, and to request an evidentiary hearing on the scoped issue. Hearsay is admissible in Commission proceedings where, as here, a responsible person can rely on it in the conduct of serious affairs. By attaching the Nexant Report to the Scoping Memo, the Commission indicated that the document is reliable and relevant to the scoped issue on the Auction Mechanism. Parties will have opportunity to argue on the weight the Commission should accord the document, which is a separate question from admissibility. The Nexant Report should be admitted so that parties can appropriately reference and cite to it in their upcoming Phase 1 briefing, as well as in testimony and briefing to be submitted in Phase 2 of this proceeding pertaining to 2024-2027 demand response portfolios.

2. Background

The Commission authorized the Nexant Report in Decision (D.) 19-07-009, which directed SCE, PG&E, and SDG&E (the Utilities) to contract a consultant to evaluate the Auction Mechanism and “to assist the Commission’s Energy Division [ED] in monitoring the Auction

⁵ Available at <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M490/K475/490475883.PDF> (Attachment 1).

Mechanism.” D.19-07-009, OP 16. D.19-07-009 directed ED “to manage the selection of the consultant and the evaluation study,” and “to make the final selection of the consultant.” *Id.* D.19-07-009 also ordered the Utilities and Auction Mechanism sellers and providers to cooperate with the consultant by providing information. *See id.* D.19-07-009 set deadlines for the consultant to provide preliminary and final drafts of the evaluation and authorized \$2.8 million to pay for the evaluation, divided among the three Utilities. *See id.* Pursuant to D.19-07-009, ED selected Nexant as the consultant tasked with performing the evaluation.

Based on this Commission-ordered process, on June 24, 2022, Resource Innovations (formerly Nexant), in partnership with Gridwell Consulting, issued the Nexant Report. As stated in the July 5, 2022 Scoping Memo issued in this proceeding, “[t]he Nexant Report evaluates the Auction Mechanism pilot relative to criteria specified by the Commission and includes a performance assessment of the DR providers participating in the Auction Mechanism pilot for delivery years 2018 to 2021 and an analysis of the solicitation processes for delivery years 2019 to 2021.” Scoping Memo at 7-8. The Commission added that “[w]ith the Nexant Report now issued, we will take party comments on the report and whether to continue the Auction Mechanism for delivery year 2024.” *Id.* at 3. The Scoping Memo attached the Nexant Report, which is now marked as Exhibit SCE-09, as Attachment 1.

The Scoping Memo identified the following scoped issue relating to the Auction Mechanism: “Should the Utilities be directed to conduct Auction Mechanism solicitations in 2023, for 2024 deliveries, as a continued pilot without further technical refinements, and if so, what budget should be authorized?” The Scoping Memo (at p. 6) established a schedule to address this issue that included several milestones pertaining directly to the Nexant Report, including: “Workshop to present results of Nexant Report” - July 7, 2022; “Supplemental Testimony [] on Nexant Report and Auction Mechanism” - August 5, 2022; “Reply Testimony [] on Nexant Report and Auction Mechanism” - September 2, 2022; “Opening Briefs on Nexant Report and Auction Mechanism” - October 7, 2022; and “Concurrent Reply Briefs on Nexant Report and Auction Mechanism” - October 28, 2022.

In addition to making the Nexant Report the centerpiece of the schedule and the testimony and briefing to be submitted, the Scoping Memo ruled that “[t]he attached document, the [Nexant Report], is added to the proceeding record,” and directed the parties “to use the document to inform their testimony and comments regarding the Demand Response Auction Mechanism.” Scoping Memo, Ruling 5, p. 12. The Scoping Memo also noted “the importance of the Nexant Report to the parties’ analysis.” *Id.* at 7.

The Scoping Memo stated that “[o]n July 7, 2022, the Commission’s Energy Division will hold a workshop to discuss the Nexant Report. The workshop is a forum for the Nexant Team to present its findings as discussed in the Report and for parties to ask the Nexant Team questions about the Report.” *Id.* at 6. The workshop was held as scheduled, after which the Scoping Memo afforded parties over two months (until September 16, 2022) to conduct discovery. *See id.*

On August 5 and September 2, 2022, parties wishing to do so submitted Supplemental and Reply Testimony, respectively, on the Nexant Report and Auction Mechanism. Each of these testimony submissions extensively cited the Nexant Report. It is expected that the same parties will submit Opening and Reply Briefs on the Nexant Report and Auction Mechanism per the schedule set by the Scoping Memo.

3. Applicable Standards

Rule 13.6 (Evidence) of the Commission’s Rules of Practice and Procedure (Rules) provides that “[i]n hearings before the Commission, the technical rules of evidence, whether statutory, common law, or adopted by court, need not be applied,” that “[e]vidence need not be excluded merely by application of rules governing admissibility, competency, weight, or foundation in the record,” but that “the rights of parties to meaningfully participate in the proceeding and to public policy protections shall be preserved.” Rule 13.6(a).

Rule 13.7 (Exhibits) sets certain requirements with respect to the offering of exhibits into evidence. Rule 13.7(e) requires that “[a]ll documents that are prepared, directly or indirectly, by the party offering them into evidence shall be certified under penalty of perjury by the person

preparing or in charge of preparing them as being true and correct,” subject to limited exceptions. See Rule 13.7(e). However, Rule 13.7 *does not* require a sponsoring witness where a party offers into evidence a document that party did not prepare.

Rule 13.10 (Official Notice of Facts) provides that “[o]fficial notice may be taken of such matters as may be judicially noticed by the courts of the State of California pursuant to Evidence Code section 450 *et seq.*” Rule 13.10. Evidence Code Section 452 sets forth categories of evidence of which judicial notice “may be taken,” including “[r]ecords of . . . any court of this state[.]” Cal. Ev. Code § 452(d). As noted, the Scoping Memo specifically “added [the Nexant Report] to the proceeding record.” Scoping Memo, Ruling 5, p. 12.

Case law and Commission precedent provide additional guidance where (as here) the document was authored by a non-party to the proceeding and arguably could be considered hearsay. The Court of Appeal of California has described the relevant standards as follows:

The Commission’s proceedings are governed by its rules of practice and procedure, and in the conduct thereof the technical rules of evidence need not be applied. The Commission’s own precedent establishes that hearsay evidence is admissible in its proceedings. Administrative agencies like the Commission are given more latitude to consider hearsay testimony than are courts, in part because factfinders in administrative proceedings are more sophisticated than a lay jury.

The Commission generally allows hearsay evidence if a responsible person would rely upon it in the conduct of serious affairs. . . . Hearsay evidence is given less weight, however, and if evidence is objectionable on hearsay grounds, the Commission weighs it accordingly when all of the evidence in the case is reviewed.

The Util. Reform Network v. Pub. Utilities Com., 223 Cal. App. 4th 945, 959–60 (Cal. Ct. App., 1st Dist., 2014) (internal citations and punctuation omitted) (*TURN*).

The *TURN* court also noted that the Commission follows the “residuum rule,” under which “the substantial evidence supporting an agency’s decision must consist of at least a residuum of legally admissible evidence.” *Id.* at 960–61 (citing 1 Witkin, Cal. Evidence, § 60, p. 72) (internal quotation marks omitted). In practical terms, this means that while hearsay evidence may be admitted, it “may not serve as the sole factual basis for” a factual finding by the

Commission, and any such finding must be corroborated by “other competent, substantial evidence.” *Id.* at 962.

The Commission has followed the *TURN* court’s approach to hearsay evidence in numerous decisions. *See, e.g.*, D.20-03-035, 2020 WL 1807493, at *10 (Mar. 26, 2020) (“A4NR contends the Decision was flawed because the Commission relied on hearsay testimony to support FOF Number 8[.] Even if the testimony was hearsay, it is not unlawful for the Commission to consider it in its administrative proceeding if a responsible person could rely on it in the conduct of serious affairs, and it has satisfactory indicia of reliability.”); D.19-04-048, 2019 WL 1935622, at *4–5 (Apr. 26, 2019) (“Even in the absence of corroborating evidence, hearsay evidence is admissible,” and residuum rule “goes to how the Commission weighs the evidence in the record, by determining that uncorroborated hearsay is less credible and persuasive. It is not about admissibility.”); D.19-04-048, 2019 WL 1935622, at *4 (Apr. 26, 2019) (Commission made no error in relying on hearsay report in its decision, because while author of report did not testify other evidence corroborated the contents of the report).

4. The Nexant Report Should Be Admitted As Evidence

The Nexant Report (Exhibit SCE-09) should be admitted. There is no question of the document’s relevance: it is a Commission-ordered and -supervised evaluation of the Auction Mechanism, the future of which is being addressed in this proceeding; the Scoping Memo included it in full as an attachment, added it to the proceeding record, and noted its “importance . . . to the parties’ analysis;” and it is the central reference point of all party testimony on the scoped issue. There also is no question of the document’s authenticity: no party has questioned that Attachment 1 to the Scoping Memo is a true and correct copy of the public version of the Nexant Report. Moreover, by attaching the Nexant Report and formally adding it to the proceeding record, the Commission arguably took judicial notice of the document as permitted under Rule 13.10. Even if considered hearsay, the Nexant Report is admissible under the Commission Rules and precedent discussed above.

As noted, Rule 13.6(a) requires that for purposes of admitting evidence, “the rights of parties to meaningfully participate in the proceeding and to public policy protections shall be preserved.” Rule 13.6(a). All such rights have been preserved in relation to the Nexant Report. Parties were given the opportunity to participate in a workshop, over two months to conduct discovery, the option to request an evidentiary hearing, and ample time to pursue any other relief by way of motion practice. Each party will continue to have the opportunity to challenge findings and conclusions presented in the Nexant Report and to assert a position as to the appropriate weight the Commission should accord this exhibit once it is admitted.

Every party that has submitted testimony on the scoped Auction Mechanism issue has implicitly acknowledged the importance and relevance of the Nexant Report by referring to the report repeatedly, and no party has questioned that Attachment 1 to the Scoping Memo is an authentic copy of the public version of the Nexant Report. The Nexant Report should be admitted so that parties can appropriately reference and cite to it in their upcoming Phase 1 briefing, and in testimony and briefing to be submitted in Phase 2 of this proceeding. It would make no sense to exclude this key document from evidence.

5. Conclusion

For these reasons, SCE respectfully requests that the Commission admit as evidence in this proceeding the Demand Response Auction Mechanism Evaluation - Submitted by Nexant in partnership with Gridwell Consulting [Public Version – Redacted] May 23, 2022 (Attachment 1 to 7/5/22 Scoping Memo), which is preliminarily marked as Exhibit SCE-09.

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b. JOINT OBJECTIONS OF THE CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT COUNCIL, CPOWER, VOLTUS, INC., AND LEAPFROG POWER, INC.

The California Efficiency + Demand Management Council, CPower, Voltus, Inc., and Leapfrog Power, Inc., hereinafter Council, CPower, Voltus, and Leapfrog, jointly object to the inclusion in the Exhibit List and admission into evidence of Exhibit SCE-09 in A.22-05-002, et al., on the following grounds:

1. Southern California Edison Company Has Failed to Comply with the Prerequisite for Including “Exhibit SCE-09” on the Exhibit List in A.22-05-002, et al., and Seeking Its Admission into Evidence at All and, in Particular, After the Cancellation of Hearings.

On September 16, 2022, Assigned Administrative Law Judge (ALJ) Toy issued an email ruling that “evidentiary hearings scheduled for September 22 and 23, 2022 are hereby cancelled.”⁶ That Ruling further ordered: “In accordance with Commission Rules of Practice and Procedure, Rule 13.8(c), parties are directed to prepare a Joint Motion for Admission of Evidence” that “must include as an attachment a list of all testimony and exhibits that the parties have or will submit, identified by party, by exhibit number (ex: ‘XYZ-01’), by a description of the exhibit, and with a “supporting documents’ link pursuant to Rule 137(f) [sic].”⁷

As to “supporting documents,” Rule 13.7(f) requires the following:

“(f) Exhibits shall be submitted as “supporting documents” using the Electronic Filing System on the Commission's website at <http://www.cpuc.ca.gov/PUC/efiling>

“(i) Prepared testimony (see Rule 13.8) shall be submitted on the same day as it is served.

“(ii) *All other exhibits* shall be submitted by no later than three business days from the conclusion of evidentiary hearing.” (Emphasis added.)

Rule 13.8(c), which is cited in ALJ Toy’s ruling as the governing rule for the “Joint Motion,” provides as follows: “*Prepared testimony and accompanying exhibits* may be offered and received into evidence without direct or cross examination absent objection by any party.” (Emphasis added.) Rule 13.8 also requires that such testimony must “have been served upon all

⁶ September 16 ALJ’s Email Ruling, at p. 3.

⁷ *Id.*

parties prior to hearing and pursuant to the scheduled adopted in the proceeding” and prohibits other testimony from admission after that time, other than minor corrections or “good cause” shown by the sponsoring party as to “why the additional testimony could not have been served with the prepared testimony or should otherwise be admitted.” (Rule 13.8(a) and (b).)

In addition, pursuant to Commission Rule 13.11, only the “Administrative Law Judge or presiding officer, as applicable, may require the production of further evidence upon any issue” and may only “authorize the receipt of specific documentary evidence as part of the record within a fixed time after the hearing is adjourned” and only “[u]pon agreement of the parties.” The normal meaning of the word “adjourn” is to “stop” or “end,” which is exactly what the ALJ did in his ruling canceling the hearings in Phase 1-DRAM. Here, where that cancellation or adjournment was effective on September 16, 2022, only the ALJ could require the production of further evidence after that time and could only authorize “the receipt of specific documentary evidence as part of the record” “upon agreement of the parties.”

With reference to these rules, it is the position of the Council, CPower, Voltus, and Leapfrog that SCE’s attempt to offer the exhibit entitled “SCE-09” containing the Nexant Report has failed to comply with these governing prerequisites for it to be identified or “proffered” at all and certainly not after September 16, 2022. Namely, “Exhibit SCE-09” has never been served on the service list in A.22-05-002, et al. (Rule 13.8); an exhibit labeled “Exhibit SCE-09” has not been uploaded on the Commission’s “supporting documents” page at any time and certainly not within “3 business days from the conclusion of hearings” (Rule 13.7(f)); the contents of Exhibit SCE-09 did not “accompany” SCE’s prepared testimony nor is it a mere correction or errata to SCE’s prepared testimony (Rule 13.8); and no permission has been granted or authorized by the ALJ for SCE to produce or for the Commission to receive such evidence into the record, especially where there is not “agreement of the parties” to do so.

Council, CPower, Voltus, and Leapfrog confirm that they have never been asked by the ALJ as to whether they agree to the receipt into evidence of the Nexant Report, and, instead, certainly do not agree, and, in fact, strongly object to, the “documentary evidence” entitled the

Nexant Report from being received into evidence in this proceeding on both procedural (Section b.1. herein) and substantive (Section b.2.*infra*) grounds. Further, SCE’s statement that it has only “preliminarily marked” the documentary evidence it seeks to have admitted (the Nexant Report) “as Exhibit SCE-09”⁸ does not excuse SCE from complying with these rules, and, in fact, is an admission that it has never followed any of them in seeking to move the Nexant Report into evidence in this Phase 1-DRAM.

In its “proffer” of Exhibit SCE-09, SCE fails to justify, and no grounds exist to excuse SCE, from compliance with these rules. These rules are clearly intended to afford equal treatment and fundamental due process for all parties to a Commission proceeding in the offer and admission of exhibits and testimony into an evidentiary record. SCE had months and multiple opportunities after the inclusion of the Nexant Report in the Scoping Memo issued on July 5, 2022, and well before the cancellation of hearings on September 16, 2022, to move Exhibit SCE-09 into evidence. SCE also had ample opportunity to submit the Report to “accompany” its Phase 1-DRAM supplemental and rebuttal testimony, which were served on August 5 and September 2, 2022, long before a September 9 Meet and Confer and certainly before the September 16 cancellation of hearings but did not. SCE has provided no justification for this delay and, as addressed further below in Section b.2, has also not provided grounds for why Exhibit SCE-09 “should otherwise be admitted” (Rule 13.11).

Instead, by now choosing to move the Nexant Report into evidence after the cancellation of hearings and to do so without complying with applicable rules, SCE has cut off any opportunity for the Council, CPower, Voltus, and Leapfrog to timely object, conduct discovery, and request hearings on this “documentary evidence” before the due date to request hearings on September 16, 2022. Such a delay in offering Exhibit SCE-09 was particularly prejudicial to these parties where SCE had notice since the July 18, 2022, email sent by CPower to the ALJ, as discussed in the following section, that parties had concerns regarding the evidentiary status of

⁸ SCE Proffer, *supra*, at p. 12.

the Nexant Report and where the request by Council and CPower for evidentiary hearings made after confirmation of SCE's intent to do so after the close of business on September 16 was denied.⁹ As such, admission of Exhibit SCE-09 into evidence now is not only contrary to governing rules, but clearly prejudicial, and SCE's "proffer" of Exhibit SCE-09 should be denied based on the grounds stated in this Section b.1. alone.

2. Southern California Edison Company Has Failed to State Any Grounds Justifying the Admission of Exhibit SCE-09 Into the Evidentiary Record of A.22-05-002, et al. Contrary to Commission Rules.

Not only does SCE fail to explain how its Exhibit SCE-09 complies with the rules and ALJ Rulings applicable to this Phase 1-DRAM, but also fails to justify its admission as evidence, especially after the adjournment of hearings. In this regard, SCE claims that such admission should be granted because the Nexant Report is "relevant" or "important," a "true copy" of the "public version" of the Nexant Report was attached to the Scoping Memo, the Nexant Report was the subject of an informal workshop, the Nexant Report was addressed in Phase 1 testimony, the Nexant Report can be admitted into the record as "hearsay," the Nexant Report should be "admitted" into the record so parties can cite to it, and a "party" can "offe[r] into evidence a document that a party did not prepare."¹⁰ As detailed above, none of these claims are part of Commission rules governing the requirements for *testimony or exhibits sponsored by a party* and, worse, using any of these claims as a means to identify and admit the Nexant Report as "evidence," in this proceeding would result in the Commission failing to meet its obligation under Rule 13.6 to ensure that "*the rights of parties to meaningfully participate in the proceeding and to public policy protections shall be preserved.*"¹¹

While the Commission may not be required to follow the "technical rules of evidence," neither its rules nor the California Public Utilities Code, which governs the Commission, apply any different definition of the term "evidence" than in Section 140 of the California Evidence

⁹ ALJ's Ruling of September 22, 2022, at p. 2.

¹⁰ SCE Proffer, *supra*, at p. 9.

¹¹ Rule 13.6(a); emphasis added; see also, A.21-11-024 ALJ's Ruling Granting Motion to Strike Portions of Briefs (July 18, 2022), at p. 4.

Code as follows: “‘Evidence’ means testimony, writings, material objects, or other things presented to the senses that are offered to prove the existence or nonexistence of a fact.” This is exactly what is “offered” in the Nexant Report – the authors of that report evaluated “the delivery years 2018 through 2021 and solicitations for 2019 through 2021” of DRAM using and relying on specific facts and analysis that were, in turn, applied to specific performance criteria. Despite being faced with multiple redactions in that Report, Council, CPower, Voltus, and Leapfrog, each of whom or their members are named in the Nexant Report,¹² have challenged and raised concerns regarding the Nexant Report’s facts and evaluation in their testimony, without the ability to conduct any discovery on these facts, results, or redactions, or cross examine the authors under oath. Further, the July 14 ALJ’s Email Ruling specifically forbade any testimony commenting on the “Report’s evaluation process, upon any aspect of the Report’s use of redacted information, ... and such comment may be subject to strike.”

To now admit that Report as evidence following the close of hearings under those circumstances would be the epitome of a denial of notice and opportunity to be heard and highly prejudicial to all four parties. Further, contrary to SCE’s claim that the Nexant Report could be admitted as “hearsay,” the Council, CPower, Voltus, and Leapfrog are not aware of what other “evidence” “corroborates” this specific report or provides a “satisfactory indicia of reliability,” as claimed by SCE in support of that assertion, especially where the Nexant Report contains no attestation certifying the facts therein under penalty of perjury.¹³

Further, inclusion of the Nexant Report by the Scoping Memo into the “proceeding record,” makes its admission into evidence to facilitate reference to it in testimony, briefs, or comments, completely unnecessary. Thus, the Scoping Memo determined: (1) “The public version of the [Nexant] report is attached to this ruling and added to the *proceeding record*” and (2) “parties are to use the findings and recommendations in the Nexant Report to inform their

¹² See, e.g., Scoping Memo, Attachment A, at p. 19.

¹³ SCE Proffer, *supra*, at p. 10.

responses to the issues scoped above related to the Auction Mechanism.”¹⁴ In its rulings, the Scoping Memo repeated that the Nexant Report is added to the “proceeding record” and that it was to “inform” parties’ “testimony and comments.”¹⁵ Nothing more is needed to cite to or reference the Nexant Report in testimony or pleadings, where the public version of that Report is now posted as part of the Scoping Memo and accessible on the Commission’s Docket Card for A.22-05-002, et al. ([https://apps.cpuc.ca.gov/apex/f?p=401:57:0:::~:](https://apps.cpuc.ca.gov/apex/f?p=401:57:0:::)).

Further, there is no statement or ruling in the Scoping Memo that finds that the Nexant Report should or will be offered by any party as evidence in Phase 1-DRAM or will, in any manner, be part of the *evidentiary* record in this proceeding. Thus, the Nexant Report was never addressed in the Scoping Memo in relation to evidentiary hearings and was never assigned an exhibit number. In addition, the July 14 ALJ Email Ruling, which followed the Scoping Memo, made clear that the Nexant Report’s inclusion in the “proceeding” record was sufficient to facilitate “comment” on it in the Phase 1-DRAM testimony, never described the Nexant Report as “evidence” or part of the “evidentiary record”; and never authorized any party to enter the Report into that evidentiary record.¹⁶

Instead, as indicated above, the July 14 ALJ’s Ruling placed restrictions on that “comment” opportunity in Phase 1-DRAM testimony, and the Nexant Report remains, as it is today, part of the “proceeding” record only as attached to and published as part of the Scoping Memo on the Docket Card for A.22-05-002, et al. Additionally, in response to a procedural concerns and inquiry posed by CPower and served on the service list on July 18, 2022, which specifically asked whether the Nexant Report would be introduced as evidence in Phase 1 and, if so, to whom data requests should be sent, the ALJ’s responded on July 20, 2022 that: “Counsel, [¶] At this stage of the proceeding, the Scoping Memo and the July 14, 2022, ALJ Email Ruling provide all necessary party information and direction.”

¹⁴ Scoping Memo, at p. 8; emphasis added.

¹⁵ Scoping Memo, at p. 12.

¹⁶ July 14 ALJ’s Email Ruling, at pp. 2-3.

This response was relied upon as notice to the Council, CPower, Voltus, and Leapfrog that “discovery,” as defined for *parties* in Commission proceedings, was not authorized for the Nexant Report where, pursuant to Rule 10.1 of the Commission’s Rules of Practice and Procedure, “Discovery by Parties” in Commission proceedings can only be conducted *between parties* on matters that are “admissible in evidence.” (Emphasis added.) Without any “party” offering and sponsoring the Nexant Report as “evidence,” there would be no basis for any party to conduct discovery of the report or offer discovery responses in cross-examination of the authors as evidence, where none were parties to the proceeding, and none would be a sponsoring witness of the Report as evidence.

Alarming,ly, SCE’s response to this circumstance is to claim that “[a]ll...rights” of due process have been preserved to allow the Nexant Report’s admission into evidence based on the following allegations:

- (1) “[T]he Scoping Memo *afforded* parties over two months (until September 16, 2022) to *conduct discovery*,” citing to page 6 of the Scoping Memo.
- (2) “Parties were given the opportunity to participate in a workshop, *over two months to conduct discovery*, the option to request an evidentiary hearing, and ample time to pursue any other relief by way of motion practice.”¹⁷

The Council, CPower, Voltus, and Leapfrog can confirm that (1) the “workshop” in question was informal, was not recorded, and no presentation was made under oath by any presenter at that workshop, and (2) no “discovery” of any author of the Nexant Report was permitted for parties to A.22-05-002, et al., by staff or the Commission pursuant to and within the meaning of Rule 10.1. In fact, the page citation to the Scoping Memo by SCE includes no reference to “discovery” being allowed or “afforded” for parties to conduct of persons that prepared the Nexant Report or that those persons would be a party to A.22-05-002, et al., to allow such discovery.

Instead, based on directions by Energy Division staff, only “informal” questions regarding the Nexant Report were permitted to be submitted, and, then, not to the

¹⁷ SCE Proffer, *supra*, at pp. 8, 11; emphasis added.

Report's authors, but to the Commission's Energy Division that did not write the report. Further, responses by the Energy Division were considered "informal" and did not meet the requirements of Rule 10.1, where Energy Division is not a party to A.22-05-002, et al.; and were those "informal" responses were not authorized by Energy Division to be admitted as evidence in A.22-05-002, et al.

If what SCE is saying is that SCE was able to conduct discovery of the Nexant Report's authors and/or, in turn, could introduce that discovery as evidence in this proceeding, the Council, CPower, Voltus, and Leapfrog can confirm that this preferential treatment was not extended to any of them. In fact, if such a circumstance were true, it would not only violate Commission rules, but clearly be discriminatory and prejudicial to Council, CPower, Voltus, and Leapfrog in this Phase 1-DRAM process.

Finally, in an apparent "Hail Mary" to have "facts" of the Nexant Report designated differently than authorized by the Scoping Memo as part of the "proceeding record," SCE claims, without citation to any law or rule, that "a sponsoring witness" is not required "where a party offers into evidence a document that party did not prepare." SCE only supports this assertion by stating that such a requirement does not appear in Commission Rule 13.7, but fails to state what rule permits such conduct. Instead, other rules, identified above, govern how a "party" is to offer evidence or exhibits in Commission proceedings and the protections that apply, none of which have been met by SCE for Exhibit SCE -09.

The only "rule" that SCE asserts that arguably would somewhat alter the treatment accorded the Nexant Report in the Scoping Memo is its claim that the Commission can take "Official Notice of Facts" pursuant to Rule 13.10. However, this rule only applies to "matters as may be judicially noticed by the courts of the State of California pursuant to Evidence Code Section 450 et seq." The only Evidence Code citation offered by SCE in support of that "official notice" being taken of the Nexant Report here is to Evidence Code Section 452(d), which SCE paraphrases as: "[r]ecords of

...any court of this state.” But, in full, that subsection, where provision is made elsewhere for “legislative, executive, and judicial departments” of a state, is explicit and limited to: “Records of (1) any court of this state or (2) any court of record of the United States or of any state of the United States.” Such documents are not records of this Commission nor does this code section include any reference to this Commission’s records. Further, such a step is wholly unnecessary where the Nexant Report is part of the proceeding record and can be cited as such in “comments” allowed by the Scoping Memo.

3. If the Commission, Contrary to the Objections Stated Herein, Nevertheless Grants SCE’s Motion to Admit Exhibit SCE-09 Into Evidence in A.22-05-002, et al., Exhibit SCE-09 Should be Given Little, If Any, Weight.

If the Commission elects to grant SCE’s proffer and admits Exhibit SCE-09 into evidence in A.22-05-002, et al., over the clear and appropriate objections to it doing so stated above, the Commission (1) must be very clear on the grounds on which it has admitted Exhibit SCE-09, especially to fully notice all parties of the rules and laws on which it relies in doing so, and (2) must give Exhibit SCE-09 little or no weight as “evidence” in this proceeding. With respect to the last point, SCE proffers the Nexant Report as “evidence” because: (1) no one questions that “Attachment 1 to the Scoping Memo is a true and correct copy of the public version of the Nexant Report,” (2) the Commission, by attaching it to the Scoping Memo, the Commission “arguably took judicial notice of the document” pursuant to Rule 13.10, and (3) “if considered hearsay,” it is still admissible into evidence.

None of these points establish a basis for admitting Exhibit SCE-09 into evidence for all of the reasons stated in the objections by Council, CPower, Voltus, and Leapfrog in Sections b.1. and b.2. First, perhaps the “public version” of the Nexant Report attached to the Scoping Memo may be “a true and correct copy” of what was provided by the consultants that prepared that report to the Commission’s Energy Division, but that only

merited including it in the “proceeding” record, as the Scoping Memo made clear, and not as evidence. In fact, SCE provides no citation that supports how that attached Nexant Report was ever “authenticated” where it was never verified under penalty of perjury as to the facts it asserts (Rule 1.11) and was never “certified under penalty of perjury by the person preparing or in charge of preparing them as being true and correct” (Rule 13.7(e)).

Second, no statement made in the Scoping Memo or in any ruling issued in this proceeding since has invoked Rule 13.10 as “officially noticing” the Nexant Report attached to the Scoping Memo. Instead, the Scoping Memo, and rulings issued since, only state and confirm that the Nexant Report has been made part of the “proceeding” record in A.22-05-002, et al. Further, such “official notice” does not make the Nexant Report admissible as evidence at all.

Third, the only other claim made by SCE for admission of Exhibit SCE-09 as evidence in this proceeding is that the Commission does not need to follow the “technical” rules of evidence and can admit the Nexant Report as “hearsay.” As defined by the Evidence Code: “Hearsay evidence’ is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter stated.” (Evidence Code Section 1200(a).) There is no question that the Nexant Report as proffered by SCE as evidence in A.22-05-002, et al., would squarely meet the definition of “hearsay evidence” where it is wholly comprised of statements made other than by a witness” testifying in this proceeding and “offered to provide the truth of the matter stated.” Pursuant to the Evidence Code such “hearsay evidence is inadmissible” (Evidence Code Section 1200(b)), but if the Commission elects to waive that “requirement” and admits the Nexant Report as evidence, it should certainly be given little, if any, evidentiary weight, not just as hearsay, but where no party has had the opportunity to conduct discovery or cross examination of any “witness” that has offered the report under penalty of perjury. This is particularly critical to protect the due

process rights of all parties equally not just in Phase 1-DRAM, but in Phase 2, where the Nexant Report may continue to be addressed.

4. Conclusion

SCE has failed to comply with applicable Commission rules and has not provided any grounds for the admission of Exhibit SCE-09 containing the Nexant Report into evidence in Phase 1-DRAM. To preserve the due process rights of all parties to this proceeding, the Commission should promptly deny SCE's motion to move Exhibit SCE-09 into evidence. If, however, the Commission admits Exhibit SCE-09 into evidence, it must confirm that it does so as "hearsay evidence" only and that Exhibit SCE-09 is to be given little, if any, weight in the evidentiary record for all of the reasons stated above.

c. CAL ADVOCATES POSITION

Cal Advocates joins in SCE's proffer of proof regarding admission of the Nexant Report as evidence in the DRAM portion of the proceeding and respectfully requests the Commission grant the motion to admit all the requested exhibits listed in Section II above, as well as the Nexant Report, Exhibit SCE-09.

d. SDG&E AND PG&E's POSITION

SDG&E and PG&E support SCE's position that the Nexant Report should be admitted as an exhibit in this proceeding to ensure a complete and accurate evidentiary record. The Nexant Report was attached to the Scoping Memo, which ruled that: "[t]he Demand Response Auction Mechanism Evaluation Report, is added to the proceeding record. Parties are directed to use the document to inform their testimony and comments regarding the Demand Response Auction Mechanism." Given this clear direction, much of the DRAM related testimony submitted in Phase I makes explicit references to the Nexant Report and the report is the basis for the various arguments both for and against the continuance of DRAM in the bridge year. The Auction Mechanism schedule in the July 5 Scoping Ruling specifically describes the briefs as commenting on the Nexant report ("Opening Briefs on Nexant Report and Auction

Mechanism”). It would be anomalous and illogical to somehow scrub all references to the report. And it would be odd, confusing, and incomplete to have an exhibit list that omits the very document that significant portions of the DRAM testimony references and which the Scoping Ruling directs be addressed in the briefs.

In addition, SDG&E and PG&E’s position is that inclusion of the Nexant Report into the evidentiary record does not mean that all parties agree to the findings set forth therein. Rather, all parties remain free to challenge the weight that should be given to the Nexant Report as part of their briefs. However, just because there is disagreement regarding the substance of the Nexant Report does not mean that it should be excluded as evidence in this proceeding. Even then, the Commission ultimately determines the weight and probative value of information presented in the record, including exhibits admitted into evidence.¹⁸

IV. CONCLUSION

For the foregoing reasons, PG&E and the other parties supporting this motion request that the Commission admit all of the exhibits listed in Section II above, into the record as evidence in this proceeding. Pursuant to ALJ Toy’s Ruling, PG&E also anticipates a ruling on whether SCE’s motion to move Exhibit SCE-09 into evidence, which has been contested herein, is granted or denied.

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¹⁸ D.15-03-049, pp. 2-3 (“How information and evidence is weighed in any given proceeding is entirely within the Commission’s discretion and authority to determine as the trier of fact. And the Commission may reach its own conclusions regarding the probative value of the evidence”).

ATTACHMENT A

Proceeding No.
A.22-05-002, -003 and -004

**Exhibit List, Uncontested Exhibits
PHASE 1 (2024 DRAM); A.22-05-002, et al.
September 26, 2022, subject to modification**

ALJ
Toy and Jungreis

Phase 1 2024 Demand Response Auction Mechanism Exhibits				
Exh. No.	Sponsor/Witness	Description	Entered into Evidence	Link on CPUC Supporting Documents Website
PG&E-2	Csapo, Sebastien	PG&E's 2023-2027 Demand Response Programs, Pilots, and Budgets 2024-2027 Full Proposal Prepared Testimony, Chapter 5.		https://docs.cpuc.ca.gov/PublishedDocs/SupDoc/A2205002/4857/474109675.pdf
PG&E-4	Csapo, Sebastien	PG&E's Demand Response Auction Mechanism, Pursuant to the July 5, 2022 Scoping Memo in A.22-05-002 Supplemental Testimony served August 5, 2022		https://docs.cpuc.ca.gov/PublishedDocs/SupDoc/A2205002/5309/496418259.pdf
PG&E-6	Csapo, Sebastien	PG&E's Demand Respond Auction Mechanism Pursuant to the July 5, 2022 Scoping Memo in A.22-05-002 Rebuttal Testimony served September 2, 2022		https://docs.cpuc.ca.gov/PublishedDocs/SupDoc/A2205002/5514/497016493.pdf
SCE-07	Coher, David B.	SCE's Testimony in Support of Its Application for Approval of Its 2023-2027 Demand Response Programs: Exhibit 7 - Supplemental Testimony on Nexant Report and Auction Mechanism served August 5, 2022		https://docs.cpuc.ca.gov/PublishedDocs/SupDoc/A2205002/5305/496415743.pdf
SCE-08	Coher, David B.	Southern California Edison Company's Testimony In Support Of Its Application for Approval Of Its 2023-2027 Demand Response Programs: - Reply Testimony On Nexant Report And Auction Mechanism		https://docs.cpuc.ca.gov/PublishedDocs/SupDoc/A2205002/5437/496694957.pdf

SDGE-1C	Mantz, E Bradford	SDG&E's Prepared Supplemental Testimony of E Bradford Mantz – Chapter 1C served August 5, 2022		https://docs.cpuc.ca.gov/PublishedDocs/SupDoc/A2205002/5444/496679919.pdf
SDGE-2C	Mantz, E Bradford	Prepared Rebuttal Testimony Of E Bradford Mantz On Behalf Of San Diego Gas & Electric Company (Demand Response Auction Mechanism) served September 2, 2022		https://docs.cpuc.ca.gov/PublishedDocs/SupDoc/A2205002/5444/496688629.pdf
Cal Advocates-02	Castello, Stephen	Public Advocates Office Opening Testimony on Application of PG&E for Approval of Its Demand Response Programs, Pilots and Budgets for Program Years 2023-2027 (Public Version) served August 5, 2022		https://docs.cpuc.ca.gov/PublishedDocs/SupDoc/A2205002/5308/496412477.pdf
Cal Advocates-03-CONF	Castello, Stephen	Public Advocates Office Opening Testimony on Application of PG&E for Approval of Its Demand Response Programs, Pilots and Budgets for Program Years 2023-2027 (Confidential-PG&E) served August 5, 2022		[Served on PG&E on August 5, 2022.]
Cal Advocates-04-CONF	Castello, Stephen	Public Advocates Office Opening Testimony on Application of PG&E for Approval of Its Demand Response Programs, Pilots and Budgets for Program Years 2023-2027 (Confidential-SCE) served August 5, 2022		[Served on SCE on August 5, 2022.]
Cal Advocates-05-CONF	Castello, Stephen	Public Advocates Office Opening Testimony on Application of PG&E for Approval of Its Demand Response Programs, Pilots and Budgets for Program Years 2023-2027 (Confidential-CPUC) served August 5, 2022		[Served on Assigned Administrative Law Judge on August 5, 2022.]

Cal Advocates-06	Castello, Stephen	Public Advocates Office's Reply Testimony on Application of PG&E for Approval of Its Demand Response Programs, Pilots and Budgets for Program Years 2023-2027 served September 2, 2022		https://docs.cpuc.ca.gov/PublishedDocs/SupDoc/A2205002/5438/496697980.pdf
Council/Leap-02	Desmond, Joseph	California Efficiency + Demand Management Council and Leapfrog Power, Inc.'s Opening Testimony served August 5, 2022		https://docs.cpuc.ca.gov/PublishedDocs/SupDoc/A2205002/5306/496418289.pdf
Council/Leap-03	Desmond, Joseph	Reply Testimony Of The California Efficiency + Demand Management Council And Leapfrog Power, Inc. served September 2, 2022		https://docs.cpuc.ca.gov/PublishedDocs/SupDoc/A2205002/5439/496679879.pdf
CESA-01	Noh, Jin	California Energy Storage Alliance's Supplemental Testimony of Jin Noh served August 5, 2022		https://docs.cpuc.ca.gov/PublishedDocs/SupDoc/A2205002/5312/496418305.pdf
CPower-1	Chamberlin, Jennifer A.	CPower, Inc.'s Phase 1 Supplemental Testimony on 2023 Demand Response Auction Mechanism and Nexant Report served August 5, 2022		https://docs.cpuc.ca.gov/PublishedDocs/SupDoc/A2205002/5310/496415652.pdf
OhmConnect-2	Belenky, Maria	OhmConnect, Inc.'s Supplemental Testimony on the Demand Response Auction Mechanism Pilot served August 5, 2022		https://docs.cpuc.ca.gov/PublishedDocs/SupDoc/A2205002/5307/496416733.pdf
OhmConnect-3	Belenky, Maria	Reply Testimony Of Ohmconnect, Inc. On The Demand Response Auction Mechanism Pilot served September 2, 2022		https://docs.cpuc.ca.gov/PublishedDocs/SupDoc/A2205002/5440/496676234.pdf
Voltus-01	Satrom, Jared	Voltus, Inc.'s Supplemental Prepared Testimony on the Demand Response Auction Mechanism and Nexant Report (Phase I, Bridge Year) served August 5, 2022		https://docs.cpuc.ca.gov/PublishedDocs/SupDoc/A2205002/5311/496415603.pdf

Phase 1 2023 Bridge Funding Exhibits

Exh. No.	Sponsor/Witness	Description	Entered into Evidence	Link on CPUC Supporting Documents Website
PG&E-1	Thorne, Jomo A Wetstone, Brad	PG&E's 2023-2027 Demand Response Programs, Pilots, and Budgets Prepared Testimony, Exhibit 1 - 2023 Bridge Funding		https://docs.cpuc.ca.gov/PublishedDocs/SupDoc/A2205002/4854/473872959.pdf
PG&E-3	Chiu, Randy Thorne, Jomo A Wetstone, Brad	PG&E's 2023-2027 Demand Response Programs, Pilots, and Budgets Rebuttal Testimony, Exhibit 3 - 2023 Bridge Funding		https://docs.cpuc.ca.gov/PublishedDocs/SupDoc/A2205002/5299/496396794.pdf
PG&E-5	Joseph Desmond	Council Response to PG&E (PGE_CEDMC001)		https://docs.cpuc.ca.gov/PublishedDocs/SupDoc/A2205002/5342/496435853.pdf
SCE-01	C. Parson	Southern California Edison Company's Testimony In Support Of Its Application For Approval Of 2023–2027 Demand Response Programs: Exhibit 1 – Policy (2023 bridge year only)		https://docs.cpuc.ca.gov/PublishedDocs/SupDoc/A2205004/4832/473860102.pdf
SCE-02	E. Keating, M. Sheriff	Southern California Edison Company's Testimony In Support Of Its Application For Approval Of 2023–2027 Demand Response Programs: Exhibit 2 – SCE's 2023 Proposed Demand Response Programs Bridge Funding Request (2023 Bridge year only)		https://docs.cpuc.ca.gov/PublishedDocs/SupDoc/A2205004/4833/473872933.pdf
SCE-03	E. Keating, C. Smith, M. Williams, N. Gonzalez, C. Rauss	Southern California Edison Company's Testimony In Support Of Its Application For Approval Of 2023–2027 Demand Response Programs: Exhibit 3 – SCE's 2023-2027 Proposed Demand Response Programs by Category, (2023 Bridge year only)		https://docs.cpuc.ca.gov/PublishedDocs/SupDoc/A2205004/4834/473872934.pdf
SCE-04	R. Behlihomji, C. Smith, P. Gautam, N. Gonzalez,	Southern California Edison Company's Testimony In Support Of Its Application For Approval Of 2023–2027 Demand Response Programs: Exhibit 4 –		https://docs.cpuc.ca.gov/PublishedDocs/SupDoc/A2205004/4835/472481853.pdf

	M. Ahyow, M. Sheriff	Program Incentive Development/Cost-effectiveness Analysis/Program Enrollment and Load Impact Forecasts/Revenue Requirement and Cost Recovery (2023 Bridge year only)		
SCE-05		Witness Qualifications		https://docs.cpuc.ca.gov/PublishedDocs/SupDoc/A2205004/4836/473859279.pdf
SCE-06	Tara Becnel	Southern California Edison Company's Testimony In Support Of Its Application For Approval Of 2023–2027 Demand Response Programs: Exhibit 6-Phase I Reply Testimony		https://docs.cpuc.ca.gov/PublishedDocs/SupDoc/A2205002/5298/496412517.pdf
SDGE-1A	E Bradford Mantz	Prepared Direct Testimony Of E Bradford Mantz- Chapter 1a On Behalf Of San Diego Gas & Electric Company		https://docs.cpuc.ca.gov/PublishedDocs/SupDoc/A2205002/5333/496415874.pdf
SDGE-2A	Ellen Kutzler	Prepared Direct Testimony Of Ellen Kutzler - Chapter 2a On Behalf Of San Diego Gas & Electric Company		https://docs.cpuc.ca.gov/PublishedDocs/SupDoc/A2205002/5333/496435805.pdf
SDGE-3A	April Bernhardt	Prepared Direct Testimony Of April Bernhardt- Chapter 3a On Behalf Of San Diego Gas & Electric Company		https://docs.cpuc.ca.gov/PublishedDocs/SupDoc/A2205002/5333/496416389.pdf
SDGE-4A	Lizzette Garcia-Rodriguez	Prepared Direct Testimony Of Lizzette Garcia-Rodriguez– Chapter 4a On Behalf Of San Diego Gas & Electric Company		https://docs.cpuc.ca.gov/PublishedDocs/SupDoc/A2205002/5333/496415780.pdf
SDGE-5A-R	Brenda Gettig	<i>Revised</i> Prepared Direct Testimony Of Brenda Gettig - Chapter 5a On Behalf Of San Diego Gas & Electric Company		https://docs.cpuc.ca.gov/PublishedDocs/SupDoc/A2205002/5340/496439874.pdf
SDGE-6A	Kenneth C. Pitsko	Prepared Direct Testimony Of Kenneth C. Pitsko– Chapter 6a On Behalf Of San Diego Gas & Electric Company		https://docs.cpuc.ca.gov/PublishedDocs/SupDoc/A2205002/5333/496435697.pdf
SDGE-7A	E Bradford Mantz	Prepared Rebuttal Testimony Of E Bradford Mantz On Behalf Of San Diego Gas & Electric Company		https://docs.cpuc.ca.gov/PublishedDocs/SupDoc/A2205002/5333/496418339.pdf
SDGE-8A	Brenda Gettig	Prepared Rebuttal Testimony Of Brenda Getting On Behalf Of San Diego Gas & Electric Company		https://docs.cpuc.ca.gov/PublishedDocs/SupDoc/A2205002/5333/496441157.pdf

CalAdvocates-01	S. Castello	Opening Testimony - (Executive Summary, Chapter 1, Appendix A, Attachment)		https://docs.cpuc.ca.gov/PublishedDocs/SupDoc/A2205002/5308/496412477.pdf
Council-01	Joseph Desmond	Reply Testimony Of The California Efficiency + Demand Management Council		https://docs.cpuc.ca.gov/PublishedDocs/SupDoc/A2205002/5294/496415724.pdf
OhmConnect-1	Maria Belenky	Opening Testimony Of Maria Belenky		https://docs.cpuc.ca.gov/PublishedDocs/SupDoc/A2205002/5307/496416733.pdf
SBUA-1	Ted Howard	Direct Testimony Of Ted Howard		https://docs.cpuc.ca.gov/PublishedDocs/SupDoc/A2205002/5199/496341590.pdf

ATTACHMENT B

Proceeding No.
A.22-05-002, -003 and -004

**Exhibit List, Contested Exhibit Only
PHASE 1 (2024 DRAM); A.22-05-002, et al.
September 26, 2022,**

ALJ
Toy and Jungreis

Phase 1 2023 Bridge Funding Exhibits, DRAM Phase 1				
Exh. No.	Sponsor/Witness	Description	Entered into Evidence	Link on CPUC Supporting Documents Website
SCE-09	Southern California Edison	Demand Response Auction Mechanism Evaluation–Submitted by Nexant in partnership with Gridwell Consulting [Public Version–Redacted] May 23, 2022		https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M490/K475/490475883.PDF (Attachment 1)