

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



**FILED**

10/07/22  
04:59 PM  
A2205002

Application of Pacific Gas and Electric Company (U39E) for Approval of its Demand Response Programs, Pilots and Budgets for Program Years 2023-2027.	A.22-05-002
Application of San Diego Gas & Electric Company (U902E) Requesting Approval and Funding of its Demand Response Portfolio for Bridge Year 2023 and Program Years 2024-2027.	A.22-05-003
Application of Southern California Edison Company (U338E) for Approval of Demand Response Programs and Budgets for 2023-2027.	A.22-05-004

**OPENING BRIEF OF OHMCONNECT, INC. ON  
THE DEMAND RESPONSE AUCTION MECHANISM – IOU DR APPLICATIONS**

Maria Belenky  
Manager, Market Development  
OhmConnect, Inc.  
371 3<sup>rd</sup> Street, 2<sup>nd</sup> Floor  
Oakland, CA 94607  
Telephone: (415) 697-1271  
Email: maria@ohmconnect.com

October 7, 2022

Vidhya Prabhakaran  
Katie Jorrie  
DAVIS WRIGHT TREMAINE LLP  
505 Montgomery Street, Suite 800  
San Francisco, CA 94111-6533  
Tel. (415) 276-6500  
Fax. (415) 276-6599  
Email: vidhyaprabhakaran@dwt.com  
Email: katiejorrie@dwt.com  
Attorneys for OhmConnect, Inc.

## TABLE OF CONTENTS

	<b>Page</b>
I. INTRODUCTION .....	1
II. THE NEXANT REPORT PROVIDES SUFFICIENT EVIDENCE OF IMPROVEMENT TO WARRANT AN ADDITIONAL DRAM AUCTION .....	2
III. OPPONENTS OF THE DRAM MISCHARACTERIZE AVAILABLE ALTERNATIVES.....	4
IV. THE COMMISSION CAN CONCLUDE THAT THE REPORT OFFERS SUFFICIENT EVIDENCE TO CONTINUE THE PILOT EVEN WHILE IT QUESTIONS SPECIFIC FINDINGS IN THE REPORT .....	6
A. The Conclusion that DRAM Offers Were Not Competitive Should Be Given Little Weight.....	7
B. The Commission Should Be Skeptical of Claims that DRAM Sellers Overreport Performance.....	9
V. CONCLUSION.....	10

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

Application of Pacific Gas and Electric Company (U39E) for Approval of its Demand Response Programs, Pilots and Budgets for Program Years 2023-2027.	A.22-05-002
Application of San Diego Gas & Electric Company (U902E) Requesting Approval and Funding of its Demand Response Portfolio for Bridge Year 2023 and Program Years 2024-2027.	A.22-05-003
Application of Southern California Edison Company (U338E) for Approval of Demand Response Programs and Budgets for 2023-2027.	A.22-05-004

**OPENING BRIEF OF OHMCONNECT, INC. ON  
THE DEMAND RESPONSE AUCTION MECHANISM – IOU DR APPLICATIONS**

Pursuant to Rule 13.12 of the California Public Utilities Commission (“Commission”) Rules of Practice and Procedure and the July 5, 2022 *Assigned Commissioner’s Scoping Memo and Ruling* (“Scoping Memo”), OhmConnect, Inc. (“OhmConnect”) respectfully submits this opening brief in the applications of Pacific Gas and Electric Company (“PG&E”), Southern California Edison Company (“SCE”) and San Diego Gas and Electric Company (“SDG&E”) to approve demand response (“DR”) programs and budgets for the 2023 bridge year.

**I. INTRODUCTION**

The Commission should direct PG&E, SCE and SDG&E (together, investor-owned utilities or “IOUs”) to conduct a Demand Response Auction Mechanism (“DRAM”) auction in 2023 for 2024 deliveries.<sup>1</sup> This recommendation is based on 1) the fact that the interim evaluation of the DRAM pilot program conducted by Nexant and Gridwell Consulting (“Nexant

---

<sup>1</sup> See Ex. OhmConnect-02 (Maria Belenky), Supplemental Testimony of OhmConnect, Inc. on the Demand Response Auction Mechanism Pilot (“Ex. OhmConnect-02”) at 1-2.

Report”) showed either success or progress on nearly all assessment criteria, and 2) the importance of avoiding the scenario of pausing the DRAM in 2024 but adopting it as a long-term procurement mechanism in 2025 and beyond, which undermines regulatory certainty and depresses future participation.<sup>2</sup> To balance the value of continuity with prudent use of ratepayer funds, the Commission should adopt the same budget for the 2023 auction as was approved for 2022.<sup>3</sup>

The Commission should conduct a DRAM auction in 2023 for 2024 deliveries because:

1. The Nexant Report provides sufficient evidence of improvement to warrant the Commission requiring an additional DRAM auction;
2. Opponents of the DRAM mischaracterize existing alternatives; and,
3. The Commission can conclude that the Report offers sufficient evidence to continue the pilot even while it questions specific findings in the Report.

## **II. THE NEXANT REPORT PROVIDES SUFFICIENT EVIDENCE OF IMPROVEMENT TO WARRANT AN ADDITIONAL DRAM AUCTION**

Witnesses for SDG&E, SCE, and Cal Advocates misrepresent the Nexant Report’s findings by dismissing all evidence of the success of DRAM as unimportant and any improvement as either insignificant or completely nonexistent. However, the Nexant Report provides sufficient evidence of improved performance in the DRAM to warrant the Commission approving an additional DRAM auction under the current design.

Astonishingly, SDG&E witness Mantz incorrectly claims: “[t]o pull directly from the DRAM Evaluation Report itself from the summary at page 2, the report states that criterions 1, 2, 3 and 4 were not achieved, but only somewhat improved.” The summary at page 2 of the report specifically states that criteria 1-3 were achieved. Criterion 4 was not met, but improvement was

---

<sup>2</sup> Exhibit OhmConnect-02, at 2.

<sup>3</sup> *Id.*

evident. Witness Mantz then uses that false premise to conclude that “none of the criteria aimed at the DRPs were met with consistent or clear achievement.”<sup>4</sup> Yet even, Criteria 5 and 6 showed mixed results, with the results for criterion six improving consistently.

Similarly, SCE’s witness claims that “the DRAM continues to not satisfy all six [evaluation] criteria, and the Nexant Report provides no basis to expect that it ever will.”<sup>5</sup> SCE provides no support for this line of argument. First, the Report makes no such claim. Second, the evaluation was conducted using data from the first year and a half of the second DRAM iteration—six months in 2020 and all of 2021.<sup>6</sup> The full pilot runs for two more years, through 2023. Witness Coher is, in effect, using data from the first year and a half of the redesigned pilot—data which showed improvement, no less—to conclude that DRAM cannot possibly meet all six criteria by the end of its second authorization in 2023. Finally, in asserting that the DRAM “must meet” the outlined six criteria or else be terminated, SCE’s witness misrepresents the context in which the requirements described in Decision (“D.”) 16-09-056 and D.19-07-009 are to be applied. The actual language in these decisions states: “the Commission considers ‘these criteria as objectives that the demand response auction mechanism must meet in order to expand its role in the resource adequacy market.’”<sup>7</sup> The current scoping question is neither whether DRAM should be made a permanent program nor whether its role should be expanded, but whether another auction should be ordered in 2023 to bridge the gap between the current authorization and the final decision on the DRAM in phase 2 of this proceeding. Rather than

---

<sup>4</sup> Ex. SDG&E-2C, Prepared Rebuttal Testimony of E. Bradford Mantz on behalf of San Diego Gas & Electric Company (Demand Response Auction Mechanism) (Sept. 2, 2022), at EBM-2.

<sup>5</sup> Ex. SCE-08 (D. Coher), Southern California Edison’s Testimony in Support of its Application for Approval of its 2023-2027 Demand Response Programs: Exhibit 8 – Reply Testimony on Nexant Report and Auction Mechanism (“SCE Reply Testimony”), at 3 (Sept. 2, 2022).

<sup>6</sup> 2019 was part of the first DRAM pilot and the changes made to its design to improve performance did not take effect until 2020.

<sup>7</sup> D.19-07-009, at 9.

prematurely make an evaluation of the DRAM as a permanent program, as the SCE witness recommends, the Commission should instead use this same data to conclude that there is sufficient evidence of improved performance in the DRAM to warrant the Commission approving an additional DRAM auction.

Finally, Cal Advocates asserts that “DRAM has not met the criteria the Commission set to determine success of the pilot and, after 8 years of auctions, it is unreasonable to assume there will be improvement.”<sup>8</sup> First, the total number of auctions is irrelevant to an evaluation of the current mechanism. The DRAM was reauthorized with a new design in 2019, with deliveries beginning in June of 2020. The Nexant Report evaluates the first year and a half of this second authorization period. This is the data the Commission should focus on to determine whether an additional DRAM auction is appropriate. And using this data, the Report concludes that the DRAM continues to meet three of the six criteria and is improving on two of the three criteria that it has not yet met. Thus, contrary to the statement made by Cal Advocates, the Commission can reasonably conclude that there has been and will be improvement in the final two years of the pilot to warrant authorization of an additional DRAM auction.

### **III. OPPONENTS OF THE DRAM MISCHARACTERIZE AVAILABLE ALTERNATIVES**

Opponents of extending the DRAM pilot program argue that numerous alternatives exist for demand response providers (“DRPs”) to provide resource adequacy (“RA”) and, therefore, DRAM is not necessary. While other alternatives do exist, they do not provide a sufficient basis for the Commission to foreclose conducting a DRAM auction in 2023 for 2024 deliveries.

---

<sup>8</sup> 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, at 1-2 and 1-3 (Aug. 5, 2022).

Further, the Commission should ignore SDG&E’s inapposite discussions of DRAM alternatives that are not alternatives at all.

Bilateral solicitations are a viable avenue to provide RA outside of the DRAM. However, pursuing bilateral solicitations requires undertaking the load impact protocols (“LIP”) process. DRPs have repeatedly raised concerns regarding the LIP and cite them as a significant barrier to entry.<sup>9</sup> Some DRPs legitimately cannot undertake the LIP exercise, which effectively forecloses the non-DRAM RA pathway. Thus, the possibility of undertaking bilateral solicitations does not by itself obviate the need for the Commission to conduct a DRAM auction in 2023.

Similarly, IOU DR aggregator programs offer another avenue to provide RA. However, the Commission should reject PG&E’s characterization that “[b]oth DRAM and [Capacity Bidding Program] CBP are interchangeable since they utilize Proxy Demand Resources (PDR).”<sup>10</sup> The fact that both utilize the PDR construct does not make them interchangeable. For DRPs that have built infrastructure to form their own resources and bid directly into the CAISO market, CBP offers much less flexibility than direct market participation. Within the CBP structure, the IOUs function as intermediaries, introducing inefficiencies that significantly raise the cost of operations. While PG&E has made significant efforts to ensure that CBP meets the needs of aggregators, the use of intermediaries has inherent inefficiencies and some DRPs will never prefer operating through intermediaries to direct market participation.

---

<sup>9</sup> See Ex. Cpower-1 (Jennifer A. Chamberlin) Phase 1 Supplemental Testimony of Cpower, Inc., on 2023 Demand Response Auction Mechanism and Nexant Report at 6 (Aug. 5, 2022); Ex. Council/Leap-03, Reply Testimony of the California Efficiency + Demand Management Council and Leapfrog Power, Inc., at 6 (Sept. 2, 2022), at 6.

<sup>10</sup> Ex. PG&E-6 (Sebastien Csapo), PG&E Demand Response Auction Mechanism Pursuant to the July 5, 2022 Scoping Memo in A.22-05-002 Rebuttal Testimony, at 4.

The Commission should especially ignore SDG&E's attempts to present alternatives that are not real alternatives to convince the Commission from continuing the DRAM auction in 2023. SDG&E oddly attempts to present the Emergency Load Reduction Program ("ELRP") and Community Choice Aggregator ("CCA") DR partnerships as DRAM alternatives.

First, while DRAM customers can participate in the ELRP, the ELRP is not a capacity program and is not in any way a substitute for capacity contracts for the DRP.

Second, CCA DR partnerships are also not an "alternative." To support this option, SDG&E cites OhmConnect's partnership with San Diego Community Power ("SDCP"). SDG&E misunderstands the nature of this partnership. OhmConnect and SDCP's partnership is a marketing arrangement intended to showcase OhmConnect's program to SDCP customers and provide a pathway for them to enroll in OhmConnect. OhmConnect can then include these customers in resources to help meet its RA obligations, in and outside of the DRAM. Beyond the fact that this marketing partnership with a CCA is in no way a substitute for a RA contract for the DRP, it is not even "another DR option for customers."

#### **IV. THE COMMISSION CAN CONCLUDE THAT THE REPORT OFFERS SUFFICIENT EVIDENCE TO CONTINUE THE PILOT EVEN WHILE IT QUESTIONS SPECIFIC FINDINGS IN THE REPORT**

SCE claims that "witnesses treat the report as reliable when citing it in support of their argument to extend DRAM, yet criticize the report as unreliable insofar as the report does not support an extension."<sup>11</sup> However, the Commission can conclude that the Report offers sufficient evidence to continue the DRAM for an additional year, even as it raises questions about specific findings in the Report.

---

<sup>11</sup> SCE Reply Testimony, at 6.



The Report's high-level conclusions are largely reasonable and support continuing the pilot. However, DRPs should have been given an opportunity to review a draft of the Nexant Report prior to publication, especially with respect to DRPs' own data, and dispute two specific and problematic conclusions in the Report: 1) DRAM bids in the wholesale market are not competitive; and 2) DRAM Sellers overreport their performance.

**A. The Conclusion that DRAM Offers Were Not Competitive Should Be Given Little Weight**

While the Nexant Report did "...clearly and reasonably identif[y] the data and metrics used in the evaluation for Criterion 4,"<sup>12</sup> it did not specify the values these metrics would need to yield for the evaluators to deem DRAM successful on this criterion. As such, the Report's conclusion that DRAM offers into the wholesale market were not competitive should be given little weight.

SCE and Cal Advocates argue that the metrics used to assess performance on criterion 4 have long been established, and, in 2016, received OhmConnect's support.<sup>13</sup> As such, SCE and Cal Advocates argue that parties cannot reasonably claim that conclusions in the report that are based on these metrics were inappropriate. SCE and Cal Advocates confuse a *metric*, which is the item of measurement, and a *benchmark*, which is a specific outcome of that metric against which success or failure is measured. "Scheduling efficiency" is a metric, a "20%" scheduling efficiency is a benchmark.

OhmConnect's position remains unchanged with respect to the metrics used—both scheduling frequency and schedule efficiency are informative and appropriate. What has become increasingly clear since the first evaluation, however, is that there is no consensus on the

---

<sup>12</sup> SCE Reply Testimony, at 6.

<sup>13</sup> See SCE Reply Testimony, at 6; Public Advocates Office Reply Testimony, at 2-1.

frequency with which DR resources are to be utilized to be valuable (i.e., the benchmark for the frequency metric). The Nexant Report concludes that DRAM offers were not competitive because the resources were scheduled at a much lower rate than natural gas peaker plants and in-front-of-meter (“IFOM”) storage, and at a somewhat lower rate than IOU DR programs. These comparisons create an inappropriate benchmark. DR is much more use-limited than gas peakers and IFOM storage by design—*of course* all DR shows much lower scheduling rates—and IOU DR programs that were dispatched more frequently in 2020 suffered from customer attrition.<sup>14</sup>

Outside of utilizing this comparison to create an inappropriate benchmark, the evaluators did not opine on what percentage scheduling frequency or efficiency would be deemed competitive for a use-limited resource such as DR.<sup>15</sup> Would 20 percent be judged competitive? Certainly, it cannot be 100 percent. If a DR provider met the minimum RA availability requirements in every month of the year,<sup>16</sup> the equivalent scheduling frequency would be only 22 percent. However, market conditions do not necessitate this frequency of dispatch in most months. Moreover, if every DRP dispatched its customers in this way, DR programs would likely see substantial attrition. Thus, the Report’s conclusion that DRAM offers into the wholesale market were not competitive should be given little weight absent an appropriate benchmark for determining what would be competitive.

---

<sup>14</sup> See OhmConnect Supplemental testimony, at 3-4.

<sup>15</sup> OhmConnect does not opine on the specific value that should be used as a benchmark because this is a complex policy question that should be tackled in a broader stakeholder forum.

<sup>16</sup> The minimum RA availability requirements are 4 continuous hours a day, three days in a row, up to 24 hours a month.

**B. The Commission Should Be Skeptical of Claims that DRAM Sellers Overreport Performance**

The Commission should find that claims of overreporting of market performance—a serious issue if this is indeed occurring—are not supported by the evidence.<sup>17</sup> First, the Nexant Report broadly concludes that “[i]n most event hours, DRPs overreport their delivered energy.”<sup>18</sup> The evaluators made this determination by comparing DRPs’ CAISO settlement data and DRPs’ quarterly report data with Nexant’s recreation of the DRPs’ performance using the same data and baseline methodologies. While, in a perfect world, all three calculations would yield the same results, the evaluation team found discrepancies. In some months, the data submitted to Energy Division Staff in quarterly reports showed higher performance than either the DRPs’ settlement data or Nexant’s recreation of settlement.

Inasmuch as the DRPs’ quarterly reports show greater values than CAISO settlement data, it is likely due to reporting errors. This is evidenced by the fact that the largest discrepancies, November and December of 2020, coincide with the implementation of a new reporting template. Importantly, DRPs are not paid based on these values, so errors have no material impact.

Nexant also found discrepancies between their own calculations of DRP performance and DRPs’ CAISO settlement data. While this needs further investigation, Nexant’s calculations are sometimes higher and sometimes lower than those of the DRPs. Therefore, these calculations do not suggest a general overreporting of delivered energy, and certainly not “in most event hours.”

Further, the Nexant Report also does not support Cal Advocates’ assertions of overreporting. Cal Advocates states that “analysis of 2019 and 2020 DRAM Resource invoices

---

<sup>17</sup> See OhmConnect Supplemental testimony, at 5-8.

<sup>18</sup> Nexant Report at 151.

and CAISO Settlement and bid data revealed concerning discrepancies between performance claimed on DRAM invoices to the IOUs and performance claimed to the CAISO”<sup>19</sup> and notes that this analysis “reached similar conclusions to the Nexant Report.”<sup>20</sup> First, the Nexant Report cannot support Cal Advocates’ conclusions as the two entities are measuring completely different things. Specifically, Cal Advocates compares DRAM invoices to CAISO settlement data, while Nexant compares CAISO settlement data to their own recalculations of CAISO performance. Nexant does not analyze and draws no conclusions regarding DRAM invoiced quantities. Moreover, Cal Advocates’ analysis is from 2019 and 2020. OhmConnect is not privy to Cal Advocates’ data and therefore cannot comment on its accuracy. However, OhmConnect urges Cal Advocates to repeat the analysis with more recent data to determine whether the issue persists, rather than simply insinuating that it does.

## V. CONCLUSION

The Commission should extend the DRAM pilot through the 2023 bridge year based on an objective reading of the Nexant Report, which provides sufficient evidence of improvement to warrant an additional DRAM auction.

Respectfully submitted,

By: /s/\_\_\_\_\_

Vidhya Prabhakaran  
Katie Jorrie  
DAVIS WRIGHT TREMAINE LLP  
505 Montgomery Street, Suite 800  
San Francisco, CA 94111-6533  
Tel. (415) 276-6500  
Fax. (415) 276-6599  
Email: vidhyaprabhakaran@dwt.com  
Email: katiejorrie@dwt.com

October 7, 2022

Attorneys for OhmConnect, Inc.

---

<sup>19</sup> Public Advocates Office Reply Testimony, at 2-2 (Sept. 2, 2022).

<sup>20</sup> *Id.*