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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

REPLY BRIEF OF OHMCONNECT, INC. ON THE DEMAND RESPONSE AUCTION MECHANISM

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TABLE OF CONTENTS

Page

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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
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**REPLY BRIEF OF OHMCONNECT, INC.
ON THE DEMAND RESPONSE AUCTION MECHANISM**

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* ("Ruling"), OhmConnect, Inc. ("OhmConnect") respectfully submits this reply brief regarding the applications of Pacific Gas and Electric Company ("PG&E"), Southern California Edison Company ("SCE") and San Diego Gas & Electric Company ("SDG&E") to approve demand response programs and budgets for the 2023 bridge year.

I. INTRODUCTION

In their Opening Briefs, the California Efficiency + Demand Management Council ("the Council") and Leap, CPower, CESA, and Voltus join OhmConnect in recommending the Commission approve an additional auction of the Demand Response Auction Mechanism ("DRAM") during the 2023 bridge year based on the following evidence presented in witness testimony:

1) The DRAM evaluation performed by Nexant and Gridwell Consulting ("Nexant Report") shows sufficient progress during the first year-and-a-half of the second DRAM iteration to warrant continuation;[1]
2) DRAM represents a unique opportunity for demand response providers ("DRPs") to sell resource adequacy ("RA") capacity that cannot be easily substituted with alternative procurement avenues;[2] and,
3) a pause in auctions would be unnecessarily disruptive to the industry in the event the auction mechanism is made a permanent program.[3]

PG&E, SCE and SDG&E (together, the "IOUs"), as well as the Public Advocates Office ("Cal Advocates"), oppose the approval of an additional DRAM auction on the grounds that the pilot has not met all six evaluation criteria adopted by the Commission in D.16-09-056 and D.19-07-009. This argument is without merit. In this reply, OhmConnect demonstrates that:

1. A pilot need not have met all evaluation criteria to warrant a limited extension.
2. Suspending the DRAM during the 2023 bridge year is inconsistent with the approach taken for each of the IOU DR programs.
3. Arguments against extending the DRAM directly contradict the DR principles adopted in D.16-09-056 and highlight the grossly inequitable treatment of third-party DR relative to IOU DR programs.
4. Opponents of the DRAM extension misstate the facts in their Opening Briefs.

[1] Opening Brief of the Council and Leap, at 3; Opening Brief of CPower, at 8; Opening Brief of CESA, at 2.
[2] Opening Brief of the Council and Leap, at 5; Opening Brief of CPower, at 24; Opening Brief of Voltus, at 4-5; Opening Brief of CESA, at 4.
[3] Opening Brief of the Council and Leap, at 6; Opening Brief of CPower, at 9; Opening Brief of Voltus, at 6; Opening Brief of CESA, at 3

II. A PILOT NEED NOT HAVE MET ALL EVALUATION CRITERIA TO WARRANT A LIMITED EXTENSION

In its Opening Brief, OhmConnect demonstrated that failure to meet all six evaluation criteria a year and a half into the pilot is neither evidence that the DRAM will never meet the criteria, nor does it preclude the granting of a limited one-year extension. In asserting that the DRAM "must meet" the outlined six criteria to be extended into 2023, witnesses for SCE and Cal Advocates misrepresent the language of D.16-09-056 and D.19-07-009.[4] The Commission should reject this argument and allow for the extension of the pilot.

The Commission has shown that it can be flexible with timing around the extension of a pilot programs and the creation of a bridge year. Specifically, the Commission has been inclined to "allow programs to be continued during the evaluation stage, until such time as a firm determination is made to continue them, take them to full-scale implementation, or discontinue them."[5]

The six criteria cited by SCE and Cal Advocates were adopted specifically to judge whether to "expand [the DRAM's] role in the resource adequacy market" and "whether to proceed from a pilot to permanent implementation of the [Auction] Mechanism."[6] CPower correctly notes that "[t]hese determinations are not within the limited issue scoped for this Phase 1: 2023 DRAM. The only issue here is whether the Utilities should be directed 'to conduct Auction Mechanism solicitations in 2023, for 2024 deliveries, as a *continued* pilot without further technical refinements.'"[7] As such, claims that the DRAM must have met all six criteria to be extended into the 2023 bridge year are simply wrong. The Commission should continue to

[4] SCE Opening Brief, at 11; Cal Advocates Opening Brief, at 3.
[5] *See, e.g.,* Decision 17-03-026, at 26.
[6] D.16-09-056, at 65-66; D.19-07-009, at 9.
[7] Opening Brief of CPower, at 13 (emphasis in original).

extend the pilot for 2023 until such time as it makes a firm determination with respect to DRAM pending the outcome in Phase 2 of the proceeding.

III. THE COMMISSION SHOULD FIND THAT SUSPENDING THE DRAM DURING THE 2023 BRIDGE YEAR IS INCONSISTENT WITH THE APPROACH UNDERTAKEN FOR ALL IOU DR PROGRAMS

The Commission should extend the current DRAM into 2023 to maintain third-party Demand Response Programs on equal footing with IOU DR programs. Extending the DRAM into 2023 is consistent with the Commission's guidance in D.19-07-009, which did not envision a break between the end of the DRAM pilot and a final determination of its future. Rather, the Commission authorized DRAM auctions to continue through 2022, and anticipated determining through the 2023-2027 DR Applications whether to reauthorize DRAM in 2023 and beyond. The Commission also directed the IOUs to file applications for their 2023-2027 demand response activities and budgets in November 2021 so the Commission would "review the implemented refinements to the Auction Mechanism, along with the mechanism continuation evaluation, in that proceeding and determine whether the refinements and evaluation results are sufficient to permanently adopt the Auction Mechanism and expand its role."[8]

On September 23, 2021, PG&E, SCE, and SDG&E filed a joint request to extend the filing date for the 2023-2027 DR Applications to May 2, 2022, in part due to delays in receiving the DRAM evaluation report, then underway.[9] The subsequent late filing of the IOUs' DR Applications left little time for parties to debate material changes to IOU DR programs and budgets for 2023. As such, the IOUs proposed to simply carry forward 2022 programs and budgets into a 2023 "bridge year" with limited to no changes. The Assigned Commissioner's

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[8] D.19-07-009, at 74.

[9] September 21, 2021 Joint Request to extend the filing date for the 2023-2027 Demand Response Programs, Pilots, and Budgets Application from November 1, 2021 to May 2, 2022.

July 5, 2022 Ruling approved the determination of the 2023 bridge funding on an expedited schedule in Phase 1 and scoped review of the IOU's 2024-27 DR programs and budgets, including the future of the DRAM, into Phase 2 of the proceeding.

Thus, the future of the DRAM, much like the future of IOU DR programs and budgets—both of which were envisioned to be debated and resolved in 2022 in D.19-07-009—should be appropriately determined together in Phase 2 of this proceeding. In the interim, given that the Commission is likely to extend the IOUs' 2022 programs into 2023 with only limited, if any, adjustments, the Commission should also similarly extend DRAM into 2023.

IV. ARGUMENTS AGAINST EXTENDING THE DRAM DIRECTLY CONTRADICT THE DR PRINCIPLES ADOPTED IN D.16-09-056 AND HIGHLIGHT THE GROSSLY INEQUITABLE TREATMENT OF THIRD-PARTY DR RELATIVE TO IOU DR PROGRAMS

The Commission should find that many of the areas where DRAM continues to fall short—areas in which IOU DR programs equally struggle—are properly explained by the unique nature of the demand response resource, rather than a particular failure of the DRAM. Demand response does not and cannot act like a traditional power plant—a fact that is true of all DR, regardless of program operator. As such, it would be inequitable and directly contradict the DR principles adopted in D.16-09-056 to suspend DRAM while allowing similar patterns, behaviors and outcomes to persist in IOU-administered DR programs.

CPower correctly explains that "[i]n developing those principles, the Commission concluded [in D.16-09-056, Findings of Fact 56], among other things, that there was a need to establish and maintain a 'level' 'competition playing field' between the Utilities and third party DRPs and to avoid a real or perceived advantage for the customers to take service from the Utilities."[10] Rather than suspend DRAM now, the Commission should direct parties in Phase 2

[10] Opening Brief of CPower, at 17.

to propose changes to <u>both</u> the DRAM and IOU DR Programs that would correct any identified shortcomings in an equitable manner.

In their Opening Briefs, all three IOUs shine a spotlight on the continued inequitable treatment of third-party demand response relative to IOU DR programs. In particular, the IOUs highlight areas of perceived deficiencies as grounds for suspending the DRAM, while the same "deficiencies" are explained and excused when it comes to the programs they operate.

First, all three utilities spend considerable time discussing the fact that DRAM Sellers sometimes submit Supply Plans for volumes below contracted capacity.[11] SCE goes as far as to state that these differences "contribut[e] to further uncertainty in and around the reliability of the grid – the very opposite of what the DRAM pilot was intended to accomplish."[12] While not ideal, derating supply plans to match an updated view of capability is the only responsible course of action for a DRP that does not believe it can deliver the contracted quantities. Importantly, in doing so, a DRP loses revenue—i.e., DRAM Sellers are not paid for the contracted capacity if it is not on a Supply Plan. Such derates provide all parties updated information on the available capacity in the month-ahead process, while correctly leading to revenue loss for the Seller.

There is no similar pathway to update the RA credits LSEs receive for IOU DR programs in the month-ahead RA showings if deficiencies in capability vis-a-vis the year-ahead credits materialized. Utility DR programs are not on supply plans <u>at all</u>, and there is no obligation for the IOUs to "supply" or bid the capacity credited to their programs in the year-ahead process. Ample evidence shows that the capacity bid into the CAISO market by the IOUs is consistently

[11] Opening Brief of SCE, at 14; Opening Brief of PG&E, at 3-4; Opening Brief of SDG&E, at 7.
[12] Opening Brief of SCE, at 14.

below the credited quantity.[13] Yet, the IOUs that underbid credited capacity suffer no financial penalties. If, by reducing their supply plan quantities to match capability, DRAM Sellers "contribute[] to further uncertainty in and around the reliability of the grid,"[14] then the much-larger IOU DR programs that consistently bid below their credited RA values, and do so outside of the supply plan process entirely, do so as well. In sum, if this aspect of the DRAM is damning enough to warrant its discontinuation—which the Commission should not find—then all IOU DR programs should similarly be discontinued.

Second, SCE recommends discontinuation of DRAM based on the Nexant Report's conclusion that DRAM wholesale bids were not competitive relative to natural gas peaker plants, in front of the meter storage, and IOU DR resources (criterion 4).[15] This argument highlights the glaring discrepancy between what SCE deems acceptable for its own programs and what ought to be acceptable for the DRAM, even though both resources are similarly use-limited and face issues of customer fatigue. With respect to its own programs, SCE witnesses note:

> Increased event hours and decreased incentives through 2020 have directly affected the volume of customer attrition. As directed by the Commission in 2021, SCE made significant program changes designed to increase enrollments by removing the 20-hour economic dispatch requirement…. SDP was dispatched for only six hours in 2021 and SCE observed a six percent decrease in attrition that resulted from limiting hours of dispatch outside of emergency situations.[16]

SCE is therefore arguing that DRAM should be terminated in part because DRAM Seller bids were not "competitive" in 2020 (i.e., DRAM customers were not dispatched often enough) at the same time that it is justifying completely removing the economic dispatch requirement

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[13] Department of Market Monitoring (DMM), *Report on Demand Response Issues and Performance*, Figure 2.1, at 9 (Feb. 2021); DMM, *Report on Demand Response Issues and Performance*, Figure 2.1 at 9 (Jan. 2022).
[14] Opening Brief of SCE, at 14.
[15] OhmConnect has explained the problematic nature of Nexant's assessment of this criterion and will not fully restate the argument here. *See* OhmConnect Opening Brief, at 7-9.
[16] Exhibit SCE-03, at 34.

from one of its largest programs in order to stem customer attrition. In fact, if Nexant calculated the dispersion of average bid prices by resource type for 2021 instead of 2020, it would almost certainly show DRAM resources exceeding IOU DR in frequency of dispatch. This shows the limitations of single year comparisons.

All DR is inherently use-limited and necessitates the definition of an appropriate benchmark or target for dispatch that considers its unique characteristics. As CPower astutely notes: "[c]learly, demand response is wholly dependent on customer participation, engagement, and behavior, which distinguishes it entirely from an electric generation resource in function and attributes."[17] By explicitly recognizing the often inverse relationship between frequency of dispatch and customer engagement for its own programs—and allowing for reasonable programmatic adjustment to reduce event frequency—while criticizing DRAM Sellers for not dispatching their customers even *more* frequently, SCE is applying a framework to the DRAM that it has shown does not work for demand response within its own portfolio. Accordingly, the Commission should disregard SCE's criticisms of DRAM Sellers' wholesale bids.

Finally, the IOUs take issue with the fact that DRAM is a carve-out for demand response. Rather than maintaining such a carve-out, the utilities suggest that DR resources be procured via "all-resource" solicitations.[18] DRAM, however, is not the only carve-out for DR within the RA program. IOU-administered DR programs are a similar "carve-out" in that they do not compete with other resources for RA capacity. As Voltus aptly states: "if DRAM is a carveout, then so is CBP."[19] Further, some of these programs, especially those of SDG&E, have shown poor cost-

[17] CPower Opening Brief, at 5.
[18] PG&E Opening Brief, at 7; SCE Opening Brief, at 17; SDG&E Opening Brief, at 2.
[19] Voltus Opening Brief, at 8.

effectiveness.[20] Yet, SDG&E claims that it is "...prejudicial to SDG&E's ratepayers to continue to require SDG&E to procure DRAM resources (whose value and cost-effectiveness may be low) up to pre-determined budget caps…."[21] If this is in fact the case, then it is also prejudicial to SDG&E's ratepayers to continue funding SDG&E's DR programs.

OhmConnect would support a Commission determination that ***all*** demand response compete with all other resources for RA contracts based on cost and reliability. However, demanding that third-party DR do so while IOU DR programs, with poor cost-effectiveness and which utilize a great deal more ratepayer funding, continue to receive a carveout is inequitable and contrary to the adopted DR principles.

V. OPPONENTS OF THE DRAM MISSTATE THE FACTS IN THEIR OPENING BRIEFS

In their Opening Briefs, the IOUs and Cal Advocates try to build the case that the DRAM has failed in all regards. The Commission should reject their attempt to misstate facts and remove all nuance from a complex evaluation. In addition to drawing exaggerated conclusions from mixed findings, opposing parties attempt to draw negative conclusions from plainly positive results.

In its Opening Brief, SCE acknowledges that criteria 2 (*Were new customers engaged?*) was met. However, it also uses the report's finding that "the proportion of new customers is decreasing in each cycle" to conclude that "even though DRAM is not currently failing to meet this particular requirement, it is moving in the wrong direction over time."[22] This is a mischaracterization of the facts. As one of the largest providers of residential demand response,

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[20] Ex. SDG&E-1A, Direct Testimony of E Bradford, Chapter 1A, at EBM-3: "SDG&E's proposed DR portfolio, as filed in this application, achieves a total resource cost (TRC) cost effectiveness score of 0.2 for 2023."
[21] SDG&E Opening Brief, at 4.
[22] SCE Opening Brief, at 12.

OhmConnect's customers are a large component of the customer counts presented by Nexant. OhmConnect did not have a PG&E DRAM contract in 2020 and SCE DRAM contract in 2021. As such, OhmConnect did not need to enroll new customers into DRAM in those years, causing the total new customer count to be lower. This is not a "trend." It does not demonstrate a lower interest in DR; it simply reflects a lower contractual position of a DRP that supplies a large customer count.

SCE further claims that "...the performance of DRAM DRPs is deteriorating with each passing year, to the point that in 2021 less than one-third of DRPs met their minimum dispatch requirement."[23] However, data presented in the Nexant Report shows clear and consistent *improvement* in CAISO market performance year-over-year.[24] As far as demonstrated capacity, DRPs collectively demonstrated an equal or larger proportion of their Supply Plan capacity in 2021 than in 2020—demonstrated capacity should be correctly compared to supply plan capacity and not contracted capacity as SCE attempts to do—with a much lower share represented by the must offer obligation ("MOO"). The reason that both years show "deteriorating" performance relative to 2018 and 2019 is because the new DRAM design, which came into effect in 2020, significantly restricted the ability of DRAM Sellers to invoice based on the MOO. As such, SCE cannot make a reasonable comparison between 2018/19 and 2020/21 performance because the former is largely based on the MOO, while the latter is based on performance at dispatch. In fact, based on improvements in CAISO market performance noted in the Nexant Report, it is reasonable to assume that actual demonstrated capacity (excluding MOO) has also improved year-over-year. Finally, the minimum dispatch requirement first came into effect in 2021.

[23] SCE Opening Brief, at 10.
[24] *See* Nexant Report, at 135-136.

SCE's attempt to portray delivery on this requirement as evidence of some sort of a long decline toward a 2021 low should be rejected.

PG&E also includes misstatements of the facts in its Opening Brief. For example, PG&E questions the extent to which DRAM Sellers met their MOO, stating that it "... cannot count on DRAM Sellers to always bid the resources on the Supply Plans into the CAISO market ...."[25] This statement is baseless. The Nexant Report demonstrated that DRAM Sellers nearly always met their must offer obligations to the CAISO—i.e., they always bid the resources on Supply Plans into the CAISO market.[26]

Finally, Cal Advocates spends nearly half of its substantive discussion on the purported overreporting of performance on DRAM invoices. First, the data supporting these claims is old.[27] To our knowledge, Cal Advocates has not replicated this exercise with more recent data and provides no evidence that any overreporting continues today. Moreover, it is unclear whether Cal Advocates has attempted to try to understand or rectify the discrepancies with individual DRPs. It is possible that there are reasonable explanations for these discrepancies and that they do not, by and large, suggest intentional wrongdoing as Cal Advocates concludes. It is inappropriate for Cal Advocates to imply that discrepancies (i) that most parties cannot see, (ii) that Cal Advocates may not have given DRPs the chance to review and explain, and (iii) that may no longer exist in more recent data, are demonstrative of any widespread trend, much less a trend that continues to persist. It is further inappropriate for PG&E to use such purported discrepancies, which it admits it cannot see in the redacted filing, to conclude that "... DRAM is

[25] PG&E Opening Brief, at 3.
[26] Nexant Report, at 7.
[27] *See* OhmConnect Opening Brief, at 10.

a flawed product which ratepayers should not continue to support on a special carve out basis."[28] Such assertions should be dismissed outright as unsupported.

VI. CONCLUSION

The Commission should determine that a one-year extension of the DRAM pilot is warranted.

Respectfully submitted,

By: /s/________________________

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[28] PG&E Opening Brief, at 7.