

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 22-05-002
(Filed May 2, 2022)

And Related Matters.

Application 22-05-003
Application 22-05-004

**JOINT OPENING COMMENTS OF
THE CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT COUNCIL, CPOWER,
LEAPFROG POWER, INC., AND VOLTUS, INC. ON
PROPOSED DECISION APPROVING DEMAND RESPONSE AUCTION MECHANISM
PILOT FOR PILOT YEAR 2024**

Dated: December 29, 2022

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I. INTRODUCTION

The California Efficiency + Demand Management Council, CPower, Leapfrog Power, Inc., and Voltus, Inc. (collectively, the “Joint Parties”) respectfully submit these Opening Comments on the Proposed Decision Approving Demand Response Auction Mechanism Pilot for Pilot Year 2024 (“Proposed Decision” or “PD”), mailed in this proceeding on December 9, 2022. These Opening Comments are timely filed and served pursuant to Rule 14.3 of the Commission’s Rules of Practice and Procedure and the instructions accompanying the Proposed Decision.

II. BACKGROUND

The Council is a statewide trade association of non-utility businesses that provide energy efficiency, demand response, and data analytics services and products in California.¹ Our member companies employ many thousands of Californians throughout the state. They include energy efficiency (“EE”), demand response (“DR”), and distributed energy resources (“DER”) service providers, implementation and evaluation experts, energy service companies, engineering and architecture firms, contractors, financing experts, workforce training entities, and energy

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

efficient product manufacturers. The Council’s mission is to support appropriate EE, DR, and DER policies, programs, and technologies to create sustainable jobs, long-term economic growth, stable and reasonably priced energy infrastructures, and environmental improvement.

Enerwise Global Technologies, LLC, D/B/A CPower (“CPower”), is an energy management company with 25+ years of knowledge and experience in helping customers implement intelligent energy management programs in each of the country’s open energy markets. A pioneer of DR, CPower creates optimized energy management strategies that help businesses streamline their energy usage and offset costs through DR participation and reach their sustainability goals. CPower currently aggregates commercial and industrial (“C&I”) customers to participate in every major DR program managed by IOUs and independent system operators (“ISOs”) across the country, including California managing over 5.3 GW of load flexibility. In California, in addition to participation in DR programs offered by the investor-owned utilities (“IOUs”), CPower is actively engaged in bidding in DR as a supply-side resource into the California Independent System Operator (“CAISO”) wholesale market.

Leap is a DR Provider (“DRP”) founded in 2017 and headquartered in San Francisco, California. The company provides DR services to residential, commercial, industrial, and agricultural customers throughout the state of California. Through its technology platform, Leap enables DER providers in California to provide grid flexibility, delivering revenue for their customers and integrating additional demand-side resources into California electricity system. Leap believes that demand-side resources integrated into California’s wholesale electricity market will play an increasingly important role in helping California achieve a resilient and zero carbon future. Leap is a registered DRP, as well as a registered Scheduling Coordinator, with the California Independent System Operator Corporation (“CAISO”). Leap has been a participant in the recent Demand Response Auction Mechanism (“DRAM”) procurements and has entered into contracts with PG&E, SCE, and SDG&E to deliver DRAM capacity. Leap has received net qualifying capacity (NQC) via the Load Impact Protocol (LIP) process in both 2020 and 2021 and has filed a Load Impact Analysis report in 2022. Since 2021, Leap has contracted with over a dozen Community Choice Aggregators (“CCAs”) to deliver DR-based Resource Adequacy.

Voltus is an aggregator of retail customers (“ARC”) managing distributed energy resources (“DERs”) in all nine North American wholesale markets. Voltus has been an active and significant supplier into DRAM since 2020, winning total monthly contracts of 62 MW and

81 MW in the two most recent DRAM cycles (delivery years 2022 and 2023). This contracted load represents 30 to 40 percent of total resource adequacy secured through DRAM each year. Voltus aims to harness the distributed energy resources critical to delivering the clean energy transition.

III. SUMMARY OF THE JOINT PARTIES' POSITIONS

The Joint Parties generally support the Proposed Decision but respectfully request the Commission authorize full discovery of the Nexant Report and provide more guidance on how parties should demonstrate the cost effectiveness and reliability of the DRAM.

IV. THE PROPOSED DECISION CORRECTLY EXTENDS THE DRAM WITH THE SAME TESTING REQUIREMENTS

The Proposed Decision (“PD”) extends the DRAM Pilot for another year at the current budget while the Commission considers whether to adopt it as a permanent program.² Given the limited amount of time for parties to conduct discovery, this is a fair interim solution while a more detailed examination of the DRAM can be conducted in Phase 2 of this proceeding. In order to enable this more detailed examination, the Joint Parties respectfully suggest that all parties should have equal access to the underlying data and analysis that informed the Nexant Report, including cross examination of the Nexant Report authors, so that they can assess its observations and recommendations. Otherwise, the Joint Parties are concerned that the depth of the examination of the DRAM that is envisioned by the Commission will be little more than what parties were able to deliver in this phase of the proceeding.

The Joint Parties appreciate the PD’s acknowledgment that though the DRAM has not met the six criteria studied in the Nexant Report, there was improvement in most of the criteria that were found to be insufficient.³ The Joint Parties stress that no program is perfect and adjustments are often required on a regular basis, as demonstrated by the fact that course corrections are constantly being made for all IOU customer-side programs, Resource Adequacy (“RA”) rules, Integrated Resource Planning, etc. The Joint Parties would also respectfully argue

² Proposed Decision, at p. 21.

³ *Id.*

that some identified shortcomings are a product of the current DRAM program rules, many of which are documented in the Nexant Report, not so much a failure of the program.⁴

The Joint Parties also appreciate the PD's recognition of the potential detrimental consequences of a gap year.⁵ The DR providers participating in this proceeding are in the best position to provide this input and no party refuting this concern was able to demonstrate that this concern was without justification. Furthermore, it is critical that as a fundamental concept, the Commission continue to consider that DR resources are provided by customers who sometimes have widely divergent reasons for enrolling in a program. Similarly, they will have different reasons and tolerance thresholds that will guide their decision whether to continue participating in a program that stops and starts again. It is simply unavoidable that some customers would become fed up with the DRAM if the Commission is seen as unnecessarily suspending the program. The Joint Parties are gratified that the PD has recognized this "human element" in choosing to extend, rather than suspend, the DRAM for one year.

The Joint Parties also support extending the waiver of the four-hour testing requirement that was expanded to all third-party DR in Decision ("D.") 22-06-050.⁶ This issue was not litigated but it seems practical to simply extend this for another year since there are no apparent reasons to proceed otherwise.

The PD's proposed schedule is reasonable because it will result in executed contracts submitted to the Commission by June 1.⁷ This will ensure that DR providers with contracts will know exactly how much RA capacity incremental to any DRAM contracts that they will have available to sell to other LSEs.

V. REQUIREMENTS AND STANDARDS FOR PHASE 2

The PD states, "as a pilot the DRAM could simply be allowed to sunset"⁸ and conditions DRAM's long-term adoption on its cost-effectiveness and reliability."⁹ The Joint Parties want to clearly acknowledge that the Commission is under no obligation to transition the DRAM Pilot to a permanent program.

⁴ For example, Nexant Report, at pp. 3-4.

⁵ *Id.*

⁶ *Id.*, at p. 22.

⁷ *Id.*, at p. 25.

⁸ *Id.*, at p. 20.

⁹ *Id.*, at p. 22.

The Joint Parties also do not dispute that the resources procured through DRAM auctions should be cost effective and reliable. However, these are very ambiguous terms and the Joint Parties respectfully request the Commission provide as much specificity as possible on how it expects individual parties to demonstrate the cost effectiveness and reliability of DRAM resources, especially given the severe limitations of parties to access the data that are necessary to make this demonstration. The Joint Parties respectfully suggest that in order to be able to make such a showing, parties must be provided with the opportunity to conduct full discovery of the Nexant Report, including submitting data requests to Nexant and Gridwell Consulting (“Gridwell”), having access to the underlying analysis that informed their conclusions, being allowed to cross-examine Nexant and Gridwell, allowing each DR provider to have access to the data that Nexant and Gridwell used to analyze their performance.

The Joint Parties also note that according to past Commission decision, the DRAM as a pilot was not intended to be cost-effective, so looking backward at the DRAM’s cost-effectiveness rather than setting a cost-effectiveness requirement going forward is inappropriate and akin to moving the goalposts during the game. In D.19-12-040, the Commission states:

Pursuant to D.16-09-056 and D.19-07-009, the Commission has determined the Auction Mechanism resources are required to be cost-effective. [footnote omitted] But the Commission has not adopted the Auction Mechanism as a *permanent mechanism* at this point. [footnote omitted] Hence, we consider the four-year limited continuation of the mechanism to be in the pilot phase still and *exempted from the cost-effectiveness requirement during this continuation*. However, as discussed further below, we find there are complexities in measuring the cost-effectiveness of Auction Mechanism resources. Accordingly, we find it prudent to begin to consider how to measure cost-effectiveness during the pilot phase so that, if the Commission adopts the Auction Mechanism on a permanent basis, we will have an appropriate measurement tool ready to implement. [emphasis added]¹⁰

In this passage, the Commission has clearly stated that the DRAM Pilot is not expected to be cost effective until and unless it becomes a permanent program, so to suddenly change the standard would be procedurally incorrect and unfair. The Joint Parties also note that the only effort that has been made to develop a methodology for measuring DRAM cost-effectiveness was Commission approval in Resolution E-5110 for using the Net Long Run Avoided Cost of Capacity as a tool to test the cost-effectiveness of DRAM bids on a “what-if basis.”¹¹ Measuring

¹⁰ Decision 19-12-040, at pp. 42-43.

¹¹ Resolution E-5110, at pp. 23-26.

the cost effectiveness of DRAM bids would appear to be a separate issue from measuring the cost effectiveness of the DRAM Pilot. To the latter end, no work has yet been done to determine how this would occur.

VI. CONCLUSION

The Joint Parties thank the Commission for a reasonable PD and recommend that it be adopted. The Joint Parties also request the Commission authorize full discovery of the Nexant Report and provide guidance on how parties should demonstrate the cost effectiveness and reliability of the DRAM.

Dated: December 29, 2022

Respectfully submitted,

/s/ JOSEPH DESMOND

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