

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



FILED

07/14/23

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

PHASE II OPENING BRIEF OF OHMCONNECT, INC.

Elysia Vannoy
Regulatory Affairs Manager
OhmConnect, Inc.
371 3rd Street, 2nd Floor
Oakland, CA 94607
Telephone: (415) 697-1271
Email: elysia.vannoy@ohmconnect.com

Vidhya Prabhakaran
Anna Fero
DAVIS WRIGHT TREMAINE LLP
50 California Street, 23rd Floor
San Francisco, CA 94111
Tel. (415) 276-6500
Fax. (415) 276-6599
Email: vidhyaprabhakaran@dwt.com
Email: annafero@dwt.com

Attorneys for OhmConnect, Inc.

July 14, 2023

SUMMARY OF RECOMMENDATIONS

The Commission should incorporate these recommendations when preparing its decision on Phase II:

- Review all proposals through the lens of the demand response principles adopted in Decision (“D.”) 16-09-056 (“DR Principles”) and reject IOU proposals that contradict the DR Principles.
 - Reject SCE’s proposal to convert its Capacity Bidding Program (“CBP”) to load modifying DR with two-hour availability requirements because it is inequitable.
 - Reject IOU proposals to lower the penalty threshold for the CBP because it is inequitable.
- Adopt changes that facilitate customer choice and data access.
 - Adopt a one-click disenrollment option to resolve enrollment conflicts.
 - Reduce barriers to data sharing by:
 - Implementing “click-through” alternatives, such as a form contract for the provision of data to third-party DR providers.
 - Establishing a 48-hour deadline for IOUs to provide customer usage data.
 - Approving SCE’s Rule 24 IT budget.
- Continue the Emergency Load Reduction Program (“ELRP”) with modifications.
 - ELRP should serve as an on-ramp to economic DR.
 - Approve PG&E’s recommendation for an advice letter to unenroll existing customers from ELRP and discontinue auto-enrollment.
 - Require a DR market awareness campaign.
 - Establish the Flex Alert as the day-ahead trigger for all ELRP sub-groups.
 - Maintain the ELRP incentive at \$2/kWh.
- Extend the Smart Controllable Thermostat (“SCT”) Program through 2027 with modifications.
 - Maintain the current \$11.25million/year budget.
 - Adopt California Efficiency and Demand Management Council’s recommendation to eliminate participation restrictions based on Climate Zone and open the SCT Program to more customers.
 - Require customers to enroll in a DR program to receive a technology incentive.

**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 |

PHASE II OPENING BRIEF OF OHMCONNECT, INC.

Pursuant to Rule 13.12 of the California Public Utilities Commission (“Commission”) Rules of Practice and Procedure and the December 19, 2022 *Assigned Commissioner’s Amended Scoping Memo and Assigned Administrative Judge’s Ruling on Two Motions* (“Scoping Memo”), and the June 28, 2023 *Administrative Law Judge’s Ruling Admitting Testimony and Exhibits into the Record and Extending Due Dates for Opening and Reply Briefs of Phase II Demand Response Issues*, OhmConnect, Inc. (“OhmConnect”) respectfully submits this opening brief in Phase II of 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 (“DR”) programs and budgets for 2023-2027.

I. INTRODUCTION

The Commission should adopt four major recommendations as it issues a decision with respect to the investor-owned utility (“IOU”) applications. *First*, the Commission should examine whether the applications of PG&E, SCE, and SDG&E requesting approval of Demand Response Programs and budgets for Years 2024 through 2027 advance the goals, principles, directives, and guidance adopted in Decision (“D.”) 16-09-056, including, and especially, the principle that “Utilities and third-party providers should fairly compete on a level playing field.”¹ Any IOU proposal that contradicts these principles should be rejected. Specifically, SCE's proposal to convert its Capacity Bidding Program (“CBP”) to load modifying DR with two-hour availability requirements should be rejected, because it unfairly provides advantages to IOU programs not equally afforded to third-party DR programs. Similarly, the IOU proposals to lower the penalty threshold for the CBP should be rejected, because implementing lenient penalties for CBP aggregators while advocating for stricter penalties for non-IOU DR providers is similarly unfair and contrary to the DR Principles.

Second, to facilitate customer choice and data access, the Commission should adopt these key changes: (1) mandate a one-click disenrollment option to simplify the process for customers; (2) implement a user-friendly “click-through” alternative to address data sharing barriers; (3) establish a 48-hour deadline for IOUs to provide customer usage data to enhance the DR experience; and (4) approve SCE's Rule 24 IT budget to help mitigate delays in interval data provision.

Third, the Emergency Load Reduction Program (“ELRP”) should be continued, with modifications, to increase DR capacity. ELRP should serve as an on-ramp to economic DR by

¹ D.16-09-056, at 52.

encouraging participants to transition to programs that can provide more load reduction opportunities. The Commission should adopt PG&E's proposal to use an advice letter process to unenroll existing ELRP customers and stop auto-enrollment, allowing for greater customer choice. Furthermore, the Commission should mandate a DR market awareness campaign to educate ELRP participants about available programs and promote their active participation. To ensure equitable triggers and fair compensation, the Commission should establish the Flex Alert as the day-ahead trigger for all ELRP sub-groups, except for specific large industrial customers. The ELRP incentive should be maintained at \$2/kWh, as reducing it prematurely could hinder participation and performance among eligible participants.

Finally, the Commission should extend the Smart Controllable Thermostat (“SCT”) Program through 2027 at the current \$11.25 million/year budget with some program modifications to increase the quantity of load under control. The Commission should adopt the California Efficiency and Demand Management Council’s (“CEDMC”) recommendation to eliminate participation restrictions based on Climate Zone and open the SCT Program to more customers. To maximize the growth and benefits of DR, the Commission should mandate customer enrollment in a DR program to receive a technology incentive.

II. THE COMMISSION SHOULD EVALUATE WHETHER THE IOU PROPOSALS PROVIDE A LEVEL PLAYING FIELD FOR THIRD-PARTY DR PROVIDERS

The first Phase II scoping issue identified in the Scoping Memo asks: “Do the applications of PG&E, SCE, and SDG&E requesting approval of Demand Response Programs and budgets for Years 2024 through 2027 advance the goals, principles, directives, and guidance adopted in D.16-09-056...?”² An important directive adopted in D. 16-09-056 is that “[t]he Utilities’ demand response programs and third-party provider demand response programs should

² Assigned Commissioner’s Amended Scoping Memo, at 5 (Dec. 19, 2022).

be on a level playing field.”³ Furthermore, the sixth DR Principle listed in D.16-09-056 states: “Demand response shall be market-driven leading to a competitive, technology-neutral, open-market in California *with a preference for services provided by third-parties.*”⁴

The Commission should evaluate whether the IOU proposals provide a level playing field for third-party DR providers, let alone a preference for third-party DR providers. In doing so, the Commission must confront the fact that third-party DR providers are at a significant and structural disadvantage to IOU DR programs in the current marketplace and therefore the Commission must reject proposals that further disadvantage third-party DR providers.

A. Third-Party DR Providers are at a Significant Disadvantage Compared to IOU DR Programs

Contrary to SCE’s suggestion that third-party DR providers are not disadvantaged compared to IOU DR programs because “IOU DR programs are subject to greater regulatory oversight and scrutiny than third-party DR,”⁵ third-party DRPs are at a fundamental structural disadvantage compared to IOU DR programs and this requires regulatory policy changes to level the playing field. Factors that put third-party DR providers at its current structural disadvantage include:

- Existing Customer Base: IOUs have an existing customer base which they can leverage when implementing DR programs. This eliminates the need for extensive and costly marketing or customer acquisition efforts, which third-party providers must undertake.
- Infrastructure and Data Access: IOUs have access to extensive data regarding customer energy usage patterns. Third-party providers do not have the same level of access to

³ D.16-09-056, at 87 (Finding of Fact 56); *see also id.* at 52 (“Utilities and third-party providers should fairly compete on a level playing field to vie for customers to enroll in their demand response programs.”).

⁴ D.16-09-056, Section 4.2.2., at 3, 45-46 (emphasis added).

⁵ Ex. SCE-14, Phase II Rebuttal Testimony of Southern California Edison, at 18:1-5.

customer energy usage data and must incur significant cost to gain access to similar customer data.

- Trust and Brand Recognition: The three IOUs that participate in the CAISO markets have been operating in their service territories for decades and have a high level of brand recognition among customers. This can make customers more willing to participate in the IOU DR programs compared to those offered by third-party providers.
- Shared Infrastructure and Services: IOUs have a wide range of business operations beyond DR, such as power generation, transmission, and distribution. This broad scope of operations lets them maintain substantial business infrastructure and services, which can be used across all departments including the DR program. For example, functions like human resources, IT support, customer service, accounting, legal, and others, are all essential to the successful operation of a DR program. Since these functions are already in place to support the utility's overall business, they can also support DR programs. Third-party providers, that cannot match the scale of the IOUs, build these functions from scratch or outsource at significant expense.
- Nearly Guaranteed Cost Recovery: One of the most substantial advantages that IOUs have over third-party providers is the cost recovery mechanism. In a regulated monopoly environment, IOUs recover their prudently incurred costs of providing service through rates approved by the Commission. In contrast, third-party providers operate in a competitive environment and bear the full risk of their investments. If a third-party provider's DR program does not generate sufficient revenue or cost savings, they absorb the loss. IOUs can make large upfront investments knowing they will recover these costs.

- Revenue Stability: A prudently operated IOU enjoys not only nearly guaranteed cost recovery, but revenue stability as well. Energy market prices can greatly fluctuate based on supply and demand conditions. In the case of third-party DR providers, a portion of total revenue is derived from transacting in the energy markets and the majority of annual energy revenue is earned during limited periods in the summer. However, this means the energy revenue for third-party DR providers is highly variable and somewhat unpredictable. Capacity market payments, on the other hand, offer a more stable and predictable revenue stream as they are based on contracted capacity availability and not on uncertain energy market conditions. While energy revenues during peak times can be substantial, they do not cover the year-round operational costs of running a DR business, including costs for technology, staff, customer acquisition and support, and regulatory compliance. Capacity payments help ensure enough revenue to maintain operations, continue to invest in necessary resources, and acquire customers to grow the MW of energy available for the future.

As described above, the DR “playing field” already significantly favors IOUs. The Commission must create a regulatory environment that mitigates against these inherent and systemic advantages to allow for third-party DR providers to thrive and grow so they may continue to offer customers innovative programs and services that contribute to the reliable operation of the grid.

B. The Commission Should Reject Proposals that Further Disadvantage Third-Party DR Providers

At the very least, the Commission should reject program proposals that do not align with the goals, principles and directives adopted in D.16-09-056 (“DR Principles”) and would actually further disadvantage third-party DR providers. Two IOU application proposals violate these

principles: 1) SCE's proposal to convert its Capacity Bidding Program ("CBP") to load modifying DR with two-hour availability requirements,⁶ and 2) PG&E and SDG&E's proposals to lower the penalty thresholds for aggregators participating in the CBP.⁷ These proposals would introduce significant disparities in the standards applied to IOU and third-party DR providers and should be rejected.

1. The Commission Should Reject SCE's Proposal to Convert its Capacity Bidding Program ("CBP") to Load Modifying DR with Two-Hour Availability Requirements

SCE's proposal to convert its CBP to load modifying DR is inequitable towards third-party DR providers.⁸ The Commission should not allow the IOUs to change the participation model of DR programs or remove them from the market in an ad hoc manner.⁹ As noted in testimony, "SCE would essentially be retaining the same program with the same RA value, but vastly limiting its requirements and performance accountability."¹⁰ There is no similar option for third-party DR providers to remove their programs from the CAISO market.¹¹ SCE's proposal to convert CBP unfairly changes the program, imposing fewer hourly availability requirements and eliminating the bidding requirement. Thus, this approach grants advantages to IOU programs not equally afforded to third-party DR programs, violating the DR Principle of promoting a competitive, technology-neutral, open-market in California with a preference for services provided by third-parties.

⁶ Ex. SCE-04, Direct Testimony of SCE-Phase 2, at 14-15.

⁷ Ex. OhmConnect-4 (Staton), Phase II Direct Testimony of OhmConnect Witness Cliff Staton, at 5, 16-18; *see* Ex. PG&E-2, 2023-2027 Demand Response Programs, Pilots, and Budgets 2024-2027 Full Proposal, at 3-18; Ex. SDGE-1B, Prepared Direct Testimony of E Bradford Mantz – Chapter 1B on behalf of San Diego Gas & Electric Company (May 2, 2022) (Phase II), at 17:15-18:7.

⁸ Ex. SCE-04, at 14-15.

⁹ Ex. OhmConnect-4 (Staton), at 5:16-18.

¹⁰ *Id.*, at 5:23-6:1.

¹¹ *See id.*, at 2:3-18; Ex. Council-02 (Desmond), Opening Phase II Direct Testimony of the California Efficiency + Demand Management Council at 7:25-8:2.

2. The Commission Should Reject IOU Proposals to Lower the Penalty Threshold for Aggregators Participating in the CBP

The Commission should reject PG&E and SDG&E's proposals to lower the penalty thresholds for aggregators participating in the CBP¹² as it has done in the past.¹³ Implementing lenient penalties for CBP aggregators while advocating for stricter penalties for non-IOU DR providers is unfair and contrary to the Commission's sixth DR Principle.¹⁴ This discrepancy creates an unfair advantage for CBP aggregators and undermines fair competition with third-party DR programs. The Commission should reject the IOU proposals to lower the penalty threshold for aggregators participating in the CBP.

III. THE COMMISSION SHOULD ADOPT CHANGES THAT FACILITATE CUSTOMER CHOICE AND DATA ACCESS

A. The Commission Should Adopt a One-Click Disenrollment Option to Resolve Enrollment Conflicts

To address enrollment conflicts, the Commission should introduce a one-click disenrollment option. This would provide a simple, single-step process, in addition to existing customer support channels,¹⁵ to facilitate disenrollment. While most programs offer official disenrollment timelines, in practice, the process can take from weeks to months.¹⁶ Regardless of SCE's explanation for the time between when a request is processed and reflected in CAISO's system,¹⁷ the value of a one-click disenrollment process is significant.

The Commission should adopt the existing Power Saver Rewards disenrollment process to all DR programs with two key differences: 1) a customer should proactively acknowledge that

¹² See Ex. OhmConnect-4 (Staton), at 6:9-11; Ex. PG&E-2, at 3-18; Ex. SDGE-1B, at 17:15-18:7.

¹³ Ex. OhmConnect-4 (Staton), at 6:11-13.

¹⁴ D.16-09-056, at 98 (Ordering Paragraph 8) ("Demand response shall be market-driven leading to a competitive, technology-neutral, open-market in California with a preference for services provided by third-parties through performance-based contracts at competitively determined prices"), *see also* 46, 52.

¹⁵ Ex. SCE-14, Phase II Rebuttal Testimony of Southern California Edison, at 24:2-4.

¹⁶ See Ex. OhmConnect-4 (Staton), at 21:1-3.

¹⁷ Ex. SCE-14, at 24:9-13.

they are choosing to disenroll; and 2) program administrators should have up to two weeks to end-date the customer's location in DRRS, depending on program duration requirements.¹⁸ Such a solution mirrors an existing process and can be started without significant more efforts. Thus, the Commission should reject PG&E's recommendation to relegate the discussion of enrollment conflict solutions to a set of proposed workshops.¹⁹

B. The Commission Should Reduce Barriers to Data Sharing

Both the current "click-through" process and the time taken for IOUs to provide customer data to third-party DR providers are significant data sharing issues.²⁰ To address these barriers, the Commission should: 1) authorize a "click-through" alternative, such as a form contract to provide data access to third-party DR providers; 2) establish a 48-hour deadline for IOUs to provide customer usage data; and 3) approve SCE's Rule 24 IT budget.

1. A Form Contract Should Provide Data Access to Third-Party DR Providers

The Commission should adopt an alternative to the "click-through" process to take the administrative burden of authorization off of customers. Several alternatives to the current "click-through" process already exist in the market, including certification of third party DR providers and identity authentication using Google, Facebook or Apple credentials.²¹ Of the examples provided, the Commission should order the IOUs develop a form contract that allow third-party DR providers to get data access in a similar manner to granting access to subcontractors of the IOU. This would align with Public Utilities Code Section 8380(f)(2), which reads:

This section does not preclude an electrical corporation or gas corporation from disclosing a customer's electrical or gas consumption data to a third party for ... the

¹⁸ See Ex. OhmConnect-4 (Staton), at 25:26-31.

¹⁹ Phase II Rebuttal Testimony of PG&E, at 1-18, 1-3.

²⁰ See Ex. OhmConnect-4 (Staton), at 26:3-8, 26:17-25.

²¹ *Id.*, at 26:10-15.

implementation of demand response ... provided that, for contracts entered into after January 1, 2011, the utility has required by contract that the third party implement and maintain reasonable security procedures and practices appropriate to the nature of the information to protect the personal information from unauthorized access, destruction, use, modification, or disclosure, and prohibits the use of the data for a secondary commercial purpose not related to the primary purpose of the contract without the customer's prior consent to that use.

PG&E asserts that OhmConnect's data sharing proposal is "[o]utside the scope of this proceeding and would be more appropriately addressed through the Click Through Application (A.18-11-015 et al.)."²² However, reducing barriers to data sharing is clearly within scope and a decision in the click-through application proceeding has yet to be issued even though the proceeding has been fully briefed for two years.

2. IOUs Should Have a 48-hour Deadline to Provide Customer Usage Data

To increase the timeliness of the provision of data between IOUs and third-party DR providers, the Commission should establish and enforce a 48-hour deadline for IOUs to provide customer usage data to third parties.²³ The standard is achievable because PG&E already meets it.²⁴ The Commission should create a requirement for all three IOUs that customer usage data be submitted to third-party DR providers within 48 hours.

3. Approve SCE's Rule 24 IT Budget

SCE has the greatest variation in timely submission of customer data.²⁵ While SCE testifies that significant data delays were attributed to force of circumstance,²⁶ the Commission should approve SCE's Rule 24 IT budget to allow SCE to improve its systems. The Public Advocate's Office misguidedly proposed to reduce SCE's Rule 24 information technology IT

²² Phase II Rebuttal Testimony of PG&E, at 1-15, 6-8.

²³ Ex. OhmConnect-4 (Staton), at 28: 6-7.

²⁴ *Id.*, at 27: 4-5.

²⁵ Phase II Direct Testimony of OhmConnect Witness Cliff Staton, at 28:2-4.

²⁶ See Ex. SCE-14, at 20:6-9.

based on not achieving forecast enrollments.²⁷ SCE stated “this proposal incorrectly assumes that system costs are volumetric or tied to the number of registrations.²⁸ Based on the historical evidence of IT issues at SCE, the Commission should approve the full Rule 24 IT budget to the benefit of SCE customers.

IV. THE COMMISSION SHOULD CONTINUE THE EMERGENCY LOAD REDUCTION PROGRAM WITH MODIFICATIONS

The Commission should “consider design changes to RA-eligible emergency DR programs”²⁹ by continuing the ELRP program with these modifications: 1) the ELRP should serve as an on-ramp to economic DR; 2) stop auto-enrollment and approve PG&E's recommendation for an advice letter to unenroll existing customers from ELRP; 3) require a DR market awareness campaign; 4) establish the Flex Alert as the day-ahead trigger for all ELRP sub-groups; and 5) maintain the ELRP incentive at \$2/kWh.

A. ELRP Should Serve as an On-Ramp to Economic Demand Response

ELRP aims to incentivize reductions in electricity usage during grid stress periods. The Commission should establish an “on ramp” period from March to May each year to encourage economic DR participation before the summer season.³⁰

SCE asserts that “OhmConnect’s marketing proposals are not intended to strengthen ELRP, but rather to encourage customers to choose alternatives.”³¹ However, the ELRP should go beyond simply responding to emergencies and instead promote DR programs that can both

²⁷ Ex. Cal Advocates-01, Phase II Opening Testimony of California Public Advocates, at 5-5:1-3.

²⁸ See Ex. SCE-14, at 20:6-9.

²⁹ Scoping Memo, Phase II issue 2(c) at 5-6.

³⁰ Ex. OhmConnect-4 (Staton), at 11:14-16.

³¹ Ex. SCE-14, at 21:5-6.

prevent emergencies and provide deeper load reduction.³² By requiring an annual on-ramp for ELRP to transition to economic DR, the Commission will support the growth of economic DR.

B. The Commission Should Discontinue Auto-Enrollment and Approve PG&E's Proposal for an Advice Letter to Unenroll Existing Customers from ELRP

CEDMC recommended an end to automatically enrolling CARE and FERA customers and recipients of Home Energy Reports into ELRP.³³ PG&E supported CEDMC's recommendation as it would reduce free-ridership and allow the utility to focus on customers that enrolled in the program.³⁴ The Commission should adopt PG&E's proposal to use the advice letter process to identify a process to unenroll existing ELRP participants that were auto-enrolled and to stop automatic enrollment going forward.³⁵ Specifically, the Commission should direct the IOUs to submit an advice letter to propose a process to facilitate unenrolling existing customers that were auto-enrolled in ELRP and stop auto-enrolling customers and to require education of available DR programs during the process. The customer touchpoint of the disenrollment process could provide the same information about DR programs as the DR market awareness campaign discussed below.

C. The Commission Should Require a DR Market Awareness Campaign

The Commission should not overlook the missed opportunity that results from automatically enrolling millions of households into the residential ELRP without educating them about alternative market-integrated DR program options.³⁶ The Commission should order a proactive market awareness campaign by the IOUs to increase customer knowledge and participation in DR programs, similar to successful initiatives in other regions.

³² Ex. OhmConnect-4 (Staton), at 11:7-9; Ex. Council-02 (Desmond), at 5:17-19.

³³ Ex. Council-02 (Desmond), at 16:1-3.

³⁴ Ex. PG&E-8, Phase II Rebuttal Testimony of PG&E, at 3-14:22-26.

³⁵ *Id.*, at 3-15:3-8.

³⁶ Ex. OhmConnect-1, Phase I Opening Testimony of OhmConnect Witness Maria Belenky, at A-2.

Con Edison's market awareness campaign in New York is a successful example of such a campaign.³⁷ Con Edison sent an email to customers in March 2023, informing them about the summer DR season and providing a link to a short form where customers could express interest and provide their contact information. Aggregators of the specific customer type received the contact information for marketing purposes. This campaign effectively increased customer sign-ups for DR programs.

The existing marketing and education of ELRP should be modified to provide customers with unbiased information about available DR programs.³⁸ This information would include program descriptions, eligibility rules, approximate event frequency, and enrollment links.³⁹ These activities would be carried out during the “on-ramp” period, requiring no additional efforts outside of those three months or additional IT requirements because the ELRP program administrator would not handle actual enrollment in other DR programs.⁴⁰ The disenrollment process PG&E suggests provides the Commission with an opportunity to generate widespread awareness of available DR programs.

The Public Advocates Office (“PAO”) opposes the use of ratepayer funds to market third-party providers' programs to customers, arguing that such costs should be borne by private businesses rather than ratepayers.⁴¹ PG&E expressed a similar disagreement.⁴² However, both PG&E and PAO fail to acknowledge that DR provider revenues earned from providing RA are

³⁷ See Ex. OhmConnect-4 (Staton), at 17:18-19.

³⁸ *Id.*, at 11:18-21.

³⁹ *Id.*, at 11, 21-24

⁴⁰ *Id.*, at 11, 24-27.

⁴¹ Ex. Cal-Advocates -02, Phase II Rebuttal Testimony of California Public Advocates Office, at 4-5:12-17.

⁴² Ex. PG&E-8, at 3-20:19-23.

also recovered through customer rates and that increased use of DR provides significant benefits to the overall grid benefiting all ratepayers.

It is crucial to educate ratepayers about their choices when participating in a DR program. They should be made aware of more cost-effective DR programs managed by entities other than IOUs.

The Commission should require a proactive approach to invite ELRP enrollees and disenrollees to join an economic DR program. Previously, the Commission determined that “customers of DR programs have a right to choose from all available products—whether those products be utility programs or third-party programs... and are empowered through education.”⁴³ To ensure IOU DR program compliance with the principles, directives, and guidance adopted in D.16-09-056, the Commission should mandate IOUs to annually educate customers about all available DR programs using email and website copy.⁴⁴

D. The Commission Should Establish the Flex Alert as the Day-Ahead Trigger for All ELRP Sub-Groups

The Commission correctly determines that compensating customers who reduce energy usage during CAISO's Flex Alert program promotes equity, as many residential customers already participate in Flex Alert without compensation.⁴⁵ However, the current triggers for the ELRP are non-standardized, confusing, and favor IOU-administered sub-groups.⁴⁶ To improve the effectiveness of statewide Flex Alert messaging, reduce customer confusion, and properly value the load reduction from proactive customers, the Commission should adopt the Flex Alert as a day-ahead trigger for all ELRP sub-groups, except A.1 and A.2 (Base Interruptible Program)

⁴³ D.16-09-056, at 49-50.

⁴⁴ Ex. OhmConnect-4 (Staton), at 16:7-17:4.

⁴⁵ D.21-12-015, at 56.

⁴⁶ Ex. OhmConnect-4 (Staton), at 18, 6-7.

which include large industrial customers.⁴⁷ The dispatch for large industrial customers should be reserved for day-of emergency grid conditions due to the significant costs associated with interrupting their operations.⁴⁸

PG&E states that the Commission should deny OhmConnect's recommendation because OhmConnect fails to "[d]emonstrate why the Commission erred in establishing CAISO's 'Alert, Warning, Emergency' process for ELRP triggers."⁴⁹ As stated above, establishing the Flex Alert as the trigger will properly value ELRP participants' load reductions and align with grid needs for energy conservation. Thus, the Commission should establish the Flex Alert as a day-ahead trigger for all ELRP sub-groups, except A.1 and A.2 to promote equity and fairly compensate customers for conserving energy when needed.

E. The Commission Should Maintain the ELRP Incentive at \$2/kWh

PAO errs in suggesting that the ELRP compensation level should be set at \$1/kWh in 2024 to capture cost savings based on SCE's proposal to reduce the incentive in 2026 and 2027.⁵⁰ The ELRP incentive should be maintained at \$2/kWh as recommended by OhmConnect,⁵¹ PG&E,⁵² SDG&E,⁵³ and the Vehicle Grid Integration Council.⁵⁴

There are several reasons to keep the incentive at \$2/kWh. First, ELRP is still a pilot and reducing the incentive may reduce participation and performance among eligible ELRP participants with back-up generation.⁵⁵ Similarly, some ELRP participants who also participate

⁴⁷ *Id.*, at 18:7-9.

⁴⁸ Ex. OhmConnect-4 (Staton), at 18:18-21.

⁴⁹ Ex. PG&E-8, at 3-21:18-22.

⁵⁰ Ex. Cal Advocates-01, at 5-3:9-14.

⁵¹ Ex. OhmConnect-5 (Staton), Rebuttal Testimony of Cliff Staton on Behalf of OhmConnect, at 3:22-4:10.

⁵² Ex. PG&E-8, at 3-11:11-12.

⁵³ Ex. SDGE-10 (Mantz), Phase II Rebuttal Testimony of SDG&E, at EBM-17:18-19.

⁵⁴ Ex. VGIC-02 (Borges), Phase II Rebuttal Testimony of Vehicle Grid Integration Council, at 3:1-2.

⁵⁵ Ex. PG&E-8, at 3-12:3-10.

in IOU or third-party DR programs may disenroll from those programs to move to a higher energy payment if the incentive is reduced.⁵⁶ Further, a reduction in incentives is not warranted until the electric grid is demonstrably stable without the ELRP program load reductions.⁵⁷ Finally, reducing the incentive would “[s]ignificantly undermine the Commission’s goals to support the relatively nascent VGI market and the V2X market in particular.”⁵⁸ For these reasons, the Commission should reject any changes to the ELRP incentive level at this time.

V. THE COMMISSION SHOULD EXTEND THE SCT PROGRAM THROUGH 2027 WITH MODIFICATIONS

The smart controllable thermostat (“SCT”) program should be continued and modified to unlock untapped DR capacity. Google Nest highlights the significant potential for additional DR capacity based on households that own a SCT not participating in a DR program⁵⁹ and there are about 7 million households yet to install a SCT.⁶⁰ As such, the Commission should extend the SCT program until 2027 with the current budget of \$11.25 million per year, while adjusting to allow direct-enrolled and third-party DR participants to access SCT incentives when enrolled in a qualifying DR program.⁶¹ The Commission should also adopt CEDMC’s recommendation to eliminate participation restrictions based on Climate Zone and open the SCT Program to all customers participating in the qualifying DR programs of their choice.⁶²

Contrary to these recommendations, PAO illogically argues against requiring customers that receive technology incentives to participate in a DR program.⁶³ They present an example of

⁵⁶ Ex. OhmConnect-5 (Staton), at 4:4-7.

⁵⁷ See Ex. SDGE-10 (Mantz), Phase II Rebuttal Testimony of SDG&E, at EMB-17:13-15.

⁵⁸ Ex. VGIC-01, at 6:1-3.

⁵⁹ Ex. Google-1 (Berndt), Response to Specific ALJ Questions Prepared Testimony and Exhibits of Aaron Berndt on Behalf of Google LLC, at 2:15-3:18.

⁶⁰ *Id.*, at 2:10-14.

⁶¹ Ex. OhmConnect-4 (Staton), at 3:4-8.

⁶² Ex. Council-02 (Desmond), at 23:20-24; Ex. OhmConnect-4 (Staton), at 3:8-10.

⁶³ See Ex. Cal Advocates-01, at 2-3:21-23.

a medically vulnerable customer participating in an air conditioning control program potentially suffering serious health consequences.⁶⁴ The direness of the situation was overstated given the entire process can be manually overridden by the customer by adjusting the temperature setting if necessary. This argument fails to support the notion that those receiving a technology incentive should not have to participate in a DR program where the customer can opt-out of any particular energy-saving event. To maximize the growth and benefits of DR, the Commission should mandate customer enrollment in a DR program to receive a technology incentive.

VI. CONCLUSION

For the reasons explained above, the Commission should take these actions:

- Review all proposals through the lens of the DR principles adopted in D.16-09-056 and reject IOU proposals that contradict these DR Principles. In particular, the Commission should (1) reject SCE's proposal to convert its CBP to load modifying DR with two-hour availability requirements and (2) reject IOU proposals to lower the penalty threshold for the CBP.
- Adopt a one-click disenrollment option to resolve enrollment conflicts.
- Reduce barriers to data sharing by: (1) implementing "click-through" alternatives, such as a form contract for the provision of data to third-party DR providers; (2) establishing a 48-hour deadline for IOUs to provide customer usage data; and (3) approving SCE's Rule 24 IT budget.
- Continue the Emergency Load Reduction Program with the modifications described herein.
- Extend the Smart Controllable Thermostat Program through 2027 with the modifications described herein.

⁶⁴ *Id.*, at 2-4:3-6.

Respectfully submitted,

By: /s/_____

Vidhya Prabhakaran

Anna Fero

DAVIS WRIGHT TREMAINE LLP

50 California Street, 23rd Floor

San Francisco, CA 94111

Tel. (415) 276-6500

Fax. (415) 276-6599

Email: vidhyaprabhakaran@dwt.com

Email: annafero@dwt.com

July 14, 2023

Attorneys for OhmConnect, Inc.