PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Agenda ID # 20770
ENERGY DIVISION **RESOLUTION E-5103**
August 4, 2022

R E S O L U T I O N

Resolution E-5103. Pacific Gas & Electric Company's Mid-Cycle Review Compliance Submittal for its 2018-2022 Demand Response funding Application pursuant to Decision 16-09-056.

PROPOSED OUTCOME:
- PG&E's proposal to close the non-residential C-SmartAC tariff, which has been inactive, is approved.

SAFETY CONSIDERATIONS:
- There are no safety considerations associated with this resolution.

ESTIMATED COST:
- There are no costs associated with this resolution.

By Advice Letter 5799-E, Filed on April 1, 2020

SUMMARY

This Resolution adopts with modifications Pacific Gas and Electric Company's (PG&E) Advice Letter (AL) 5799-E, Mid-Cycle Review Compliance Submittal for its 2018-2022 Demand Response funding Application pursuant to Decision (D.) 17-12-003.

The Mid-Cycle Review (MCR) is required by D.16-09-056, which increased the DR budget cycle from three to five years. The MCR provides a full status report of each demand response program, and may recommend minor, non-controversial program changes.

This Resolution reviews PG&E's proposed updates to its current DR programs and protests filed by stakeholders and approves PG&E's request to discontinue the C-Smart AC tariff. This Resolution also notes that some of the proposed changes have already

been approved by the CPUC in other advice letters or R.20-11-003. In addition, it finds that some of the changes requested in the protests are inappropriate for the AL process or out of scope of the MCR or are more properly addressed in PG&E's 2023-2027 demand response portfolio application (A.22-05-002).

BACKGROUND

On September 29, 2016, the CPUC issued D.16-09-056, which provided guidance to the Investor-Owned Utilities (IOU) for filing their 2018-2022 DR applications, established a DR budget cycle length of five years, and stipulated a mid-cycle review (MCR) in 2020. In response, PG&E filed its 2018-2022 DR Application (A.) 17-01-012 on January 17, 2017. PG&E's Application was approved as part of D.17-12-003.

D.16-09-056 OP 9 ordered PG&E to submit a Tier 3 Advice Letter no later than April 1, 2020, with a mid-cycle review, including and proposed modifications updates to its DR programs.

As part of the MCR process, PG&E presented a list of directives jointly developed with the other utilities and met with ED to ensure proper scoping of the instant MCR AL.

On April 1, 2020, PG&E submitted the Tier 3 AL 5799-E in compliance with D.16-09-056 to address various CPUC directives and a request by the Energy Division (ED) to discuss the status and scope of the Mid-Cycle Review (MCR) of PG&E's DR programs for 2018-2022. PG&E proposed the following changes to its DR programs:

1. SmartAC: Continue the residential program but cease to actively market for the balance of the funding cycle and close the non-residential C-SmartAC tariff, which has been inactive.

2. Base Interruptible Program (BIP): Modify the eligibility requirements to require average demand in each month of the year to be a minimum of 100kW during the peak Time-of-Use (TOU) hours instead of the current requirement of at least 100 KW or higher maximum demand during the peak TOU hours in only one month of the previous twelve, to ensure that the resource performs reliably when called upon.

3. Capacity Bidding Program (CBP): Improve the enrollment process for residential aggregators by enabling an electronic enrollment pilot consistent with PG&E's prior multi-party settlement agreement.

4. Close the Supply Side II and Excess Supply Pilots.

On May 5, 2020, and again on September 15, 2020, AL 5799-E was suspended by the Energy Division to allow additional time for review.

NOTICE

Notice of AL 5799-E was made by publication in the Commission's Daily Calendar. PG&E states that a copy of the Advice Letter was mailed and distributed in accordance with Section 4 of General Order 96-B.

PROTESTS

Advice Letter 5799-E was timely protested within ED's approved extension to May 5, 2020, by the following organizations:

- California Efficiency + Demand Management Council (Council), CPower, Enel X and OhmConnect (Joint Parties)
- California Public Advocates Office (CalAdvocates)
- Polaris Energy Services (Polaris), representing Campos Brothers Farm, DM Camp and Sons, North Kern Water Storage District and Terranova Ranch
- California Farm Bureau Federation (CFBF)
- California Large Energy Consumer Association (CLECA)

PG&E responded to these protests within the ED-approved extension period, on May 19, 2020.

Joint Parties' Protest

- The Joint Parties propose that PG&E revise their CBP tariffs to exclude Power Safety Power Shutoff (PSPS) events when calculating performance during a DR event, as PG&E currently does for BIP.

- The Joint Parties recommend that the CPUC direct PG&E to assess the accuracy of using a 5-in-10 baseline with a 40% adjustment cap for non-residential CBP customers. The Joint Parties believe that if this assessment proves that the 5-in-10 baseline is viable for non-residential customers, this information could be shared with the California Independent System Operator (CAISO). CAISO could potentially support adding a non-residential 5-in-10 baseline to its tariff for an option for Proxy Demand Resources (PDRs).

- The Joint Parties state that more than two years have passed since D.17-12-003 ruled on various issues intending to level the competitive playing field between IOUs and third parties, but there are still issues with the process by which customers of third-parties apply for an incentive in the technology incentive program. Therefore, the Joint Parties recommends that the CPUC should develop more specific improvements through a workshop process. In addition, the Joint Parties address the disparity in awareness among customers between IOU and third-party DR options available to them. The Joint Parties suggest that the CPUC direct the IOUs to disclose, at least twice per year, key metrics on the page views to address the disparity in awareness among customers between IOU and third-party DR options.

- The Joint Parties state that there are very high cancellation rates of enabling technology incentive applications, especially for residential customers. Thus, the Joint Parties recommend that PG&E should "allow customers to sign over their incentive payments to DR Aggregators. . ."[1] The Joint Parties propose that this approach would "allow DR aggregator to 'front' the incentive payment for their customers while eliminating a significant administrative burden on the customer applying for the incentive."[2]

- The Joint Parties propose that "[t]he IOUs should develop pilots to test the type of DR products envisioned by the . . . 2025 California Demand Response Potential Study."[3] The Joint Parties argue that the IOUs "should use the next two years to develop a pilot to shift, shimmy, and shape products using their respective over-generation/excess supply pilot funding."[4]

- The Joint Parties propose that PG&E develop a Bring-Your-Own-Device ("BYOD") direct load control program, similar to SCE's Smart Energy Program, in parallel with SmartAC. The Joint Parties state that a BYOD program may "perhaps reengage some of its recently departed SmartAC participants."[5]

[1] Joint Parties' Protest, p. 4.
[2] Joint Parties' Protest, p. 4.
[3] Joint Parties' Protest, p. 4.
[4] Joint Parties' Protest, p. 4.
[5] Joint Parties' Protest, p. 5.

- The Joint Parties oppose PG&E's proposed revision to BIP eligibility, stating that it will not, as PG&E claims, ensure that all BIP participants have sufficient load to drop during a BIP event. The Joint Parties state that any BIP participant could have load that is lower than its firm service level (FSL) at any time, so discriminating against customers with certain types of load curves is counterproductive.

- The Joint Parties note PG&E's two options for aligning the treatment of Excess Energy Charges, and state their preference for Option B, which they believe is simpler and more efficient. The Joint Parties note that Option A is flawed because the formula is undefined, and the "the performance penalty will be highly arbitrary and punitive."[6]

- The Joint Parties propose that BIP customers who fail to achieve their FSL during a test event should be exempt from an additional test until the next open enrollment period if they choose to modify their FSL to a level consistent with that achieved during the failed test, since the customer would have demonstrated that it can meet the modified FSL. The Joint Parties also proposed that BIP customers who decide to leave the program during the open enrollment period in November should not be subject to further testing, and that any BIP customers who fail a test prior to the open enrollment period should not incur higher excess energy charges after the open enrollment period.

- The Joint Parties propose that BIP and CBP customer forms allow electronic signatures.

- In addition, the Joint Parties propose that in the CBP Elect program, aggregators be allowed to change prices hourly, not only daily.

Cal Advocates' Protest

Cal Advocates proposes that the CPUC use the 2020 DR Mid-Cycle review as an opportunity to redirect overbudgeted program monies, to more effectively mitigate ratepayer hardship in the short and long term. Cal Advocates recommends that the CPUC reduce PG&E's budget for 2020 and 2021 to the 2019 actual spending level. They state that future spending on DR programs will be less than actual spending in 2019 primarily due to the recessed economy.

[6] Joint Parties' Protest, p. 7.

They assert that reducing the 2020 budget from the currently authorized $67M to the 2019 actual spending of $46M would leave roughly $20M available for assisting vulnerable customers through reduced collections. Cal Advocates also recommends that the CPUC order PG&E to file a supplemental AL to reduce its 2020 and 2021 DR budgets to match actual 2019 spending.

Polaris' Protest

Polaris manages 168 agricultural pumping customer accounts who together have about 50 MW of peak load enrolled in BIP. Polaris believes that PG&E's proposed change in the BIP eligibility requirement targets agricultural pumping customers and will eliminate those customers from BIP, without providing a feasible replacement program. Polaris recommends that no changes be made until the results of an EPIC study on increasing agricultural sector participation in DR programs is complete. Polaris also points out that PG&E proposal was made without consulting with, or considering the needs of, agricultural customers. Polaris also provides a detailed analysis of why the enrollment change will not, as PG&E suggests, achieve the goal of improving the reliability of BIP.

CFBF's Protest

CFBF supports Polaris' protest and recommends continued review of the options available to agricultural customers. CFBF details the damaging effect these changes would have on agricultural customers.

CLECA's Protest

CLECA protests the proposed change to BIP eligibility requirements. CLECA argues that this type of change is inappropriate for the Advice Letter process, that PG&E has provided no evidence that the change would make BIP more reliable, and that the removal of certain customers from BIP may be unjust, unreasonable, or discriminatory.

PG&E's Response to Parties' Protests

BIP eligibility requirements: PG&E maintains that its "BIP eligibility proposal reasonably addresses a weakness associated with the BIP program."[7] However, PG&E recognizes that "the weight of comments by stakeholders indicates that a more

[7] Pacific Gas and Electric Company's Reply to the Protests of Advice Letter 5799-E, p. 3

collaborative approach is warranted"[8] and therefore offers to suspend this proposal and work with stakeholders on this issue as part of the upcoming 2023-2027 DR budget applications.

CalAdvocate's Budget Reduction Proposal: PG&E claims that CalAdvocate's proposal is improper and "emphasizes that the current cost recovery mechanism already provides for return of unspent funds … [t]herefore, any underspending for incentives would be returned in rates on a yearly basis."[9]

Exclude PSPS from CBP baseline: PG&E is opposed to the Joint Parties' proposal to adjust CBP baselines to exclude PSPS events. PG&E believes that baseline adjustments for CBP, which is bid into CAISO markets as a proxy demand response (PDR) resource, should continue to be done within the CAISO bidding process, and that the Commission "should not create PSPS-specific carve-outs outside of or in place of the appropriate CAISO process, which could create potential conflicts and perverse incentives."[10]

In addition, PG&E believes that the Joint Parties' use of the current BIP practice is inappropriate because BIP is not a PDR, and that the PSPS adjustment in BIP should be reviewed since it is not done on a statewide basis.

Review of 5-in-10 baseline: PG&E argues that the MCR is not the appropriate place to discuss this issue, since D.17-12-003 stated that baselines would be reviewed within a future decision in the proceeding.

Web page issues: PG&E argues that the Joint Parties' claims about difficulties associated with the application process are vague, and that D.17-12-003 did not require the IOUs to provide web metrics. PG&E also states that it has already complied with the requirements of D.17-12-003 to include third party information on their website.

Technology incentive payments directly to aggregators: PG&E is opposed to the Joint Parties' proposal that customers be allowed to sign over their incentive payments for enabling technologies directly to aggregators, as a strategy to reduce customer cancelation rates. PG&E argues that Joint Parties is misrepresenting the actual

[8] Pacific Gas and Electric Company's Reply to the Protests of Advice Letter 5799-E, p. 3
[9] Pacific Gas and Electric Company's Reply to the Protests of Advice Letter 5799-E, p. 4
[10] Pacific Gas and Electric Company's Reply to the Protests of Advice Letter 5799-E, p. 5

cancelation rates, and that D.18-11-029 states that only customers can receive enabling technology incentive payments.

New types of DR pilots: PG&E opposes the Joint Parties' proposal that the IOUs pilot shift, shimmy, and shape DR products at this time, and argue that any consideration of new pilots be done in the upcoming budget application proceeding.

Reducing Smart AC customer attrition: PG&E is opposed to the Joint Parties proposal that PG&E develop a Bring-Your-Own-Device ("BYOD") direct load control program as a strategy to reduce customer attrition. PG&E states that customer attrition is due to restrictions on dual enrollment, customers moving from the utility to CCAs, and other factors that make it unlikely that a BYOD addition would affect attrition levels. In addition, PG&E believes that this proposal is out of scope of the MCR process.

Excess Energy Charge: PG&E points out that the two options listed for changing the excess energy charge are not a PG&E proposal at this time, but rather a report from the "Common Parameters effort," intended to be considered at a later date.

Exempting BIP customers from re-testing and escalation of Excess Energy Charge: PG&E does not support Joint Parties' proposal. PG&E believes that this would allow customers an additional opportunity to change their FSL, which is currently limited to the November open enrollment period. PG&E states that "[a]llowing a customer an additional opportunity to 'opt out' of their committed FSL after an initial test does not encourage customers to set an achievable FSL, or to drop to their FSL during an emergency, if the customer can modify their FSL thereafter and avoid a retest." PG&E also disagrees with Joint Parties' proposal to limit the escalation of excess energy charges.

Electronic signatures: PG&E supports the addition of an electronic signature for its BIP forms. PG&E states it would like to roll out this feature in 2021 if PG&E can leverage existing infrastructure, and also adhere to consumer privacy laws, regulatory rules and tariffs, and customer authorization.

Allowing hourly CBP Elect prices: PG&E supports, in concept, increased flexibility for CBP, but states that since allowing hourly prices would like results in new incentive rates and structures that this issue should be taken up in the upcoming budget proceeding.

DISCUSSION

The CPUC has reviewed the Advice Letter, the protests, and replies, and finds the following:

PG&E's Proposals:

1. Smart AC:

PG&E's proposal to continue the residential Smart AC program but cease to actively market for the balance of the funding cycle has been made moot by the actions taken by the CPUC in the Summer Reliability proceeding (R.20-11-003). There, the CPUC authorized PG&E to replace one-way thermostat control technology with newer two-way devices (including switches and thermostats) in 2022 and 2023 in its SmartAC program. PG&E was authorized an incremental $7 million in funding in 2022 and 2023 for administration, marketing, and retention incentives for this device exchange.

PG&E's proposal to close the non-residential C-SmartAC tariff, which has been inactive, is approved. We authorize it to file a Tier 1 AL within 30 days of the effective date of this resolution.

2. BIP eligibility requirements:

As PG&E states in their reply comments, it has suspended its proposal to modify BIP eligibility requirements and will defer this issue to the 2023-2027 demand response portfolio application (A.22-05-002), so no action is necessary for this resolution.

3. CBP enrollment process:

PG&E's proposal to improve the enrollment process for residential aggregators by enabling an electronic enrollment pilot consistent with PG&E's prior multi-party settlement agreement was advanced in AL 5752-E-A filed March 4, 2020, and was approved on April 27, 2020. Since this AL was adopted by the CPUC, so no further action is necessary.

4. Close the Supply Side II and Excess Supply Pilots:

These two pilots were authorized by D. 17-12-003 for funding only through 2020. Hence, they are no longer active, so no action is necessary at this time.

California Public Advocates' Proposal:

We reject Cal Advocates' recommendation that PG&E's budget should be decreased because 1) PG&E's costs are not recovered unless they are actually spent, and 2) PG&E's costs are recovered from customers the following year after they are spent. Therefore, the unspent budget is never collected, and ratepayers are protected.

Joint Parties' Proposals:

The Joint Parties' recommendation that PSPS events be factored into the CBP baselines is a technical change to the design of the program but is relatively straight forward. However, PG&E's objections related to the functioning of CAISO PDR market, as well as their point about the need for a statewide policy for the BIP program, lead us to believe that this issue requires further discussion. It is appropriate for stakeholders to raise this issue in the 2023-2027 demand response portfolio proceeding.

In response to the Joint Parties' assertion that the CPUC should direct the IOUs to assess the accuracy of a non-residential 5-in-10 baseline with a 40% adjustment cap, we find that this is out of scope of the MCR process, per Conclusion of Law 74 of D.17-12-003 which states "alternative baselines should not be addressed in the mid-cycle review."

We agree with PG&E that the Joint Parties' request for the website changes and provision of website statistics is not in scope for the MCR.

We find that the Joint Parties have presented little evidence for their assertion that AutoDR cancellation rates would decrease if PG&E allowed customers to sign over their incentive payments to DR aggregators. In addition, D.18-11-029, OP 6(g), states that "[o]nly the customer is eligible for the Auto Demand Response control incentive, not the aggregator, demand response provider, or manufacturer cloud portion of the control." The Joint Parties proposal on this matter is therefore rejected.

We agree with PG&E that ordering utilities to use pilots to test DR products envisioned by the 2025 California Demand Response Potential Study is not in scope of the MCR.

Regarding the Joint Parties request for a Bring-Your-Own-Device direct load control program to reduce customer attrition in the Smart AC program, the CPUC has addressed this issue in the Summer Reliability proceeding[11] by taking the following actions: 1.) adopted PG&E's proposal to create and manage a new out-of-market residential smart thermostat control pilot program for 2022 and 2023. PG&E was authorized to spend an incremental $17.5 million in incentives, administration, and marketing in 2022 and 2023 for this pilot; 2.) authorized PG&E to replace one-way thermostat control technology with newer two-way devices (including switches and thermostats) in 2022 and 2023 in its SmartAC program. PG&E was authorized an incremental $7 million in funding in 2022 and 2023 for administration, marketing, and retention incentives for this device exchange and 3.) authorized a budget of up to $22.5 million in technology incentives ($75 per measure) to develop a limited, two-year Residential Smart Communicating Thermostat (SCT) program for 2022-23 to incentivize the installation of up to 300,000 SCT in hot climate zones. Recipients of the SCTs must enroll in a market integrated supply-side Demand Response program, which includes SmartAC.

We find that since PG&E was reporting the two options for aligning the treatment of Excess Energy Charges, and not proposing any changes, that no action by the CPUC is necessary at this time related to this issue.

With respect to the Joint Parties' proposals for exempting BIP participants from a re-test if the customer reduces its Firm Service Level commitment and not escalate Excess Energy Charges after the open enrollment period for BIP participants who failed a test, we decline to adopt the proposal. The current rules are in place to ensure that BIP participants are committed to delivering on their capacity, particularly if the participant has already failed a test.

PG&E stated in its reply that it supports the use of electronic signatures for the BIP program and was hopeful to implement this in 2021, and proposed a CBP electronic signature pilot project in AL 5752-E-A. This AL was approved by the CPUC on April 27, 2020, so no further action is necessary.

We agree with PG&E that new incentives and rate structures are out of scope of the MCR, and should be discussed as part of the next DR funding cycle. Hence, we decline to implement any changes to the CBP Elect program prices at this time.

[11] D.12-03-015.

Protests from Polaris, CFBF, and CLECA:
In protests, Polaris, CFBF, and CLECA's state their concerns with PG&E's proposed modifications to BIP eligibility requirements. As noted above, PG&E has suspended its proposal to modify BIP eligibility requirements and will defer this issue to the 2023-2027 demand response portfolio application (A.22-05-002).

COMMENTS

Public Utilities Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review. Please note that comments are due 20 days from the mailing date of this resolution. Section 311(g)(2) provides that this 30-day review period and 20-day comment period may be reduced or waived upon the stipulation of all parties in the proceeding. The 30-day review and 20-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments, and will be placed on the Commission's agenda no earlier than 30 days from today.

FINDINGS

1. Decision D.16-09-056 directed PG&E to file a Mid-Cycle review Tier 3 advice letter no later than April 1, 2020, providing an update on each of their demand response programs and requesting approval of any necessary changes.
2. PG&E filed AL 5799-E timely on April 1, 2020. Protests were filed timely with PG&E replying to each.
3. PG&E's proposal to cease marketing the residential Smart AC is now moot.
4. PG&E's proposal to close the non-residential C-SmartAC tariff is reasonable, given that the program is inactive.
5. PG&E should file a Tier 1 AL within 30 days of the effective date of this resolution to close C-SmartAC.
6. PG&E has suspended their proposal to modify BIP eligibility requirements, so no CPUC action is necessary at this time.
7. PG&E's proposal to improve the CBP enrollment process was resolved by AL 5752-E-A, so no CPUC action is necessary.
8. The Supply Side II and Excess Supply Pilots were authorized by D. 17-12-003 for funding only through 2020. Hence, they are no longer active, so no CPUC action is necessary at this time.

9. Reducing PG&E's demand response budget would not protect customers because PG&E's unspent budget is never recovered from customers.
10. It is appropriate for stakeholders to raise the issue of whether and how to factor PSPS events into BIP and CBP baselines in the DR 2023-2027 portfolio application proceeding.
11. The question of using a 5-in-10 baseline for non-residential customers is now moot because PG&E's Advice Letter 6072-E, approved by the CPUC on February 27, 2021, included the ability to offer a 5-in-10 retail baseline for CBP. No further CPUC action is necessary.
12. Utility provision of demand response website statistics is out of scope of the MCR process.
13. Allowing customers to sign over their incentive payments to DR aggregators is unlikely to decrease AutoDR cancellation rates.
14. D.18-11-029 states that "[o]nly the customer is eligible for the Auto Demand Response control incentive, not the aggregator, demand response provider, or manufacturer cloud portion of the control."
15. Development of DR pilot programs of products envisioned by the 2025 California Demand Response Potential Study pilots is out of scope of the MCR process.
16. The Joint Parties' proposal for a Bring Your Own Device for the Smart AC program has been largely addressed in the Summer Reliability proceeding.
17. The current rules for BIP re-testing and escalating Excess Energy Charges are appropriate to ensure BIP participants can deliver on their committed load reduction capacity.
18. PG&E proposed a CBP electronic signature pilot project in AL 5752-E-A. This AL was approved, so no further CPUC action is necessary.
19. New incentives and rate structures are out of scope of the MCR, and should be discussed as part of the next DR funding cycle.

THEREFORE IT IS ORDERED that**:**

1. The request of Pacific Gas and Electric Company to modify certain DR programs as requested in Advice Letter 5799-E is approved with the modifications discussed in this Resolution.

2. PG&E's proposal to close the non-residential C-SmartAC tariff is approved.

3. PG&E's proposal to close the Supply Side II and Excess Supply Pilots is approved.

4. Within 30 days of the effective date of this resolution, PG&E shall file a Tier 1 advice letter that implements all necessary tariff changes that are ordered in this resolution.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on August 4, 2022, the following Commissioners voting favorably thereon:

Rachel Peterson
Executive Director