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Decision 01-07-025 July 12, 2001

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking into the operation of interruptible load programs offered by Pacific Gas & Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company and the effect of these programs on energy prices, other demand responsiveness programs, and the reliability of the electric system.	Rulemaking 00-10-002 (Filed October 5, 2000)

INTERIM OPINION ON DEMAND BIDDING PROGRAM

1. Summary

This decision grants an emergency petition for modification to implement a demand bidding program.

2. Background

On June 8, 2001, Governor Gray Davis issued Executive Order (EO) D-39-01. EO D-39-01 addresses consolidation of load curtailment programs now authorized or offered by the California Independent System Operator (ISO), the Commission, and electric corporations. Further, it orders the California Department of Water Resources (DWR) and ISO to implement voluntary, emergency load curtailment programs. In EO D-39-01, DWR is authorized to finance load curtailment programs that compensate customers for load reductions during Stage II and Stage III Emergencies.

By letter dated June 25, 2001, Governor Davis asks the Commission to take three actions related to EO D-39-01. These actions are:

1. Modify Decision (D.) 01-04-006 to allow investor owned utilities to serve as load aggregators for a demand bidding program (DBP), and relieve the utilities of the responsibility for implementing the Voluntary Demand Response Program (VDRP). Customers currently enrolled in VDRP should be afforded an opportunity to easily transfer to the new DBP.
2. Expedite consideration of any DBP tariffs to facilitate implementation of the program as early as July 1, but no later than July 15.
3. Direct the utilities, working with the DWR, to aggressively market the program to eligible customers to achieve maximum participation during this critical summer.

Also on June 25, 2001, an emergency petition for modification of D.01-04-006 was filed jointly by Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E). Respondent utilities seek modification of D.01-04-006 to allow each utility to withdraw its VDRP and accompanying tariffs, and replace it with a new DBP. Respondent utilities seek approval of the DBP, and authority to file implementing tariffs and agreements on an expedited basis.

By ruling dated June 26, 2001, respondent utilities were each directed to file and serve a draft tariff by June 28, 2001. Further, parties were invited to comment on the June 25, 2001 letter from the Governor to the Commission. Finally, the period for comment on the letter, and responses to the petition for modification, was shortened to July 2, 2001.

On June 28, 2001, respondent utilities filed and served draft tariffs. On July 2, 2001, responses to the petition for modification were filed and served by ISO, Premier Utility Consultants, Inc. (PU Consultants), and the Office of

Ratepayer Advocates (ORA). On July 5, 2001, respondent utilities filed and served a reply to the responses.

3. Discussion

We grant the emergency petition for modification. As a result, we authorize respondent utilities to withdraw their VDRP tariffs. Respondent utilities should notify VDRP participants as soon as possible that VDRP will be withdrawn, and invite their participation in the replacement DBP.

As described by petitioners, DBP will offer day ahead incentives to bundled customers for reducing energy consumption and demand during high net short periods.[1] This program will be available five days a week, during non-holiday weekdays. The need to employ DBP will be determined by ISO and DWR. Eligible participants may submit bids, which will be aggregated by respondent utilities. ISO, however, is not obligated to accept bids if the price is not attractive to DWR and ISO compared to purchases in the market, or if the number of blocks exceeds load requirements.

Operational features of the program are contained in Attachment A. Pursuant to EO D-39-01 and the Governor's June 25, 2001 letter, program costs will be financed by DWR.

We make four changes to the operational features recommended by petitioners. First, petitioners propose price tiers in cents per kW. (Emergency Petition, page 4, "The Offer," Item 4.) Respondent utilities list prices in their

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[1] Bundled customers are those purchasing generation as well as transmission and distribution services from respondent utility. Net short periods are those wherein respondent utility cannot serve total load with its own resources.

draft tariffs as cents per kWh. We understand the intent is cents per kWh, and we make that change. (*See* Attachment A, Item 2.6.1.4.)

Second, petitioners propose: "UDCs [utility distribution companies] will distribute incentive amounts due to individual participants to the extent reimbursed concurrently by the DWR." (Emergency Petition, page 5, "DBP Performance Verification and Payment," Item 2.) This provision gives customers inadequate assurance of when payment will be made. The draft tariff of at least one respondent utility provides that the incentive payment will be made within 90 days of the DBP event. (SCE June 28, 2001 Draft Tariff, Sheet 1, "Rates.") Further, we do not think it reasonable to make distribution of incentive amounts to participants contingent upon the timing of payment to respondent utilities by DWR. As a result, tariffs filed in conformance with this order shall specify that each participating customer's bill will be credited with DBP inventive payments within 90 days of the DBP event, and payment to participating customers shall not be contingent upon payment from DWR. (*See* Attachment A, Item 2.6.3.2.)

Third, petitioners do not address payment if the DBP event is cancelled part way through a four-hour time block. However, in its comments to the draft decision, respondent utilities explained that cancellation during the midst of a DBP event would harm customers who have taken measures, such as sending home employees, to reduce load. Further, customers who have taken pains to participate in a demand reduction event but then are told after the commencement of the event that it has been cancelled may be inclined to drop out of the program. We concur. To encourage such customers to stay in the program, we will require the UDCs to pay for those bids accepted by DWR for an event that is cancelled by DWR. (*See* Attachment A, Item 2.6.3.8.)

Fourth, petitioners propose that participants may not be enrolled in the ISO's Demand Relief Program (DRP). (Emergency Petition, page 6, "Participation Requirements," Item 3.) We apply this same restriction to the ISO's Participating Load Program, also known as the Ancillary Services Load Program. (D.01-04-006, *mimeo.*, page 42.) We do this for the same reasons stated in D.01-04-006. That is, there is no net benefit to California to have similar programs compete for subscribers. (D.01-04-006, *mimeo.*, page 41.) Tariffs filed in conformance with this order shall include this restriction. (*See* Attachment A, Item 2.6.4.3.)

ISO responds to the petition stating that petitioners fail to provide a framework for communication by petitioners to ISO and the California Energy Resources Scheduling (CERS) Division of DWR. That is, DBP participants must submit bids to petitioners by 1:00 p.m., and DWR must accept or reject bids by 4:00 p.m. ISO suggests a 2:00 p.m. deadline for petitioners to submit all bids, thereby allowing CERS two hours to determine which bids to accept. Further, ISO states its willingness to continue working with CERS and petitioners to implement DBP.

We agree that a deadline for respondent utilities to aggregate and submit bids to ISO and CERS is reasonable. The deadline, however, need not be stated in each tariff. Rather, we are confident that respondent utilities, ISO and CERS will agree on an acceptable and reasonable time limit. Allowing these parties to determine their own timeframe permits flexibility, and an increased facility to quickly respond to changing conditions, not otherwise available if the deadline is fixed by tariff. Any party may bring this issue back to the Commission if it becomes necessary or desirable for the Commission to establish the deadline.

PU Consultants responds to the petition stating that more time is needed to fully consider all aspects of the DBP, its interrelationship with other programs, and its costs. We do not disagree that more time would be desirable. Time is of the essence, however. We allowed parties a limited, but reasonable, amount of time to file and serve responses, which we consider in our adoption of the program on an accelerated, but reasonable, schedule. We may consider modifications to the program in Phase II.

PU Consultants also states that honoring the commitment to ISO DRP participants makes sense, and may make DBP unnecessary. We are not convinced. The ISO DRP is a program beyond the scope of our authority. We cannot direct or control whether or not that program is implemented or effective. The record here does not persuade us that the ISO DRP conflicts with the DBP. Moreover, the record does not convince us that we should deny the petition for modification in favor of supporting the ISO's DRP. In fact, PU Consultants does not recommend this result. In its response to the petition, ISO does not ask that we deny the petition, or take any action with respect to DBP as it relates to ISO's DRP. We are not persuaded by PU Consultants to do otherwise.

In response to a request from the Administrative Law Judge that parties consider and comment on the issue, ORA proposes that the Commission reduce the total program cost cap adopted in D.01-04-006. In reply, respondent utilities assert that retaining the present cost cap does not disadvantage ratepayers. We agree with respondent utilities, and retain current MW and cost limits.

The DBP replaces the VDRP. As a result, and just as respondent utilities say, the MWs and costs of the DBP can be included within the existing annual MW and program cost limits specified in D.01-04-006. Those limits provide necessary and reasonable ratepayer protections, with DBP MWs and costs included toward the total MWs and costs authorized for each utility. (D.01-04-006, Ordering Paragraph 16, as renumbered by D.01-04-009.)

Separate accounting is required of each program, including VDRP, and now DBP. (D.01-04-006, Ordering Paragraph 15, as renumbered by D.01-04-009.) The accounting must separately include revenues, and, in this case, include the revenues collected from DWR. (*Id.*) The separate accounting will ensure that DBP costs and revenues are properly tracked, and not assessed against ratepayers more than once (e.g., once through the mechanism to recover costs incurred by DWR, and again through recovery of memorandum account balances.)

Respondent utilities filed and served draft tariffs on June 28, 2001. The speed with which this was accomplished resulted in some inconsistent language with the program described and adopted in Attachment A, and among utilities. Therefore, we direct each respondent utility to work with Energy Division to prepare final tariff language that is consistent with the orders herein, and reasonably consistent among utilities.

4. Need for Expedited Consideration

Rule 77.7(f)(9) of the Commission's Rules of Practice and Procedure provides in relevant part that:

> "…the Commission may reduce or waive the period for public review and comment under this rule…for a decision where the Commission determines, on the motion of a party or on its own motion, that public necessity requires reduction or waiver of the 30-day period for public review and comment. For purposes of this subsection, "public necessity" refers to circumstances in which the public interest in the Commission adopting a decision before expiration of the 30-day review and comment period clearly outweighs the public interest in having the full 30-day period for review and comment. "Public necessity" includes, without limitation, circumstances where failure to adopt a decision before expiration of the 30-day review and comment period…would cause significant harm to public health or welfare. When acting pursuant to this subsection, the Commission will provide such reduced period for public review and comment as is consistent with the public necessity requiring reduction or waiver."

We balance the public interest in quickly modifying D.01-04-006 to provide for a DBP against the public interest in having a full 30-day comment cycle on the proposed modification. We conclude that the former outweighs the latter. We agree with the Governor that this modification should be provided as quickly as possible. Time for action is short as Summer 2001 unfolds. Delay in adopting this modification jeopardizes the viability of the DBP and, to the extent DBP is more effective than the VDRP, jeopardizes public health or welfare by increasing the risk of rotating outages. We seek valuable public review of, and comment on, our proposed change, and find that a reduced period balances the need for that input with the need for timely action.

5. Comments on Draft Decision

On July 6, 2001, the draft decision of Presiding Officer and Assigned Commissioner Wood on this matter was mailed to parties in accordance with Section 311(g) of the Public Utilities Code and Rule 77.7 of the Rules of Practice and Procedure. Comments were filed and served on July 10, 2001.

Parties that filed and served comments on the draft decision included the ISO, Office of Ratepayer Advocates, and jointly by SCE, PG&E, and SDG&E. All comments that were timely filed and served were carefully reviewed and considered. To the extent that such comments required discussion or changes to the draft decision, the discussion or changes have been incorporated into the body and attachment of this order.

Findings of Fact

1. Governor Davis issued EO D-39-01 on June 8, 2001.
2. EO D-39-01 addresses consolidation of load curtailment programs now authorized or offered by the ISO, Commission, and electric corporations, and

orders DWR and ISO to implement voluntary, emergency load curtailment programs.

3. By letter dated June 25, 2001, Governor Davis asks the Commission to take three actions related to EO D-39-01: (a) modify D.01-04-006, (b) expedite consideration of DBP tariffs, and (c) direct utilities to aggressively market the DBP.

4. On June 25, 2001, an emergency petition for modification of D.01-04-006 was filed jointly by PG&E, SCE and SDG&E in which each seeks authority to withdraw its VDRP tariff, and implement a new DBP tariff on an expedited basis.

5. On June 28, 2001, respondent utilities filed and served draft tariffs.

6. On July 2, 2001, responses to the petition were filed and served by ISO, PU Consultants and ORA.

7. On July 5, 2001, respondent utilities filed and served a reply to the responses.

8. DBP will offer day ahead incentives to bundled customers for reducing energy consumption and demand during high net short days, five days a week during non-holiday weekdays.

9. DBP program costs will be financed by DWR.

10. Petitioners' proposal that utilities distribute incentive amounts due individual participants to the extent utilities are reimbursed concurrently by DWR gives customers inadequate assurance of when payment will be made.

11. DBP is proposed to replace VDRP.

12. The public interest in quickly modifying D.01-04-006 to withdraw VDRP tariffs and implement a DBP outweighs the public interest in a full 30-day public review and comment of the proposed modifications.

Conclusions of Law

1. The emergency petition for modification of D.01-04-006 should be granted with limited change.

2. Each respondent utility should file and serve a new DBP tariff, and each respondent utility's VDRP tariff should be cancelled concurrently with the new DBP tariff becoming effective.

3. DBP program costs should be financed by DWR.

4. Distribution of incentive amounts to individual program participants should be within 90 days of the DBP event, and not be contingent upon respondent utilities receiving payment from DWR within that time frame.

5. DBP incentive payments for an event that is cancelled part way though a four hour time block should be for actual performance.

6. DBP participants should not be permitted to also enroll in ISO's Participating Load Program, also known as the Ancillary Services Load Program.

7. A two-hour deadline should exist for respondent utilities to submit aggregated bids to ISO and CERS, but that deadline should not be stated in tariffs at this time.

8. The emergency petition should neither be denied, nor its requests adopted only in part, based on any consideration with respect to ISO's DRP.

9. DBP MW and costs should apply, just as did VDRP MW and costs, against total program MW and costs.

10. Respondent utilities should work with Energy Division to prepare final tariffs that are consistent with the orders herein, and reasonably consistent among utilities.

11. The period for public review and comment on the draft decision should be reduced, pursuant to Rule 77.7(f)(9).

12. This order should be effective today so that the DBP can replace VDRP without delay, and potential threat to public health or welfare by rotating outages that might otherwise be avoided can be mitigated.

INTERIM ORDER

IT IS ORDERED that:

1. The June 25, 2001 emergency petition for modification of Decision (D.) 01-04-006 is granted to the extent described herein, and denied in all other respects.

2. D.01-04-006 is modified effective today as follows:

   a. The background and discussion sections in this order are inserted at the end of Section 5.6.

   b. Finding of Fact 32A is added:

      "32 A. By Executive Order D-39-01, issued June 8, 2001, and by letter dated June 25, 2001 to the Commission, Governor Davis orders and recommends a demand bidding program to be implemented by respondent utilities, and funded by the California Department of Water Resources."

   c. Conclusion of Law 18A is added:

      "18A. The DBP should be adopted to replace the VDRP."

   d. The third sentence of Ordering Paragraph 15 (as renumbered by D.01-04-009) is modified to read: "The accounting shall separately identify the cost and revenue associated with each program, activity, study or report (e.g., separately track costs and revenues for the new Base Interruptible Program, Voluntary Demand Response Program, Demand Bidding Program, each curtailment study, each report)."

   e. Attachment A to this order is inserted into a new section identified as Section 2.6 of Attachment A to D.01-04-006.

3. Within one day of the date of this order, respondent utilities Pacific Gas & Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company shall each file and serve an advice letter with revised tariffs. The advice letters with revised tariffs shall implement the directions in this order and the program description in Attachment A. Each advice letter with tariffs shall be in compliance with General Order 96-A. The advice letters and tariffs shall become effective three days after filing, unless suspended by the Energy Division Director. If any advice letter and tariff is suspended by the Energy Division Director, the advice letter and tariff shall become effective upon the date the Energy Division Director determines that the tariff complies with this order. The Energy Division Director may require a respondent utility to amend its advice letter and tariffs to comply with the orders herein. Respondent utilities shall work with the Energy Division Director and staff to prepare advice letters and tariffs that are consistent with the orders herein, and reasonably consistent among utilities. The Voluntary Demand Response Program (VDRP) tariff of each respondent utility shall be cancelled at the time the new tariffs authorized herein become effective. Respondent utilities shall each notify VDRP participants as soon as possible that VDRP will be withdrawn, and encourage eligible customers to participate in the demand bidding program.

4. This proceeding remains open.

This order is effective today.

Dated July 12, 2001, at San Francisco, California.

LORETTA M. LYNCH
President
HENRY M. DUQUE
RICHARD A. BILAS
CARL W. WOOD
GEOFFREY F. BROWN
Commissioners

ATTACHMENT A
DEMAND BIDDING PROGRAM

Section 2.6 (below) is added to Attachment A of Decision 01-04-006 to describe the Demand Bidding Program (DBP) and its operational aspects.

2.6. Demand Bidding Program

2.6.1. The Offer

2.6.1.1. Participants will submit bids to a DBP website. In addition, the utility distribution companies (UDCs) may notify customers via the internet and other means of communication as needed of DBP events on a day-ahead basis.

2.6.1.2. Participants will have until 1:00 p.m. on the day before a bidding day to submit their bids. Bidding will be accepted for non-holiday weekdays only.

2.6.1.3. Participants will indicate the amount of kilowatt (kW) curtailment they are offering, at each price level for designated hourly blocks of the next day.

2.6.1.4. Participants will be able to submit bids for the program in any or all of three four-hour time blocks, and at one of four price tiers. The California Department of Water Resources (DWR) may offer price tiers of 15, 35, 55, and 75 cents per kWh or alternatively price tiers of 10, 30, 50, and 70 cents per kWh. The three time blocks are 8 a.m. to 12 Noon, 12 Noon to 4 p.m., and 4 p.m. to 8 p.m.

2.6.1.5. The participant's bid must be the same amount of kW and at the same price tier for each hour of the four hour time block.

2.6.1.6. Only one bid per customer account may be submitted for each four-hour block.

2.6.2. DBP Offer Evaluation and Confirmation

2.6.2.1. By 4:00 p.m. on the day before the proposed curtailment, the DWR will evaluate each offer aggregated by each UDC for each four-hour block and confirm with the UDC acceptance or rejection of the offer. The DWR will accept or reject all the bid megawatts (MWs) at any price tier for each UDC. The DWR must accept or reject each offer in its entirely for each four hour block.

2.6.2.2. As part of the evaluation the California Independent System Operator (ISO) may consult with the California Energy Resource Scheduling Division of DWR regarding the anticipated price of generation and power purchases for the next day and the DWR will decide which offers to accept and confirm. Each offer will be accepted based on the lowest cost curtailment offers for the needed hours.

2.6.2.3. Once a bid is accepted and notice of acceptance is sent to the UDC, the ISO will send no additional information to curtail load.

2.6.2.4. Customers will be notified of bid acceptance at approximately 5:00 p.m. on the day before the curtailment, once the UDCs receive the bids that the DWR has accepted.

2.6.3. DBP Performance Verification and Payment

2.6.3.1. The UDC will track the curtailment of participating customers. The UDC will review the performance meter data against the accepted bids and calculate the payment due to the participating customers.

2.6.3.2. UDCs will distribute incentive amounts due to individual participants within 90 days of a DBP event, and distribution will not be contingent upon payment from DWR within that time frame.

2.6.3.3. The DWR reserves the right to audit the performance submitted by the UDCs in accordance with the DBP bid.

2.6.3.4. Performance payment data will be forwarded to the DWR to make payments to the UDCs.

2.6.3.5. UDCs will be paid in accordance with the funding mechanisms agreed to between the UDCs and DWR.

2.6.3.6. Participants will only be paid for a maximum of 150 percent of their accepted bid kW load drop for a given four hour block. Participants must drop at least 50 percent of their bid load drop to qualify for any payment in any hour of a given four-hour block. In no case will a customer be paid an incentive if load drop does not meet 10% of the customer's average annual demand but not less than 100 kW.

2.6.3.7. Baseline load for measuring load drop will be computed pursuant to the existing Voluntary Demand Response Program (VDRP) methodology.

2.6.3.8. If requested by the DWR or ISO, the UDCs may cancel a curtailment event. The UDCs will try to provide as much advance notice as is reasonable under the circumstances. UDCs shall pay for those bids accepted by DWR for an event that is cancelled by DWR.

2.6.4. Participation Requirements

To participate in the program, customers must meet the following minimum requirements:

2.6.4.1. Individual bids should be a minimum of 10 percent of each customer account's average demand, but not less than 100 kW per customer account. No aggregation of customer accounts will be allowed.

2.6.4.2. Customers must have an interval meter. For customers over 200 kW the meter will be provided pursuant to the CEC's real time electric meter (RTEM) program, based on available funding. For customers under 200 kW the meter will be provided pursuant to existing VDRP procedures under which expenses are recorded in a memorandum account for future rate recovery. The ISO will work with discretionary load curtailment program (DLCP) customers to add interval meters. Customers who receive meters at "no charge" will be obligated to perform in at least 10 events and remain on the program for one year consistent with existing tariff provisions of the VDRP.

2.6.4.3. Participants may not be enrolled in either the ISO's Demand Relief Program, or the Participating Load Program, also known as the Ancillary Services Load Program. Customers may achieve load drop by operating back-up or onsite generation. The customer will be solely responsible for meeting all environmental and other regulatory requirements for the operation of such generation.

(END OF ATTACHMENT A)