

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



**FILED**

12/21/18  
04:59 PM

**Application of Pacific Gas and Electric Company  
(U39E) for Approval of Demand Response  
Programs, Pilots and Budgets for Program Years  
2018-2022.**

**Application 17-01-012**

**And Related Matters.**

**Application 17-01-018**

**Application 17-01-019**

**RESPONSE OF CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION SUPPORTING THE  
MOTION OF SOUTHERN CALIFORNIA EDISON COMPANY FOR INCLUSION OF INDEPENDENT  
AUDIT RESPONSE IN ENERGY DIVISION'S FINAL EVALUATION REPORT OF THE DEMAND  
RESPONSE AUCTION MECHANISM AND THE MOTION OF PACIFIC GAS AND ELECTRIC  
COMPANY FOR INCLUSION OF "PG&E SUMMARY OF 2018-2019 DRAM RFO AUDIT ANALYSIS,  
RESULTS AS OF DECEMBER 4, 2018" IN ENERGY DIVISION'S FINAL EVALUATION REPORT OF  
THE DEMAND RESPONSE AUCTION MECHANISM**

Barbara R. Barkovich  
Paul Nelson  
Barkovich & Yap, Inc.  
P.O. Box 11031  
Oakland, CA 94611  
707.937.6203  
Barbara@barkovichandyap.com

Nora Sheriff  
Buchalter, A Professional Corporation  
55 Second Street, Suite 1700  
San Francisco, CA 94105  
415.227.3351 direct line  
415 227.0900 main office  
nsheriff@buchalter.com

Consultant to the  
California Large Energy Consumers Association

Counsel to the  
California Large Energy Consumers Association

December 21, 2018

**TABLE OF CONTENTS**

**I. INTRODUCTION ..... 2**

**II. THE MOTIONS SHOULD BE GRANTED AND THE INFORMATION FROM THE AUDITS SHOULD  
BE INCLUDED IN THE ENERGY DIVISION’S EVALUATION..... 2**

**III. CONCLUSION ..... 5**

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

<b>Application of Pacific Gas and Electric Company (U39E) for Approval of Demand Response Programs, Pilots and Budgets for Program Years 2018-2022.</b>	<b>Application 17-01-012</b>
<b>And Related Matters.</b>	<b>Application 17-01-018</b> <b>Application 17-01-019</b>

**RESPONSE OF CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION SUPPORTING THE  
MOTION OF SOUTHERN CALIFORNIA EDISON COMPANY FOR INCLUSION OF INDEPENDENT  
AUDIT RESPONSE IN ENERGY DIVISION’S FINAL EVALUATION REPORT OF THE DEMAND  
RESPONSE AUCTION MECHANISM AND THE MOTION OF PACIFIC GAS AND ELECTRIC  
COMPANY FOR INCLUSION OF “PG&E SUMMARY OF 2018-2019 DRAM RFO AUDIT ANALYSIS,  
RESULTS AS OF DECEMBER 4, 2018” IN ENERGY DIVISION’S FINAL EVALUATION REPORT OF  
THE DEMAND RESPONSE AUCTION MECHANISM**

This response is filed pursuant to Rule 11.1(e) of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission). This response is timely filed by the California Large Energy Consumers Association (CLECA)<sup>1</sup> within 15 days of December 6, 2018, the date SCE’s motion was served, and of December 12, 2018, the date PG&E’s motion was served. CLECA supports these motions; we strongly agree that both the Nexant Audit Report

---

<sup>1</sup> CLECA is an organization of large, high load factor industrial customers of Southern California Edison Company (SCE) and Pacific Gas and Electric Company (PG&E); the members are in the cement, steel, industrial gas, pipeline, beverage, cold storage, and mining industries. CLECA has been an active participant in Commission regulatory proceedings since 1987, and all CLECA members engage in Demand Response (DR) programs to both promote grid reliability and help mitigate the impact of the high cost of electricity in California on the competitiveness of manufacturing. CLECA members have participated in the Base Interruptible Program (BIP) and its predecessor interruptible and non-firm programs since the early 1980s. Many CLECA members used to dual participate in the Demand Bidding Program; timely development of viable new alternative DR programs for dual participation with BIP is now a critical focus for CLECA, and CLECA supports all effective DR.

and PG&E's summary of the audit analysis should be included in the Energy Division's (ED) final evaluation of the Demand Response Auction Mechanism (DRAM).

## **I. INTRODUCTION**

The Commission recently confirmed that, prior to authorization of another DRAM pilot auction or conversion of the DRAM from a pilot to an approved procurement mechanism, the DRAM must be fully evaluated. *Per* Decision 18-11-029, the Energy Division's evaluation is expected this month, and a workshop has been scheduled on January 16, 2019 to review the evaluation. For DR to be successful, broadly supported, and expand its role as a preferred resource, the resource adequacy capacity associated with DR paid for by ratepayers must be real. Some leniency for the first year or two of the DRAM pilot while CAISO integration was nascent may have been appropriate; however, SCE and PG&E's motions do not focus on the early years. SCE addresses performance and capacity demonstration issues for the latter half of 2017 and January-May 2018 and PG&E addresses similar issues for the period of June-August 2018. SCE explains, "the importance of the resources that SCE and the grid rely upon for resource adequacy (RA) cannot be overstated; if the DRAM contracts do not provide actual curtailable load, reliability could be affected."<sup>2</sup> CLECA agrees, and so should the Commission.

## **II. THE MOTIONS SHOULD BE GRANTED AND THE INFORMATION FROM THE AUDITS SHOULD BE INCLUDED IN THE ENERGY DIVISION'S EVALUATION**

SCE exercised its right under the DRAM contract to have a DRAM participant audited by an independent auditor. Given the results, SCE seeks inclusion of the independent auditor's final report (Nexant Audit Report) in the ED's final evaluation as SCE "believes that a DRAM

---

<sup>2</sup> Motion of SCE for Inclusion of Independent Audit Report in Energy Division's Final Evaluation Report of the Demand Response Auction Mechanism (SCE Motion), at 2.

construct that would permit the results shown in the audit report is likely to produce unreliable RA.”<sup>3</sup> This is very troubling.

Similarly, PG&E also exercised its right to have selected DRAM participants’ demonstrated capacity for June 2018 audited; for two participants, the results were unremarkable and raised no concerns.<sup>4</sup> (After being greatly disturbed by the abysmal results detailed in the SCE Motion, CLECA was edified by PG&E’s indication of two good DRAM participants’ performance and demonstrated capacity results.) For the third, however, PG&E noted that the results led to real concern; specifically, the movement “of individual customers ... into and out of Proxy Demand Response Resources that were tested or dispatched in the month” meant that “if the CAISO dispatched all of the third Seller’s resources on the same day, it would be very likely that a substantial portion of the capacity the CAISO expects would not be delivered.”<sup>5</sup> This is also very troubling.

The Commission should grant the utilities’ motions and include the results in the Energy Division’s final evaluation. This would help develop the record and promote a more transparent evaluation of the DRAM. The draft Ruling attached to the SCE Motion appropriately recognizes the ability of administrative law judges to consider a party’s motion for “public release” of “the Nexant Audit Report, subject to good cause shown, prior notice to, and an opportunity to be heard, by any parties affected by the proposed release.”<sup>6</sup> CLECA believes public release of both the Nexant Audit Report and the results of PG&E’s independent

---

<sup>3</sup> SCE Motion, at 3.

<sup>4</sup> Motion of PG&E For Inclusion of “PG&E Summary of 2018-2019 DRAM RFO Audit Analysis, Results as of December 4, 2018” In Energy Division’s Final Evaluation Report of the Demand Response Auction Mechanism (PG&E Motion), at 2.

<sup>5</sup> PG&E Motion, at 2.

<sup>6</sup> Proposed Ruling attached to SCE Motion, at 2.

audit is warranted, and that such release should occur prior to the January 16 workshops, so all parties may review the data and discuss the results at the workshop.<sup>7</sup> Full transparency is justifiable. The good cause would be that the public interest in disclosure here outweighs the privacy interest of the Seller(s); ratepayer dollars fund the DRAM, and disclosure would ensure transparency of the independent audit reports and enable their consideration by all parties as part of the evaluation of the DRAM. Moreover, the identity of the Seller(s) could be redacted, should the Seller(s) seek such treatment.

In addition, and importantly, the information should be used to inform the reforms to the DRAM, should it be continued. In particular, it is clear that significant revision to the DRAM contract to prohibit the deceptive practice of “customer shuffling” among DR resources is needed; other reforms should be informed by the full evaluation, including the information in the motions, and parties’ recommendations during the January workshop and anticipated subsequent comment process.

Further, while very problematic, the bad DR actor(s)<sup>8</sup> and their practices detailed in the motions should not reflect poorly on good DR actors – be they participants in the DRAM or in other programs. There should be meaningful consequences for the one or two bad actors,<sup>9</sup> but not for the other members of the DR community who have worked hard over the years to achieve the Commission’s goal for CAISO integration and whose DR performance meets the

---

<sup>7</sup> The appropriate timing for a motion for public release of the audit reports appears to be after a ruling on the pending motions, which hopefully will be expeditious.

<sup>8</sup> CLECA does not know if the third seller in PG&E’s service territory is the same seller that was audited in SCE’s service territory.

<sup>9</sup> For example, as part of the DRAM reform process, or going forward generally, access by a proven bad actor to future contracts or participation in DR programs could be severely limited, and future participation conditioned on positive performance.

relevant requirements.

CLECA also reiterates its prior recommendation that there should be uniform, consistent evaluations of all DR, through application of the established, proven load impact protocols. This would enable an apple-to-apples comparison among DR programs and resources, whether utility or third-party; a uniform evaluation could also assuage concerns likely raised by the bad actor(s)'s practices described in the motions regarding DR's validity in general as a reliable source of RA.

### **III. CONCLUSION**

CLECA appreciates the opportunity to support both SCE and PG&E's motions for inclusion of the results of the independent audits of DRAM participants in the ED's DRAM evaluation report.

Respectfully submitted,  
Buchalter, A Professional Corporation

By:

A handwritten signature in blue ink that reads "Nora Sheriff".

Nora Sheriff  
Counsel to the  
California Large Energy Consumers Association

December 21, 2018