

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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Application of Pacific Gas & Electric
Company (U 39-E) for Approval of Demand
Response Programs, Pilots and Budgets for
Program Years 2018-2022.

And Related Matters.

Application 17-01-012
(Filed January 17, 2017)

Application 17-01-018
Application 17-01-019

**JOINT RESPONSE OF CPOWER, ENEL X NORTH AMERICA, INC., AND
ENERGYHUB ("JOINT DR PARTIES") TO 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 DRAM EVALUATION REPORT**

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CPower, Enel X North America, Inc. (formerly known as EnerNOC, Inc.),¹ and EnergyHub (“Joint DR Parties”) respectfully submit this Joint Response to the Motion of Pacific Gas and Electric Company (“PG&E”) for inclusion of the “confidential” “PG&E Summary of 2018-2019 DRAM RFO Audit Analysis, Results As Of December 4, 2018” (“PG&E December Audit Analysis”) in Energy Division’s Final Evaluation Report of the Demand Response Auction Mechanism (“DRAM”). PG&E’s Motion was filed on December 12, 2018. This Joint Response is timely filed and served pursuant to Rule 11.1(e) of the Commission’s Rules of Practice and Procedure.

By its Motion, PG&E asks that its “confidential” December Audit Analysis, which covers 3 months under its 2018-2019 DRAM pilot contracts, be made part of Energy Division’s final evaluation of the DRAM pilot.² PG&E’s audit apparently relates to a review of the “claimed Demonstrated Capacity that was invoiced to PG&E” of three DRAM sellers “to verify the data

¹ On October 24, 2018, Enel X served a Notice of Name Change in this proceeding.

² PG&E Motion, at p. 1.

upon which the individual Seller based its claimed Demonstrated Capacity.”³ While PG&E indicates that it is “sharing its Seller-specific findings with each Seller,” it “does not know if a given Seller will contest PG&E’s findings.”⁴ PG&E states that this audit and its Motion have been necessitated by concerns that resources relied upon for Resource Adequacy (RA) “need to be dependable and provide the curtailable load under contract” and that “PG&E’s customers should not be paying for capacity that is not available.”⁵ PG&E also cites, in support, a December 6, 2018 Motion filed by Southern California Edison Company (SCE) (“December 6 SCE Motion”), which raised similar concerns that led to SCE conducting a third-party audit of one Seller regarding claims made related to that Seller’s “Demonstrated Capacity.”⁶

The Joint DR Parties appreciate the concerns raised by both SCE and PG&E about ensuring that the integrity of DRAM resources submitted for RA purposes are consistent with the expectations and intentions for which the resources were contracted. However, the Joint DR Parties are also concerned about the use of selective information in a non-transparent manner, however legitimately kept confidential, negatively affecting the evaluation of DRAM broadly.

On this point, on December 22, 2018, the Joint DR Parties filed a Response to the December 6 SCE Motion raising concerns and objections regarding the nontransparent manner in which SCE was seeking to use its audit information. The Joint DR Parties asked, instead, that any such information be discussed in a transparent manner at the upcoming Workshop on the Energy Division’s DRAM evaluation to be held on January 16, 2019, and “strongly” objected to “SCE using this one instance of exercising its claimed right to conduct an audit of a single

³ PG&E Motion, at p. 2.

⁴ *Id.*

⁵ *Id.*, at p. 3.

⁶ *Id.*

DRAM Seller for this one auction to ‘paint’ all DRAM Sellers in all years with this same brush of alleged non-performance.”⁷

These same concerns apply to PG&E’s Motion, especially if PG&E cannot yet confirm whether its findings will be contested. There are two issues at hand: (1) use of this information is likely premature as its content is unknown and, unlike SCE’s audit, it is unverified by a third party; and (2) this audit, while a potentially valuable source of data, cannot be used by PG&E or Energy Division to reach any generalizations about DRAM Sellers and cannot serve as the basis for any recommended changes to a future DRAM Contract term, to the extent a further DRAM auction is ordered, without notice to all affected stakeholders and the opportunity for them to be heard.

In sum, PG&E’s Motion, like the one filed by SCE, should be denied to the extent that it would permit Energy Division to rely on a confidential audit report to inform the evaluation of DRAM or reach generalizations about the future of DRAM or other DRAM Sellers, as the basis for developing recommendations on any future DRAM structure, bidding protocol, or contract term, unless said report is used in a transparent fashion as one data point among many. The goal of the Commission should be to provide the most transparent evaluation and discussion of DRAM at its Workshop scheduled for January 16, 2019, to ensure a level-playing field and full notice and opportunity to be heard for all stakeholders in addressing the future of DRAM.

Respectfully submitted,

December 27, 2018

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⁷ Joint DR Parties Response to SCE Motion, at p. 3.

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