

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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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 THE PUBLIC ADVOCATES OFFICE
TO THE JOINT DEMAND RESPONSE PARTIES' MOTION TO STRIKE
PORTIONS OF THE RESPONSE OF THE PUBLIC ADVOCATES OFFICE**

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April 25, 2019

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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
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**RESPONSE OF THE PUBLIC ADVOCATES OFFICE
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PORTIONS OF THE RESPONSE OF THE PUBLIC ADVOCATES OFFICE**

I. INTRODUCTION

Pursuant to Rule 11.1(e) of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure (Rules), the Public Advocates Office at the California Public Utilities Commission hereby submits this response to the April 10, 2019 *Joint Motion of CPower, Enel X North America, Inc., and Energy Hub (Joint DR Parties) to Strike Portions of the Response of the Public Advocates Office to the Administrative Law Judge's Ruling of February 28, 2019* (Joint Motion). For the reasons set forth below, the Joint DR Parties' motion should be denied.

II. DISCUSSION

A. The Public Advocates Office's March 29, 2019 Responses do not violate the January 4 and February 28 ALJ Rulings

Contrary to the Joint DR Parties' assertion, the Public Advocates Office has not violated the January 4 and February 28, 2019 Administrative Law Judge's (ALJ) Rulings. As the Joint DR Parties correctly note, the January 4, 2019 ALJ Ruling denied Pacific Gas and Electric Company's (PG&E) and Southern California Edison Company's (SCE)

motions to make their respective Demand Response Auction Mechanism (DRAM) pilot audit reports¹ part of the Energy Division's DRAM Evaluation Report (Staff Evaluation Report).² The Joint DR Parties conflate the Public Advocates Office's reliance on the audit reports with requests by SCE and PG&E that the Energy Division adopt the audit reports as part of the Staff Evaluation Report. The Public Advocates Office did not reference the January 4, 2019 ALJ Ruling denying SCE's and PG&E's motions³ because there was no rational reason to do so. The Public Advocates did not seek or attempt to request that the audit reports be included in the Staff Evaluation Report. Additionally, the February 28, 2019 ALJ Ruling requesting responses does not prohibit or preclude references to the audit reports.

Contrary to the Joint DR Parties' claim that the Public Advocates Office is attempting an end-run around both rulings,⁴ the Public Advocates Office seeks to ensure that the ALJ is apprised of the risks that DRAM, as it is currently structured, can place on ratepayers. Pursuant to Rule 10.1 and Public Utilities Code Section 309.5, the Public Advocates Office issued data requests to both PG&E and SCE, attached herein, to assess whether the audit reports provided any relevant and pertinent information that could aid the Commission's determination of the next steps for the DRAM pilot. Upon review, the Public Advocates Office concluded that SCE's and PG&E's audit reports support the concerns Energy Division and parties', including the Public Advocates Office,⁵ have

¹ See Motion of Southern California Edison Company (U 338-E) For Inclusion of Independent Audit Report in Energy Division's Final Evaluation Report of the Demand Response Auction Mechanism, filed on December 6, 2018 and Motion of Pacific Gas and Electric Company (U 39 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, filed on December 12, 2018.

² Joint Motion at p. 4.

³ Joint Motion at p. 4.

⁴ Joint Motion at p. 6.

⁵ See Opening Comments of the Office of Ratepayer Advocates on the Administrative Law Judge's Ruling Requesting Responses to Questions Regarding the Demand Response Auction Mechanism Pilot at p. 8, filed on August 17, 2018; The Office of Ratepayer Advocates' Reply Comments on the Administrative Law Judge's Ruling Requesting Responses to Questions Regarding the Demand Response Auction Mechanism Pilot at pp. 6-7.

raised about the DRAM pilot that must be addressed prior to the adoption of DRAM as a permanent mechanism.

B. The January 4 and February 28 ALJ Rulings do not preclude parties from introducing the Audit Reports

The Joint DR Parties correctly note that, despite the ALJ's January 4, 2019 ruling stating that parties will have opportunities to comment on PG&E's and SCE's audit of their respective Demand Response Auction Mechanism (DRAM) pilots, "to this date, no action has been taken by the ALJ to receive these audits into the record in any form, including under seal."⁶ The February 28, 2019 ALJ Ruling also did not explicitly prohibit or purport to preclude parties from introducing these relevant audit reports into the record as data points for the ALJ to weigh.

C. The Public Advocates Office Supports a Transparent Process and Opportunity to Discuss the Audit Reports

That PG&E's and SCE's audit reports are confidential does not preclude the Commission from appropriately weighing the evidence presented in the audit reports. Nor does maintaining the confidentiality of the reports detract from the Commission's decision-making authority or ability to weigh evidence. Indeed, the Commission routinely receives and considers confidential information not available to market participants to make determinations.⁷

Because its staff is subject to Public Utilities Code Section 583, the Public Advocates Office is required to maintain the confidentiality of any confidential report provided by a public utility.⁸ However, the Public Advocates Office does not object to

⁶ Joint Motion at p. 4.

⁷ For instance, in an application requesting contract approval resulting from a request for offer solicitation, the Commission is given a confidential independent evaluator report that provides a detailed evaluation of the solicitation process. Market participants are not provided the independent evaluator report. Similarly, the Commission receives confidential independent professional engineer reports that provide evaluations of the incentive pilots authorized in the Integrated Distributed Energy Resources proceeding (R.14-10-003) and the distribution deferral projects authorized in the Distribution Resources Proceeding (R.14-10-008). The unredacted independent professional engineer reports developed for the incentive pilots and deferral projects are also not available to market participants.

⁸ California Public Utilities Code Section 583.

making the reports public if the ALJ and entities subject to the audit can find a way forward, such as through non-disclosure agreements or through partial redactions. The Public Advocates Office agrees that an equal and transparent opportunity to publicly discuss the audit and provide responsive comment is advantageous but considered attaching the audit reports as an expeditious way to include this information without delaying a June 2019 decision on the DRAM pilot. To enable parties to further comments on the audit reports and the concerns that the audit reports highlight, the Public Advocates Office is also concurrently filing a motion to admit PG&E's and SCE's audit reports into the record of this proceeding.

III. CONCLUSION

As detailed above, the Joint DR Parties' motion should be denied.

Respectfully submitted,

/s/ ROSANNE O'HARA
ROSANNE O'HARA
Attorney for the
Public Advocates Office

California Public Utilities Commission
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San Francisco, CA 94102
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April 25, 2019

ATTACHMENT A

Public Advocates Office Data Requests No.:
CalAdvocates-SK-PGE-2019-01-18
CalAdvocates-SK-SCE-2019-01-18



Public Advocates Office
California Public Utilities Commission

505 Van Ness Avenue
San Francisco, CA 94102
Phone: (415) 703-2544
Fax: (415) 703-2057

<http://publicadvocates.cpuc.ca.gov>

PUBLIC ADVOCATES OFFICE DATA REQUEST
No. CalAdvocates-SK-PGE-2019-01-18

Date: January 18, 2018

To: **Shirley Woo**
Attorney for PG&E

Phone: (415) 973-2248
Email: Saw0@pge.com

From: **Stanley Kuan**
Analyst for the
Public Advocates Office

Phone: (415) 703-5244
Email: Stanley.Kuan@cpuc.ca.gov

Rosanne O'Hara
Attorney for the
Public Advocates Office

Phone: (415) 703-2386
Email: Rosanne.O'Hara@cpuc.ca.gov

Re: Data Request No. CalAdvocates-SK-PGE-2019-01-18

Response Requested: **Monday, February 4, 2019 or as soon as available**

INSTRUCTIONS

You are instructed to answer the following Data Requests in the above-captioned proceeding, with written, verified responses per Public Utilities Code §§ 309.5 and 314, and Rules 1.1 and 10.1 of the California Public Utilities Commission's Rules of Practice and Procedure. Restate the text of each request prior to providing the response. For any questions, email the Public Advocates Office contact(s) above with a copy to the Public Advocates Office attorney.

Each Data Request is continuing in nature. Provide your response as it becomes available, but no later than the due date noted above. If you are unable to provide a response by this date, notify the Public Advocates Office as soon as possible, with a written explanation as to why the response date cannot be met and a best estimate of when the information can be provided. If you acquire additional information after

providing an answer to any request, you must supplement your response following the receipt of such additional information.

Identify the person providing the answer to each data request and his/her contact information. Responses should be provided both in the original electronic format, if available, and in hard copy. (If available in Word format, send the Word document and do not send the information as a PDF file.) All electronic documents submitted in response to this data request should be in readable, downloadable, printable, and searchable formats, unless use of such formats is infeasible. Each page should be numbered. If any of your answers refer to or reflect calculations, provide a copy of the supporting electronic files that were used to derive such calculations, such as Excel-compatible spreadsheets or computer programs, with data and formulas intact and functioning. Documents produced in response to the data requests should be Bates-numbered, and indexed if voluminous. Responses to data requests that refer to or incorporate documents should identify the particular documents referenced by Bates-numbers or Bates-range.

If a request, definition, or an instruction, is unclear, notify the Public Advocates Office as soon as possible. In any event, answer the request to the fullest extent possible, specifying the reason for your inability to answer the remaining portion of the Data Request.

Any objection to a Data Request should clearly indicate to which part or portion of the Data Request the objection is directed. If any document, in whole or in part, covered by this request is withheld for whatever reason, please furnish a list identifying all withheld documents in the following manner: (a) a brief description of the document; (b) the date of the document; (c) the name of each author or preparer; (d) the name of each person who received the document; and (e) the reason for withholding it.

If you are unable to answer a question completely, accurately, and with the specificity requested, notify the Public Advocates Office as soon as possible. In your written response to the question, explain why you are unable to answer in full and describe the limitations of your response.

DEFINITIONS

A. As used herein, the terms “you,” “your(s),” “Company,” and “PG&E” mean Pacific Gas and Electric Company and any and all of its respective present and former employees, agents, consultants, attorneys, officials, and any and all other persons acting on its behalf.

- B. The terms “and” and “or” shall be construed either disjunctively or conjunctively whenever appropriate in order to bring within the scope of these Data Requests any information or documents which might otherwise be considered to be beyond their scope.
- C. Date ranges shall be construed to include the beginning and end dates named. For example, the phrases “from January 1 to January 31,” “January 1-31,” “January 1 to 31,” and “January 1 through January 31” should be understood to include both the 1st of January and the 31st of January. Likewise, phrases such as “since January 1” and “from January 1 to the present” should be understood to include January 1st, and phrases such as “until January 31,” “through January 31,” and “up to January 31” should also be understood to include the 31st.
- D. The singular form of a word shall be interpreted as plural, and the plural form of a word shall be interpreted as singular whenever appropriate in order to bring within the scope of these Data Requests any information or documents which might otherwise be considered to be beyond their scope.
- E. The term “communications” includes all verbal and written communications of every kind, including but not limited to telephone calls, conferences, notes, correspondence, and all memoranda concerning the requested communications. Where communications are not in writing, provide copies of all memoranda and documents made relating to the requested communication and describe in full the substance of the communication to the extent that the substance is not reflected in the memoranda and documents provided.
- F. The term “document” shall include, without limitation, all writings and records of every type in your possession, control, or custody, whether printed or reproduced by any process, including documents sent and received by electronic mail, or written or produced by hand.
- G. “Relate to,” “concern,” and similar terms and phrases shall mean consist of, refer to, reflect, comprise, discuss, underlie, comment upon, form the basis for, analyze, mention, or be connected with, in any way, the subject of these Data Requests.
- H. When requested to “state the basis” for any analysis (including studies and workpapers), proposal, assertion, assumption, description, quantification, or conclusion, please describe every fact, statistic, inference, supposition, estimate, consideration, conclusion, study, and analysis known to you which you believe to support the analysis, proposal, assertion, assumption, description, quantification, or conclusion, or which you contend to be evidence of the truth or accuracy thereof.

DATA REQUEST

1. Please provide the audit report (public and confidential versions—if a confidential version exists) on PG&E's Auction Pilot referenced in PG&E's December 12, 2018 motion that its December Audit Analysis for its Auction Pilot be made part of Energy Division's final evaluation report on the Auction Pilot.
2. Please provide any data requests and corresponding responses from Energy Division regarding PG&E's Demand Response Auction Mechanism (DRAM) audit reports.

END OF REQUEST



Public Advocates Office
California Public Utilities Commission

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San Francisco, CA 94102
Phone: (415) 703-2544
Fax: (415) 703-2057

<http://publicadvocates.cpuc.ca.gov>

PUBLIC ADVOCATES OFFICE DATA REQUEST
No. CalAdvocates-SK-SCE-2019-01-18

Date: January 18, 2018

To: **Diana S. Gallegos (Genasci)**
Regulatory Affairs

Phone: 415-929-5530
E-mail: Diana.s.genasci@sce.com

Robin Meidhof
Attorney for SCE

Phone: 626-302-6054
Email: Robin.Meidhof@sce.com

From: **Stanley Kuan**
Analyst for the
Public Advocates Office

Phone: (415) 703-5244
Email: Stanley.Kuan@cpuc.ca.gov

Rosanne O'Hara
Attorney for the
Public Advocates Office

Phone: (415) 703-2386
Email: Rosanne.O'Hara@cpuc.ca.gov

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If you are unable to answer a question completely, accurately, and with the specificity requested, notify the Public Advocates Office as soon as possible. In your written response to the question, explain why you are unable to answer in full and describe the limitations of your response.

DEFINITIONS

A. As used herein, the terms “you,” “your(s),” “Company,” and “SCE” mean Southern California Edison and any and all of its respective present and former employees,

agents, consultants, attorneys, officials, and any and all other persons acting on its behalf.

- B. The terms “and” and “or” shall be construed either disjunctively or conjunctively whenever appropriate in order to bring within the scope of these Data Requests any information or documents which might otherwise be considered to be beyond their scope.
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- G. “Relate to,” “concern,” and similar terms and phrases shall mean consist of, refer to, reflect, comprise, discuss, underlie, comment upon, form the basis for, analyze, mention, or be connected with, in any way, the subject of these Data Requests.
- H. When requested to “state the basis” for any analysis (including studies and workpapers), proposal, assertion, assumption, description, quantification, or conclusion, please describe every fact, statistic, inference, supposition, estimate, consideration, conclusion, study, and analysis known to you which you believe to

support the analysis, proposal, assertion, assumption, description, quantification, or conclusion, or which you contend to be evidence of the truth or accuracy thereof.

DATA REQUEST

1. Please provide the audit report (public and confidential versions—if a confidential version exists) on SCE’s Auction Pilot referenced in SCE’s December 6, 2018 motion that an audit report on SCE’s Auction Pilot performed by Nexant be made part of Energy Division’s final evaluation report on the Auction Pilot.
2. Please provide any data requests and corresponding responses from Energy Division regarding SCE’s Demand Response Auction Mechanism (DRAM) audit reports.

END OF REQUEST