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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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And Related Matters.	Application 17-01-018 Application 17-01-019

REPLY COMMENTS OF CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION
TO RESPONSES OF PARTIES TO ADMINISTRATIVE LAW JUDGE'S RULING

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CLECA CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION

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These reply comments are filed by the California Large Energy Consumers Association (CLECA)[1] pursuant to the schedule set in the Administrative Law Judge's Ruling Directing Responses to Questions Resulting from the February 11-12, 2019 Demand Response Auction Mechanism Workshop and Comments on Proposals to Improve the Mechanism (Ruling); these reply comments respond to the opening comments of multiple parties.

I. INTRODUCTION

CLECA's participation in these applications on the topic of the Demand Response Auction

[1] 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 have dual participated 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.

Mechanism (DRAM) is not as participant in DRAM auctions or as customers providing the procured Demand Response (DR) resources; rather, CLECA engages as a stalwart supporter of DR and as an advocate for ratepayers. As CLECA has often stated, for DR to be successful, broadly supported, and expand its role as a preferred resource, the Resource Adequacy (RA) capacity associated with DR paid for by ratepayers must be real. Critically, CLECA members rely on DR, along with energy efficiency, as a necessary tool to mitigate the impact of the very high costs of California electricity on their energy-intensive manufacturing processes. The Commission has recognized this aspect of DR in its overarching goal for DR:

> Commission-regulated demand response programs shall assist the State in meeting its environmental objectives, cost-effectively meet the needs of the grid, ***and enable customers to meet their energy needs at a reduced cost.***[2]

Accordingly, it is alarming when the actions of one or two entities involved in DR risk regulatory and ratepayer advocate support for DR.[3] CLECA commends the Public Advocates for the inclusion of the SCE and PG&E audits of DRAM participants with their March 29, 2019 comments. We continue to firmly believe that public disclosure of these audits is warranted; 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 and the determination of its future. Again, the DR procured with ratepayer dollars must be real and reliable to be worthy of the Commission's and stakeholders' support.

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[2] D. 16-09-056, at 48 (emphasis added).

[3] *See* Response of CLECA Supporting the Motion of SCE for Inclusion of Independent Audit Response in Energy Division's Final Evaluation Report of the DRAM and the Motion of PG&E for Inclusion of "PG&E Summary of 2018-2019 DRAM RFO Audit Analysis, Results as of Dec. 4, 2018" In Energy Division's Final Evaluation Report of the DRAM, filed Dec. 21, 2018.

II. REPLY COMMENTS

Many parties responded to the Ruling's questions and the workshop's discussions on goals and objectives.[4] CLECA agrees with the Joint DR Parties that this is an appropriate topic for the next phase.[5] CLECA also believes that the goals and objectives for DRAM should be informed by full evaluation of an entire year of deliveries for 2018 and 2019, in addition to the evaluations of performance in prior years. Regardless of the timing, the principle recognizing the importance of customer choice in DR should not be jeopardized by the goals or objectives for DRAM.[6] Accordingly, CLECA disagrees with OhmConnect that an objective for DRAM should be to represent "at least 50 percent of Commission-jurisdictional DR capacity by 2025."[7] As the Commission has held,

> The third attribute of the goal, customer needs, is further defined by our next principle which requires a focus on customers. Here, customer-oriented demand response shall ensure that customers of demand response programs have a right to choose from all available products—whether those products be utility programs or third-party programs, are fairly compensated, and are empowered through education.[8]

The Commission concluded, "it is the customers who should determine what role the Utilities will play in the future, through their selections from the various options that are provided."[9] It should continue to be up to the customer.

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[4] Response of Public Advocates Office on the Administrative Law Judge's Ruling Directing Responses to Questions Resulting from the February 11-12, 2019 Demand Response Auction Mechanism Workshop and Comments on Proposals to Improve the Mechanism (Pub.Adv. Comments), at 7-8; Joint DR Parties Comments, at 6.

[5] Joint DR Parties Comments, at 6.

[6] *See generally* D. 16-09-056 (adopting goals and principles for DR).

[7] OhmConnect Comments, at 12.

[8] D. 16-09-056, at 49-50.

[9] D. 16-09-056, at 52.

A. Continue as a Pilot For One More Year for PDR with an Independent Monitor

CLECA agrees with the Public Advocates and Investor Owned Utilities (IOUs) that it is premature for this pilot to be made a permanent program.[10] The evaluation of the DRAM Pilot remains incomplete, as only some of the year 2018 was evaluated.[11] The full year of 2018, and indeed 2019, need to be evaluated prior to a decision on whether or not the DRAM should become a permanent program. CLECA also agrees with the California Independent System Operator (CAISO) that DRAM should be used to procure Proxy Demand Resources, not Reliability Demand Response Resources.[12]

SDG&E recommends that the pilot budget generally remain at the current level for the DRAM auction and the DRAM resources with "an incremental budget to be determined and allocated" among the IOUs for their proposed Independent Monitor.[13] Similarly, PG&E suggests the budget "not exceed $6 million" for PG&E; PG&E states the budget should cover "necessary funding for contract administration, audits of DRAM Sellers, independent evaluator costs for the RFO, independent monitor costs for the contract period, and costs to administer prohibited resources provisions."[14] SCE supports the budget proposed by Public Advocates.[15] On the other hand, OhmConnect and the Joint DR Parties seek significantly increased budgets.[16] Given the issues and concerns uncovered by the Energy Division's evaluation and the PG&E and SCE audits,

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[10] Pub. Adv. Comments, at 4-5; SDG&E Comments, at 3, 6-7; SCE Comments, at 12-13; PG&E Comments, at 3.
[11] Energy Division's Evaluation of Demand Response Auction Mechanism, Final Report [Public Version – Redacted] issued Jan. 4, 2019 (ED Final Report), at 9, 81.
[12] CAISO Comments. While CLECA disagrees with the CAISO's characterization of RDRR, the DRAM should only procure PDR.
[13] SDGE Comments, at 5.
[14] PG&E Comments, at 5.
[15] SCE Comments, at 12-13; *see also* Pub.Adv. Comments, at 6.
[16] OhmConnect Comments, at 4-5; JDRP Comments, at 13.

CLECA cannot support a budget increase; we agree with the IOUs and Public Advocates on the budget.

CLECA also agrees with the consensus that an independent monitor is needed.[17] We note that such an entity must be sufficiently familiar with DRAM and DR resources and CAISO markets to be effective. CLECA further concurs with the parties that make their support for a continuation of the pilot contingent upon implementation of needed reforms implemented for the 2019 auction for 2020 deliveries.[18]

B. Needed Reforms

The top areas for reform appear to be customer shuffling among resources, ensuring "real" demonstrated capacity, and penalty provisions. CLECA responds to various parties' comments on these areas below.

OhmConnect argues that customer movement between resources is not problematic.[19] CLECA disagrees, and so does SCE.[20] While there may be some valid reasons for some customer movement as explained by CPower in the workshops, frequent customer shuffling among resources does not engender trust that all of those resources will all be available if needed at the same time.[21] The Joint DR Parties offer sensible prohibitions on moving customers among resources during a delivery month.[22] CLECA supports adoption of these prohibitions.

Most parties also recognize the issues with over-reliance on the must offer obligation

[17] SDG&E Comments, at 5, 20-21; PG&E Comments, at 18-19; Pub. Adv. Comments, at 5; SCE Comments, at 4, 24.
[18] Pub. Adv. Comments, at 4-5; SCE Comments, at 12; PG&E Comments, at 7; SDG&E Comments, at 2-4.
[19] OhmConnect Comments, at 14.
[20] SCE Comments, at 19.
[21] *See* ED Final Report, at 104-105; *see also* Pub.Adv. Comments, at Attachment A and Attachment B.
[22] Joint DR Parties Comments, at 18-19.

(MOO) for demonstrated capacity purposes. CLECA posits that if resources are economic resources and they are not weather-sensitive, they should be able to bid into the market and be dispatched with some level of frequency. Public Advocates seeks more frequent dispatches or tests.[23] SCE suggests limiting the use of the MOO for demonstrated capacity such that it could not be used two months in a row.[24] The Joint DR Parties, Olivine and Stem, recommend discretionary audits where suspicious behavior gives rise to concerns over resource validity, in addition to penalty provisions and an independent monitor.[25] We should be able to find common ground among these proposals.

OhmConnect's proposal for demonstrated capacity, however, lacks credibility.[26] CAISO market transactions are for resources, not individual customers. Counting every residential customer's individual performance is not an appropriate proposal for a resource integrated into the CAISO market and subject to CAISO availability requirements. Moreover, by taking the "largest aggregated performance value",[27] as opposed to an average, OhmConnect's proposal would systematically overstate the resource's capacity. CLECA accordingly supports SCE's objection to OhmConnect's plausibility demonstration for determining qualifying capacity.[28] Further, as SCE explains, this proposed approach is not sensible for behavioral DR.[29]

While OhmConnect's proposal is too lax, the Joint DR Parties' objective for 90% customer

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[23] Pub. Adv. Comments, at 5.
[24] SCE Comments, at 19.
[25] Joint Response of CPower, EnelX North America, Energy Hub, Olivine, and Stem, at 3-5.
[26] OhmConnect Comments, at 16.
[27] OhmConnect Comments, at 16.
[28] SCE Comments, at 14-15.
[29] SCE Comments, at 14-15.

performance by 2025 may be too strict.[30] Buyers need to know what they are getting, and this is not a problem with every DR Provider; many third party DR Providers have long and successful histories in California and that should be recognized. As the California Energy Storage Alliance states, drastic changes to DRAM "should not burden all DRPs, including many high-performing and good-faith DRPS, due to a few bad actors."[31] In this context, CLECA also notes and agrees with SCE's comment that buyers should be able to take into consideration "non-public state or federal investigations into suspected violations by a DRAM Seller" as part of its qualitative criteria.[32]

Additionally, some DRAM winners have no prior experience and it is not clear if they will be able to perform as promised. If sellers cannot (or do not) perform, there should be penalty provisions. CLECA supports the proposed interim penalty structure, applicable to performance relative to the supply plan, of a 50% capacity de-rate for performance between 50-60% and zero capacity payment for performance below 50%.[33] CLECA also agrees with PG&E that there should be timing implications for notice by a seller of an inability to perform at the contracted level, with a sliding penalty, e.g., more notice means a lower penalty, less notice a higher penalty.[34]

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[30] Joint DR Parties Comments, at 12 (it is also not clear to CLECA what customer performance means exactly).
[31] CESA Comments, at 2.
[32] SCE Comments, at 30.
[33] Joint Response of CPower, EnelX North America, Energy Hub, Olivine, and Stem, at 7.
[34] PG&E Comments, at 12-14.

III. CONCLUSION

CLECA appreciates the opportunity to offer these reply comments.

Respectfully submitted,

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