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**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

U 39 E

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

And Related Matters

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

**PACIFIC GAS AND ELECTRIC COMPANY'S (U 39 E) RESPONSE TO  
JOINT MOTION OF CPOWER, ENEL X NORTH AMERICA, INC., AND  
ENERGYHUB (JOINT DR PARTIES) TO STRIKE PORTIONS OF THE  
RESPONSE OF THE PUBLIC ADVOCATES OFFICE TO THE  
ADMINISTRATIVE LAW JUDGE'S OF FEBRUARY 28, 2019**

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Dated: April 24, 2019

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Pursuant to Rule 11.1 (e) of the Rules of Practice and Procedure of the Public Utilities Commission, Pacific Gas and Electric Company (PG&E) responds to the April 10, 2019 joint motion (Motion) filed by CPower, Enel X North America, Inc. (formerly known as EnerNOC, Inc.), and EnergyHub (Joint DR Parties) to strike portions of the response of the Public Advocates Office (Public Advocates) to the Administrative Law Judge’s (ALJ’s) ruling of February 28, 2019 (ALJ Ruling).

**I. BASIS AND THE GRAVAMEN OF THE JOINT DR PARTIES MOTION**

The Joint DR Parties object to the Public Advocates’ response to the extent it relies on the Southern California Edison (SCE) and PG&E (together, the utilities) audits of DRAM sellers, which were the subject of the utilities’ respective December 6, 2018 and December 12, 2018 motions in this docket. The audits involved review of the claimed Demonstrated Capacity which DRAM sellers invoiced to SCE or PG&E. The audits were submitted for the record to enable Energy Division to rely on information therein for its final DRAM evaluation report.

Since certain information in the audits was deemed confidential market information for the DRAM sellers , PG&E and SCE requested authority to file their respective audit reports

under seal. The ALJ did not permit the SCE and PG&E audit reports to be included in the Energy Division's final evaluation. (Jan. 4, 2019 ALJ Ruling, pp. 4-5.) However, the ALJ ruling did state that the "the results of the two audits will be considered during this proceeding." (*Id.* p. 4.)

The Joint DR Parties' motion makes two requests, pages 6 to 7.

- a. First, it argues "Those portions of the PAO Response that rely on the SCE and PG&E Audits or seek to introduce them into this record, with confidential treatment, must, therefore be stricken."
- b. Second, it urges "Further the Commission must act to follow through on the process announced by the January 4 ALJ's Ruling to provide all parties the equal and transparent opportunity to first publicly discuss the results of the audits and provide responsive comments in turn."

When these statements are considered together, PG&E understands that the Joint DR parties are asking that the SCE and PG&E audits be made public. If that occurred, the Public Advocates response would not be relying on anything subject to "confidential treatment". Therefore, PG&E sees the Joint DR Parties request to strike portions of the Public Advocates' response as mooted, if the ALJ decides that the SCE and PG&E audits should be released into the public record.

## **II. SHOULD THE SCE AND PG&E AUDITS BE RELEASED INTO THE PUBLIC RECORD**

PG&E submitted its December 12, 2018 motion for authority to submit its audit report under seal because it does believe that the information contained therein is commercially sensitive for the audited DRAM sellers. While PG&E does have a contractual obligation under the DRAM contracts to act consistent with the confidentiality of market sensitive data, PG&E also recognizes that the Commission and the ALJ have the authority to weigh the public interest in transparent, open disclosure of the audit information for purposes of evaluating the DRAM

pilot versus protecting the interests of the DRAM sellers in keeping their market sensitive information confidential.

PG&E does believe that the audit results may be relevant to questions concerning the reliability of the Resource Adequacy (RA) that the DRAM contracts are obligated to provide using DR resources in the CAISO market. For that reason, PG&E would not object to the public release of its audit report on its own behalf but observes that each DRAM seller is free to make its position known on the question of public release of the audit reports.

### **III. CONCLUSION**

Wherefore, in response to the Joint DR Parties' motion, the ALJ should issue a ruling on implementation of the statement in the January 4, 2019 ruling, "the results of the two audits will be considered during this proceeding", including weighing the public interest in transparent open disclosure of the audit information (as requested by the Joint DR Parties). Moreover, since the audit results are relevant to the issues concerning reliability of RA obtained under DRAM contracts, PG&E supports the Public Advocates inclusion of the audits as attachments to their Reply Comments.

Respectfully Submitted,

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