

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



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A.17-01-012  
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And Related Matters.

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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**

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April 10, 2019

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OhmConnect, Inc. (OhmConnect) respectfully submits this timely reply to parties' March 29, 2019 responses to Administrative Law Judge (ALJ) Hymes's *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"), mailed February 28, 2019 in the above-captioned proceeding.

**I. INTRODUCTION**

OhmConnect appreciates the effort and thought that parties invested in their responses to the Ruling and observes that most parties share a similar objective: to improve the efficacy and reliability of the Demand Response Auction Mechanism (DRAM) for Buyers and Sellers alike. Areas of disagreement center on the timeline for the "bridge" period auction and the scope of changes that might feasibly be adopted in the upcoming Commission Decision.

To that end, OhmConnect maintains that an expedited schedule for a 2019 auction that would allow deliveries in all months of 2020 is essential for maintaining at least some amount of market stability—both for third-party Demand Response Providers (DRPs) and their customers.

In parallel, the Commission should open a stakeholder process such that proposals and recommendations *not* adopted via the July 11, 2019 Decision can be developed in advance of future DRAM auctions (i.e. for deliveries in 2021 and beyond).

## II. REPLY TO PARTIES

### 1. ***DRAM continues to be a necessary mechanism to level the competitive playing field between third-party and IOU DR programs.***

SDG&E asserts in its March 29, 2019 Response that “[t]he public interest is best served by terminating the DRAM, and allowing demand response (‘DR’) to compete with other resources on a non-siloed basis.”<sup>1</sup> As OhmConnect has countered previously, at issue is not competition between third-party DR and other preferred resources, but the lack of a level competitive playing field between third-party and IOU DR programs.<sup>2</sup> Because third parties compete with the IOUs for the same set of customers, and the IOUs’ DR budgets are administratively-determined, the incentives the IOUs are able to pay to customers can often be larger than those paid by third-party DRPs, whose incentives are tied to market prices. As long as IOU programs remain administratively-priced, third-party DR programs will require a dedicated procurement mechanism in order to compete.

This point is also articulated in the CAISO’s March 29, 2019 Response:

*“Non-competitive, utility-run demand response programs provide little information regarding the amount customers are willing to accept to provide demand response, but rather indicate the amount the Commission and utilities are willing to pay for demand response. ... [C]ustomers only rationally participate in a demand response program if the price set by the Commission and the utilities is equal to or greater than what customers are willing to accept to curtail load. This cost-effectiveness concern can be remedied by establishing a goal to transition to competitive solicitations for all demand response resources.”*<sup>3</sup>

OhmConnect would support a stakeholder dialogue designing a future in which *all demand response*—third-party and IOU—competes (perhaps alongside other preferred resources) in a

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<sup>1</sup> SDG&E Response, at p. 2.

<sup>2</sup> OhmConnect Response, at p. 9.

<sup>3</sup> CAISO Response, at p. 5.

single marketplace. Until such time, DRAM will continue to be necessary in order to grow the market for third-party DR.

Finally, SDG&E overstates the extent to which the “one contract with a DR project that competed successfully in SDG&E’s 2016 preferred resources RFO”<sup>4</sup> supports the immediate elimination of the DRAM. OhmConnect did win a small contract in SDG&E’s 2016 Track IV Local Capacity Requirement (LCR) Preferred Resources Request for Offers (RFO). The LCR RFO process, however, provides a poor example of a solution to the current issue of market continuity and certainty. Decision 18-05-024, which approved the contract, noted that “[b]ecause Commission approval did not occur by January 1, 2018, it is apparent that OhmConnect will not begin delivering on this timeframe” and that “the value of the contract must be reduced commensurately with the shortening of the contract due to an effective date after the proposed January 1, 2018.”<sup>5</sup> All considered, there was a *two-year lag* between the date the bid was selected and the start of deliveries. If SDG&E would like to hold up this process as a preferred alternative to the DRAM, it would stand to reason that SDG&E would also be supportive of an extension to the Auction Mechanism sufficiently lengthy to cover a possible significant gap in the market.<sup>6</sup>

**2. *The Commission should approve an expedited bridge period solicitation that covers a full year of 2020 deliveries while committing to a parallel process to develop longer-term improvements to the Auction Mechanism.***

PG&E, SDG&E and SCE propose similar 2019 solicitation schedules that in each case delay the first month of deliveries until the summer of 2020.<sup>7</sup> Not only will this prevent DRAM resources from providing Local RA during 2020,<sup>8</sup> but this timeline, coupled with additional proposals by each of the IOUs to limit the extension of the DRAM pilot to one year, would likely

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<sup>4</sup> SDG&E Response, at p. 2.

<sup>5</sup> See May 31, 2018 Decision (D.) 18-05-024 *Decision Approving the Results of San Diego Gas & Electric Company’s 2016 Track IV Local Capacity Requirement Preferred Resources Procurement*, at pp. 18-19.

<sup>6</sup> The lack of other market opportunities, especially for DRPs serving residential customers, has previously been acknowledged in D.17-10-017, and articulated again in the comments and replies of OhmConnect and other DRPs to the October 25, 2018 *Proposed Decision Resolving Remaining Application Issues for 2018-2022 Demand Response Portfolios and Declining to Authorize Additional Demand Response Auction Mechanism Pilot Solicitations*.

<sup>7</sup> PG&E Response, at p. 6; SCE Response, at p. 6; SDG&E Response, at p. 6.

<sup>8</sup> Load serving entities (LSEs) must demonstrate that they have procured 100 percent of their Local RA needs in their year-ahead filings. These filings are due October 31.

prevent DRAM Sellers from providing demand response during the majority of the summer months in either 2020 or 2021. This outcome is highly undesirable and one that the Commission should strive to avoid.

OhmConnect recommends the Commission approve a smaller set of changes and an expedited solicitation schedule that allows for deliveries during all months of 2020 and, *in parallel*, adopt a process to develop longer-term improvements to the Auction Mechanism (i.e. for deliveries beginning in 2021). This will provide some modicum of market continuity and regulatory certainty and create an opportunity to implement and test deeper and more complex improvements to the DRAM design.

OhmConnect agrees that implementing an auction that allows deliveries in all months of 2020 would require stakeholders to work on an accelerated timeline. Nevertheless, we continue to believe that an accelerated timeline is both feasible and prudent. We note that the March 29, 2019 Responses of OhmConnect, the Joint DR Parties, and The Council all propose potential versions of such a timeline.

**3. *The bridge period solicitation budget should be no less than the budget authorized for 2019 deliveries in order to avoid permanently isolating customers from participating in DR.***

OhmConnect concurs with The Council and the Joint DR Parties that a 2019 DRAM with deliveries in 2020 should have a budget between \$36 million and \$40.5 million, in order to “put the DRAM on track for long-term growth.”<sup>9</sup> and “provide an increasing amount of budget for each solicitation to provide a growth trajectory for DRAM.”<sup>10</sup> This budget range is consistent with previous Commission direction, which historically has been steadfast in its support of maintaining market continuity for third-party DRPs. For example, the Commission has held steady or grown the DRAM budget year after year, as summarized by the Joint DR Parties.<sup>11</sup> More broadly, the Commission has demonstrated aspirational intentions for third-party DR, by establishing the principle that “[d]emand response shall be market-driven leading to a competitive, technology-neutral, open-market in California with a preference for services

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<sup>9</sup> California Efficiency + Demand Management Council Response, at p. 5.

<sup>10</sup> Joint DR Parties Response, at p. 8.

<sup>11</sup> Joint DR Parties Response, at p. 8.

provided by third-parties”<sup>12</sup> and that “all additional demand response shall be sourced through the auction mechanism”<sup>13</sup> with the IOUs procuring up to 1 GW annually.<sup>14</sup>

Despite these lofty targets, the Commission recognized late in 2017 that California is not yet in this end state: the initial absence of a DRAM for dedicated 2019 deliveries “did lead to a flattening of growth in capacity procured through the demand response auction mechanism and limited business opportunities for demand response providers.”<sup>15</sup> We are concerned, therefore, that other party proposals represent a deviation from the Commission’s longstanding position that the market needs to be maintained and grown, not shrunk. The Public Advocates Office contends that a reversion to funding levels from the DRAM I auction still represents market continuity;<sup>16</sup> SCE recommends the same budget as that proposed by the Public Advocates Office, with PG&E and SDG&E suggesting similar levels.<sup>17</sup> We respectfully disagree with these parties that a significant reduction from the total 2019 budget represents market continuity. “Continuity” is a signal to current and prospective market actors that their participation in the DRAM is not likely to result in stranded investments. However, a smaller budget indicates the opposite, because it will decrease the overall MW procured and preclude participation of existing customers. Moreover, these customers may be unable to *continue* participating in DR, as the Commission aimed to cap funding for Utility DR programs at 2017 levels precisely in order to facilitate a transition to the DRAM for all incremental demand response.<sup>18</sup> And, even if these customers *could* enroll in a Utility DR program, it would not be the result of competition, but rather an artificial constricting of the market.

Finally, OhmConnect finds the specific budgetary requests of the IOUs to be particularly vexing because they include significant administrative costs over which DRAM Sellers have no control. SDG&E asks for \$800,000 in “administrative support, IT, and audits,”<sup>19</sup> which

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<sup>12</sup> See September 29, 2016 D.16-09-056 *Decision Adopting Guidance for Future Demand Response Portfolios and Modifying Decision 14-12-024*, OP 8, at p. 98.

<sup>13</sup> D.16-09-056, at p. 67.

<sup>14</sup> D.16-09-056, OP 12b, at p. 100.

<sup>15</sup> See October 26, 2017 D.17-10-017 *Decision Adopting Steps for Implementing the Competitive Neutrality Cost Causation Principle, Requiring an Auction in 2018 for the Demand Response Auction Mechanism, and Establishing a Working Group for the Creation of New Models of Demand Response*, at p. 40.

<sup>16</sup> Public Advocates Office Response, at p. 6.

<sup>17</sup> SCE Response, at p. 5; PG&E Response, at p. 5; SDG&E Response, at p. 5.

<sup>18</sup> D.16-09-056, at p. 67.

<sup>19</sup> SDG&E Response, at p. 5.

represents 40 percent of the total budget it proposes for the subsequent DRAM solicitation (\$2 million).<sup>20</sup> PG&E also asks for the DRAM budget to include administrative costs, although it does not specify what these costs might be.<sup>21</sup> All three IOUs request funding for an independent monitor, with PG&E asking that this cost also be included in the overall DRAM budget.<sup>22</sup> Taken together, these costs may very well amount to total procurement that is below even the DRAM I levels, especially if each Utility requires that 40 percent of its total budget goes toward administrative expenses. OhmConnect urges the Commission to set any budget for a DRAM bridge purely for capacity costs. In addition, OhmConnect recommends that the Commission set clear limits on the administrative costs available to each IOU, and that each IOU report its total spend on non-capacity costs.

***4. The IOUs should validate Supply Plan capacity using a plausibility screen during the bridge period. Other options, including a Demonstrated Capacity (DC)-to-Qualifying Capacity (QC) feedback loop, should be reserved for future delivery years.***

There is broad consensus among DRPs<sup>23</sup> that a plausibility screen based on customer load is the best near-term<sup>24</sup> mechanism to give IOUs additional confidence that the numbers reported on Sellers' Supply Plans are reasonable. OhmConnect supports this option with the caveat that there be unambiguous definition of the methodologies used to a) calculate aggregate load and b) prorate downward Supply Plan capacity based on any identified shortfall. Methodologies that are open to interpretation could lead to disagreements and lengthy audits. We included a detailed description of a plausibility screen methodology in Appendix A of our March 29, 2019 Response.

Several parties have also proposed to implement a “feedback loop” between ex post Demonstrated Capacity and ex ante Qualifying Capacity. Although this is intuitively appealing, the IOUs' proposal for just a one-year DRAM extension and the current DRAM design that

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<sup>20</sup> SDG&E Response, at p. 5. SDG&E proposes a procurement budget of \$1.2 million, and an additional \$800,000 in incremental budget.

<sup>21</sup> PG&E Response, at p. 5.

<sup>22</sup> PG&E Response, at p. 5. Also SDG&E Response, at p. 5, and SCE Response, at p. 5.

<sup>23</sup> OhmConnect Response at p. 13; Joint DR Parties Response at p. 5; Joint Proposal Parties Response at p. 3; CEDMC Response at p. 15.

<sup>24</sup> OhmConnect defines “near-term” as all deliveries in 2020.

requires two tests/dispatches in a year renders a feedback loop likely unworkable in 2020 for two reasons:

1. *An intra-year feedback loop could provide inaccurate or inapplicable information.* Given the seasonality of weather-sensitive DR, as well as the lag time between an event and the Supply Plan that performance during this event would inform, an intra-year feedback loop will repeatedly use outdated information. For example, if a test or dispatch was performed in February, the DRP may not receive data to calculate performance until March. Because Supply Plans must be submitted to the IOU 60 days ahead of the delivery month, this data would conceivably be used to inform a June Supply Plan (see Figure 1). Residential customers are frequently weather-sensitive, such that customer load in June is generally *substantially* higher than in February. Any methodology that would aim to draw conclusions from a February event and apply it to June (or vice-versa) would be flawed at best. The distortion would be further exacerbated if the Commission were to adopt PG&E's proposal that "QC used for month-ahead supply plan be based exclusively on active and registered customers rather than on enrollment projections or other factors that may inflate the resource's capabilities."<sup>25</sup> This latter proposal should be rejected outright, as it presumes flat customer growth despite years of Quarterly Reports filed in A.14-06-001 et al. indicating that the number of customers participating in DRAM continues to increase.
2. *An inter-year feedback loop in 2020 may lack sufficient event data.* The current DRAM design requires a DRP to dispatch or test its resources at least once in the first six months of the contract and then again in August (presuming the contract is for over six months of delivery). Thus, a DRP could have as few as two events with which to inform 2020 supply (see Figure 2). This is not a large enough data set to meaningfully feed into 2020 ex ante Supply Plans, especially given the fact that Seller programs may evolve in reaction to changes to the DRAM design.

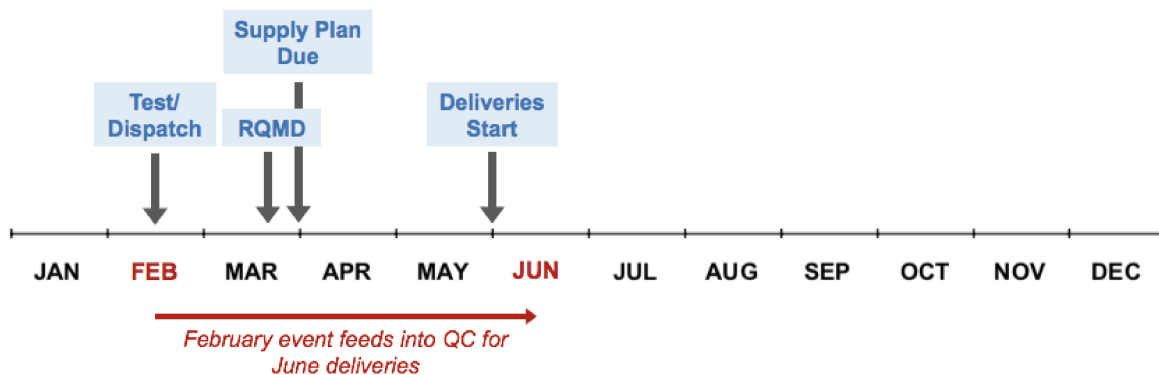
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<sup>25</sup> PG&E Response, at p. 4.

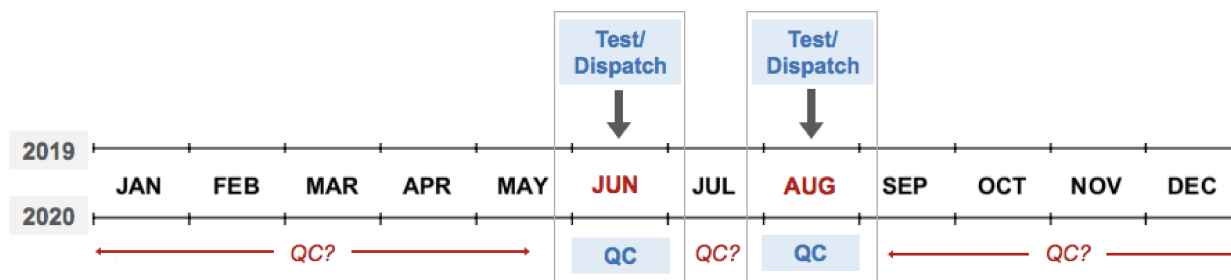


OhmConnect supports discussion of how to meaningfully include a feedback loop into ex ante estimation in future years if the Commission were to authorize a multi-year extension of the DRAM as part of Step 2.

**Figure 1. Intra-Year Feedback Loop**



**Figure 2. Inter-Year Feedback Loop**



5. ***DRPs showing shortfalls in QC and DC should face a reasonable derate in their capacity payment. Any replacement fee should be based on actual replacement costs, if incurred.***

OhmConnect agrees that shortfalls in QC against contract capacity (*under-supply*) should at least result in loss of a portion of capacity payment. The scale of the derate, however, should not be left to interpretation. Rather, it should be a clear formula adopted by the Commission.

OhmConnect recommends that the derate be proportional to the percentage of under-supply.<sup>26</sup> The Commission should not adopt PG&E's proposal to base a replacement fee on the contract price.<sup>27</sup> A replacement fee, if adopted, should be based on the *incremental additional cost of*

<sup>26</sup> OhmConnect Response, at p. 29.

<sup>27</sup> PG&E Response, at p. 13.

*replacement procurement*.<sup>28</sup> Withholding a portion of the capacity payment is an effective penalty in and of itself. Charging the DRP for the cost of additional procurement, regardless of whether the IOU actually incurred any costs above and beyond what it would have paid the DRP for the capacity, is unreasonable and amounts to penalizing the DRP twice for the same shortfall.

OhmConnect also agrees that a shortfall in Demonstrated Capacity against Supply Plan capacity (*under-delivery*) should be penalized, and that the point of default should be clearly articulated and adopted by the Commission. OhmConnect put forward two payment structure proposals in its March 29, 2019 Response that penalize under-delivery while also providing a tolerance band commensurate with the probabilistic and weather-sensitive nature of some demand response.<sup>29</sup> Based on those two structures, we propose the point of default be 50 percent of Supply Plan capacity in two consecutive months. The proposals put forward by PG&E (90 percent default threshold) and SDG&E (85 percent default threshold) are unreasonably high, especially for weather-sensitive DR, and should not be adopted.

**6. *Monthly Demonstrated Capacity (in the case of CAISO dispatch or test) should continue to be based on maximum hourly load reduction through at least the 2020 bridge period.***

In the DRAM I-IV Pilots, monthly Demonstrated Capacity (in the case of CAISO dispatch or test) was based on each Proxy Demand Resource's (PDR) *maximum* hourly load reduction during a dispatch or test event.<sup>30</sup> In its March 29, 2019 Response, SCE proposes that beginning in 2020 Demonstrated Capacity be based instead on each PDR's *average* hourly load reduction across all CAISO dispatch or test events during the month.<sup>31</sup> SDG&E, in contrast, believes "it is reasonable to continue allowing [Demonstrated Capacity] to be based on the maximum hourly calculation if DRAM continues as a short term (12 month) Step One pilot."<sup>32</sup> OhmConnect concurs, for two reasons, that DRAM Demonstrated Capacity should continue to be based on maximum, rather than average, hourly load reduction through at least the 2020 bridge period.

First, basing Demonstrated Capacity on average hourly load reduction could create a perverse incentive for certain DRAM Sellers to limit CAISO market dispatches. Suppose a Seller

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<sup>28</sup> This fee may include administrative costs of additional procurement, although these would have to be transparent.

<sup>29</sup> OhmConnect Response, Appendix B.

<sup>30</sup> DRAM Pro Forma contract, Section 1.6 (a) (i).

<sup>31</sup> SCE Response, Pro Forma Contract redlines ("SCE Pro Forma Redlines"), at p. 5.

<sup>32</sup> SDG&E Response, at p. 17.

achieves during its first dispatch or test of the month a load reduction equal (or nearly equal) to its contracted capacity. If monthly Demonstrated Capacity is based on average load reduced across all dispatch events, the Seller is disincentivized from seeking any additional market dispatches because such dispatches may decrease the Seller's average hourly load reduction. Although additional dispatches would earn the Seller energy market revenues, these revenues may not warrant putting at risk the Seller's monthly DRAM capacity payment. The CAISO states in its March 29, 2019 Response that "[an] important goal of the DRAM is to procure demand response resources that are *used and useful*."<sup>33</sup> Insofar as the Commission is concerned about improving DRAM resources' levels of dispatch activity, basing Demonstrated Capacity on average, rather than maximum, hourly load reduction is a move in precisely the wrong direction.

Second, basing Demonstrated Capacity on average hourly load reduction would be punitive to PDRs that are weather-sensitive. PDRs are dispatched by the CAISO based on economics, and it is not uncommon for wholesale locational marginal prices (LMPs) to be high despite the weather being mild (e.g. if there is transmission congestion or a generator outage). Knowing that load (and therefore performance) of weather-sensitive resources positively correlate with temperature, suppose a PDR is dispatched by the CAISO twice during a month for which the typical daily high temperature is 95 degrees: for the first dispatch the temperature is 85 degrees and the PDR reduces 3 MW of load, while for the second dispatch the temperature is 100 degrees and the PDR reduces 5 MW of load. If Demonstrated Capacity is equal to the average of the load reduced during these two dispatch events, then the PDR will be paid for only 4 MW of delivered capacity, despite its having demonstrated 5 MW of capacity under the more "severe" weather conditions. Accordingly, until such time that the DRAM includes explicit provisions for PDRs that are weather-sensitive, Demonstrated Capacity should continue to be based on maximum, rather than average, hourly load reduction.

**7. *The Commission should not require concurrent dispatch or testing of a DRAM Seller's portfolio of resources.***

SCE proposes the following modified language to section 3.3(b) of the DRAM pro forma contract:

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<sup>33</sup> CAISO Response, at p. 5 (emphasis added).

*“Seller shall use its best efforts to ensure that a concurrent Full Dispatch of all PDRs and RDRRs in the DRAM Resource occurs during August of each year. If Seller has been unable to cause a concurrent Full Dispatch ... Seller shall cause a concurrent test of such PDR(s) or RDRR(s) in accordance with D.14-06-050, Appendix B, prior to expiration of that month, and provide the results of such test to Buyer to support Demonstrated Capacity for that month pursuant to Section 1.6(a)(ii).”<sup>34</sup>*

OhmConnect objects to the requirement that a DRAM Seller dispatch or test its portfolio of PDRs concurrently. As stated above, PDRs are dispatched by the CAISO based on economics—i.e. whether a PDR’s bid price is less than or greater than the LMP applicable to that PDR. Most PDRs in CAISO are “Pre-Defined” PDRs.<sup>35</sup> The Pre-Defined PDRs in a given Sub-LAP have identical power flow properties in the CAISO’s Full Network Model; accordingly, these PDRs all settle at a common Sub-LAP-level LMP. Furthermore, LMPs can and do differ across Sub-LAPs—due to transmission congestion, for example—such that a Seller cannot guarantee economic dispatch of its PDRs concurrently across multiple Sub-LAPs. Although a Seller can *test* all of its PDRs concurrently, it may be uneconomic to do so. And if the Seller’s PDRs are *weather-sensitive*, the conditions necessary to demonstrate contracted DRAM capacity may not materialize concurrently in all Sub-LAPs (e.g. coastal vs. inland, north vs. south, etc.). Or, equally problematic, the test required in SCE’s proposed contract language may not occur during representative weather conditions, as CAISO testing must be scheduled at least 7 days in advance.<sup>36</sup>

Insofar as concurrent dispatch or testing of PDRs is intended to prevent double-counting of a Seller’s customers in the calculation of monthly Demonstrated Capacity, it should be noted that customers cannot be shifted between PDRs in different Sub-LAPs. The Sub-LAP in which a customer is situated is exogenous to the Seller: it is determined, and can only be changed, by the IOU and the CAISO. Perhaps recognizing this, PG&E recommends that “[t]esting [...] be coincident of all resources within the same SubLAP.”<sup>37</sup> Although concurrent dispatch or testing of PDRs *within a given Sub-LAP* would indeed prevent double-counting of customers, it would

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<sup>34</sup> SCE Pro Forma Redlines, at p. 10 (emphasis added).

<sup>35</sup> See, for instance, CAISO Demand Response User Guide, Version 4.5 (last updated Oct. 31, 2018).

<sup>36</sup> See CAISO Resource Testing Guidelines, at p. 10, available at <http://www.caiso.com/Documents/5330.pdf>, which states that Outage requests must be submitted “at least 7 calendar days prior to the requested test date.”

<sup>37</sup> PG&E Response, at p. 15.

not come without a cost. Specifically, if the Seller enrolls and disenrolls customers during the month—as is common with residential DR services—then no concurrent dispatch or test can possibly capture the performance contributions of *all* customers enrolled by the Seller for at least some portion of the month.<sup>38</sup> PG&E observes in its Response that “[n]on-coincident tests may be reasonable if the [Independent Monitor] can fully verify that there were no customer movements between tests that may lead to double-counting capacity.”<sup>39</sup> To this end, we reiterate that the proposal for calculating monthly Demonstrated Capacity in OhmConnect’s March 29, 2019 Response is intended to ensure that each customer dispatched or tested as part of a PDR is counted *once and only once*.

***8. Contractual changes to support delivery for RQMD are appropriate and not redundant.***

Energy Division’s Final DRAM Evaluation states that “[t]hird-party DRPs have reported difficulties obtaining timely, complete, and correct RQMD from the IOUs.”<sup>40</sup> Notably, no party’s March 29, 2019 Response contends that all data issues have been resolved. It is therefore troubling that the IOUs have taken the position that the existing processes are sufficient to resolve such issues, with PG&E and SDG&E citing Rule 24/32 language,<sup>41</sup> and SCE specifically suggesting that “delivery of timely, complete and correct RQMD may be an issue best suited for dispute resolution.”<sup>42</sup> There is no evidence that the data sharing status quo is sufficient for DRPs to conduct their business operations. For example, OhmConnect filed a Complaint in March seeking resolution of data issues with an IOU that have persisted since May 2018.<sup>43</sup> Under the Commission’s Rules of Practice and Procedure, resolution may not occur for up to twelve months, which highlights the extreme challenges of relying on the CPUC formal complaint process to resolve data conflicts that impact tens of thousands of customers. Customers who are

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<sup>38</sup> See, for instance, OhmConnect’s presentation at the January 30, 2019 DRAM workshop.

<sup>39</sup> PG&E Response, Footnote 35, at p. 15.

<sup>40</sup> See January 4, 2019 “Energy Division’s Evaluation of Demand Response Auction Mechanism Final Report” (“DRAM Final Report”), at p. 118.

<sup>41</sup> PG&E Response, at p. 16 and SDG&E Response, at p. 18.

<sup>42</sup> SCE Response, at p. 21.

<sup>43</sup> See March 8, 2019 Complaint (C.)19-03-005 *Complaint of Ohmconnect, Inc. Against Southern California Edison Company for Data Failures*, available at <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M270/K419/270419349.PDF>.

engaging in an online experience facilitated through data sharing do not anticipate resolution of issues to take more than a few days, much less weeks or months.

SDG&E also suggests that “[t]he RQMD requirement should stay in Rule 32, and not be duplicated in DRAM contracts.”<sup>44</sup> OhmConnect does not agree with this position; beyond the concern that the Rule 24/32 processes are too slow and do not carry a great enough incentive to perform MDMA services at the highest level, Rule 24/32 is not exclusively applicable to DRAM. Therefore, added provisions in the DRAM contract would not be duplicative if they reflect requirements and expectations beyond the baseline ones captured in Rule 24/32.

Finally, OhmConnect is concerned by the general perception of SCE that delays in provision of RQMD only impact a DRP with regards to timely invoicing, and that a reasonable remedy is to allow a DRP to invoice based on the data that has been provided.<sup>45</sup> This solution does nothing to remedy the underlying issue, which is that the data is missing. Missing data has a cascading effect for both the DRP (for example, a DRP is now unable to fully calculate performance for any event that either occurred on that day, or uses that day to calculate the baseline) and its customers (for example, rendering a poor customer experience and potential program disenrollment for reasons outside the DRP’s control).

**9. *Freezing resource composition within a delivery month is not an efficient way to prevent the double-counting of customers in Demonstrated Capacity.***

OhmConnect maintains the position in its March 29, 2019 Response that freezing customer enrollment in resources is not necessary to ensure that customers are counted once and only once (i.e. not double-counted) if a proper and reasonable methodology is used to Demonstrate Capacity for the overall *portfolio*.<sup>46</sup> However, if the Commission chooses to place restrictions on how DRPs structure their resources, we believe it is critical to allow DRPs to modify their resources in certain circumstances. The Joint Proposal lists four exceptions that serve as a good starting point for identifying such circumstances:

1. the customer enrolls in the DRP program,
2. the customer disenrolls from the DRP program,

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<sup>44</sup> SDG&E Response, at p. 18.

<sup>45</sup> SCE Pro Forma Redlines, at pp. 13-14.

<sup>46</sup> OhmConnect Response, at p. 15.

3. the customer's addition or subtraction would cause the resource to violate CAISO market requirements, or;

4. the customer changes LSE.<sup>47</sup>

It is not necessary or appropriate for resource enrollment changes to require approval of another entity prior to the change, as SDG&E proposes in its Response.<sup>48</sup> As OhmConnect noted in its Response, DRPs can update CAISO resource composition on up to a daily basis in order to reflect changing customer enrollment.<sup>49</sup> Given there are over 100,000 Rule 24/32 Approved Locations across the three IOUs, it is highly likely that a DRP (especially a residential DRP) might see *hourly* program enrollment changes; indeed, OhmConnect enrolls at times hundreds of customers on a daily basis. Therefore, we believe SDG&E underestimates the incredible administrative burden and cost that would be required for the IOU (or an Independent Monitor) to review every single Location enrollment change. We are further concerned that requiring approval for each change will add delays to the customer enrollment process, when the Commission in D.16-06-008 and, subsequently, in Resolution E-4868 sought to “streamline and simplify the direct participation enrollment process.”<sup>50</sup> Finally, we note that freezing resource composition might have the unintended consequence of incentivizing a DRP to create as many resources as possible in order to try to minimize the impact of disallowed customer movement. If the Commission truly deems customer movement to be such a concern that it requires specific prohibition, then, rather than require constant review, the IOUs should be given the option to audit any Demonstrated Capacity that uses test or dispatch results to ensure that customers did not move between resources during the month.

***10. The purpose and contents of performance reports, if required, should be clearly articulated and DRPs should not be required to serve these publicly.***

OhmConnect reiterates that, while performance reports could be sensible in theory, additional clarity is needed regarding the content and audience of these reports. All three utilities suggest requiring third-party DRPs to submit public reports similar to the IOUs' Monthly IL and

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<sup>47</sup> Joint Proposal, at p. 5. SCE Pro Forma Redlines also list a portion of these scenarios, at p. 11.

<sup>48</sup> SDG&E Response, p. 17.

<sup>49</sup> OhmConnect Response, at p. 15.

<sup>50</sup> See June 9 2016 D.16-06-008 *Decision Addressing Budgets for Day-ahead, Real-time, and Ancillary Services During the Intermediate Implementation Step of Third-Party Demand Response Direct Participation*, OP 9, at p. 35.

DR Programs Reports.<sup>51</sup> OhmConnect notes that much of the information provided in these reports is proprietary in the case of third-party DRPs and would not be included in a publicly served document. Absent such information, it seems a monthly report would be of little use.

As OhmConnect indicated in its March 29, 2019 Response, we do not oppose confidentially sharing data with the Commission (or an Independent Monitor, if one were to be appointed) until the CAISO information pathway is improved<sup>52</sup> because we believe this would assist ongoing monitoring and evaluation of the Auction Mechanism. Energy Division Staff, or the IM, could then anonymize and aggregate this data into a public summary report, made available at some regular interval.

***11. An Independent Monitor (IM) could have a larger role in DRAM; however, the IM's specific tasks deserve greater discussion.***

All three IOUs propose an expanded role for an Independent Monitor (IM) during the DRAM bridge period. OhmConnect generally supports the use of an IM, with the following caveats:

- All proposals focus on the role of the IM as an intermediary between the DRP and IOU in judging the reasonableness of every Supply Plan.<sup>53</sup> It may be sensible to task an IM to be a resource to support DRPs, as needed, and provide guidance regarding the application of an established reasonableness check in cases of disagreement. However, requiring, for instance, that DRPs' Supply Plans *necessarily* go through an IM reasonableness screen, or that the reasonableness screen uses a methodology chosen by the IM arbitrarily, is excessive, costly, and inefficient.
- An IM in such a position would need to have an excellent understanding of the DRAM auction design, pro forma contract language, and CAISO market processes, among other areas. OhmConnect questions whether the bridge period allows enough time to identify

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<sup>51</sup> PG&E Response, at p. 18; SCE Response, at p. 3; SDG&E Response, at p. 20.

<sup>52</sup> See DRAM Final Report, at pp. 81-82, which states that "[t]here were some challenges encountered in processing data from CAISO settlement files" and "[i]n light of the data quality issues encountered in the CAISO data files, ED Staff obtained parallel data sets for most DRPs via their scheduling coordinators (SCs) to repeat the analysis (for dispatch performance in this section and scheduling rates in Section 8) and cross-check the results generated from the CAISO data set."

<sup>53</sup> PG&E Response, at p. 11; SCE Response, at p. 4; SDG&E Response, at p. 21.



and contract with an entity with the necessary depth and breadth of institutional knowledge.

- An IM must be truly independent; i.e., an IM must have the confidence of both the IOUs and DRPs, such that both parties feel they will be treated consistently and fairly. Thus, rather than being jointly contracted by the IOUs as proposed by SDG&E and PG&E,<sup>54</sup> the IM should be contracted by the Commission.

OhmConnect supports further discussion regarding the appropriate role for the Independent Monitor within the Auction Mechanism and recommends that parties take up this topic following the July 11, 2019 Decision.

### III. CONCLUSION

OhmConnect reiterates its openness to working with other parties in this proceeding to adopt sensible and timely improvements to the DRAM. However, we do not believe it is appropriate to introduce elements into the Auction Mechanism that would sacrifice the continuity of the marketplace. We encourage the Commission to adopt proposals that can be fairly and feasibly implemented in time for a DRAM with 2020 deliveries during all months. The residual proposals could then be taken up as part of Step 2 and in advance of a possible auction in 2021.

Respectfully submitted,

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<sup>54</sup> PG&E Response, at p. 4; SDG&E Response, at p. 5.