

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



**FILED**

03/29/19  
04:59 PM

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

And Related Matters.

Application No. A.17-01-012  
(Filed January 17, 2017)

Application No. A.17-01-018  
Application No. A.17-01-019

**RESPONSE OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902-E) TO  
QUESTIONS RESULTING FROM FEBRUARY 2019 DEMAND RESPONSE  
WORKSHOPS**

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March 29, 2019

## TABLE OF CONTENTS

I.	COMMENTS ON FINAL DRAM EVALUATION REPORT FROM JANUARY 4 .....	1
II.	QUESTIONS AND RESPONSES TO THE RULING .....	2
1.	Explain, in detail, whether the Commission should adopt a two-step approach wherein the auction mechanism is adopted allowing for:.....	2
	Step One - limited critical improvements to the mechanism in the initial decision to provide for a solicitation in 2019 and deliveries in 2020 (considered to be a bridge period) and,.....	2
	Step Two - continuous and iterative improvements to the mechanism in future decision(s) based on additional experience, continuous monitoring, and evaluation data from future solicitations.....	2
2.	If the Commission authorizes a two-step approach, explain which critical recommendations or party proposals should be required in order to implement a solicitation in 2019 for 2020 deliveries (i.e., a bridge period). Be specific about the details of the recommendations, including timing. ....	4
3.	If the Commission authorizes a two-step approach, what budget amount should the Commission authorize for the bridge period solicitation and related deliveries and why?.....	5
4.	If the Commission authorizes a two-step approach, describe the solicitation schedule the Commission should approve for the bridge period (a 2019 auction for 2020 deliveries). Include in your response a proposed schedule in which a final decision is issued by July 11, 2019 and the proceeding remains open to address the second step improvements. Include details on the timing for the deliveries. ....	5
5.	In the Pilot Evaluation, Staff recommended an expedited schedule in both the bridge period and future solicitations. If the Commission authorizes a two-step process, explain whether the Commission should waive Commission-specific review and approval of contracts for the Auction Mechanism. ....	6
6.	If the Commission authorizes a two-step approach, explain what procedural steps the Commission should use to address the remaining questions regarding the Auction Mechanism: e.g., workshops, working groups, evidentiary hearings, etc. Include, in your response, a recommended timeline through which the record is complete by August 30, 2019 and a decision can be written and adopted by December 19, 2019 to allow for a solicitation in the Spring of 2020, if the Commission authorizes a future mechanism. ....	7
7.	If the Commission authorizes a two-step approach, explain the procedural steps and timeline the Commission should use to address improvements for future years of the Auction Mechanism. How often should the Commission address iterative improvements to the Auction Mechanism? .....	8

8. Building on the small group discussion in the workshop and the developed options for a goal provided above in Table 1, what should be the goal of the Auction Mechanism? Keep in mind that a goal is abstract, not measurable and long term. For example, the adopted goal of demand response is: 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.....8
9. Building on the discussion in the workshop and the developed list of objectives and principles provided above in Table 2, what objectives and principles should the Commission adopt? Keep in mind that objectives are specific, measurable, attainable, realistic, and timed. Principles are assumptions, fundamental rules, or guiding doctrines.....9
10. If the Commission determines not to authorize a two-step approach, explain whether the Commission should authorize a continuation of the Auction Mechanism. If the Commission should authorize a continuation of the Auction Mechanism, provide justification for the length of time the authorization should cover, the budget the Commission should authorize, and the cost recovery approach the Commission should authorize.....10
11. Describe and explain the standards that the Commission should adopt for estimating the Qualifying Capacity of an Auction Mechanism resource applicable to Supply Plans. Be specific and include comments on the options discussed during the workshop: test, market dispatch, or an ex ante estimation method. Explain the process the Commission should use to implement the standards. ....12
12. Explain whether the Commission should adopt an energy component requirement Auction Mechanism resources. If the Commission authorizes optional dispatch hours in solicitations, explain whether and how the values of the bids should be modified to account for this additional requirement. If the Commission adopts a minimum dispatch hour performance requirement, explain the parameters the Commission should adopt.....13
13. Explain whether the Commission should adopt penalties for shortfalls in both Qualifying Capacity and Demonstrated Capacity. If the Commission adopts penalties, explain at what point in time penalties should be assessed and under what conditions. Explain whether the penalties should be based on costs incurred by a utility for failure to perform or the price of the contract. ....14
14. Explain whether over-performance should be incentivized and what the incentive should be. Explain whether there should be a cap and what the cap should be. ....16
15. Explain the approach the Commission should adopt regarding Demonstrated Capacity on invoices including Must-Offer Obligation invoices and full or partial dispatch or test requirements. Explain what method demand response providers should use to calculate performance. Explain how the Commission should address the issue of locations moving between resources in a given month. ....16

16.	Explain whether the Commission should allow partitioning of contracts for reassignment and under what conditions. Explain whether and how the Commission can improve the transparency of the reassignment process. Describe the deadlines the Commission should require for invoices and any exceptions that should be made. ....	17
17.	Explain whether the Commission should adopt a contract remedy for a utility’s failure to deliver Revenue Quality Meter Data in time for CAISO settlement and what the remedy should be. ....	18
	Explain what improvements could be made to streamline communication between utilities and third-party demand response providers regarding missing data, data quality concerns, and gaps in data.....	18
18.	Explain whether the Commission should approve implementation milestones with regard to utility systems, Commission registration, CAISO registration, and customer acquisition and what the milestones should be.....	19
19.	Explain whether the Commission should require third-party demand response providers participating in the Auction Mechanism to submit performance reports for the purpose of evaluation or providing a feedback loop. If the Commission should require performance reports, explain who should receive these reports and what should be included in the reports. ....	20
20.	Should the Commission create a process for monitoring and evaluating the Auction Mechanism and what should be the guidelines or principles for that process?.....	20
21.	Should the Commission set a limit on market share? Explain what the limit should be. ....	21
22.	Explain whether the Commission should maintain, revise, or eliminate the set aside of 20 percent for each utility of the total megawatts procured under the Auction Mechanism each year for residential aggregation.....	22
23.	Explain whether the Commission should maintain, replace or eliminate the simple average August bid price cap. If the Commission decides to replace the average August bid price cap, should the Commission adopt the Net Market Value cap as the replacement, as proposed by SDG&E, <sup>4</sup> based on the adjusted Long Run Avoided Cost of Generation described in the Pilot Evaluation? .....	22

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Pursuant to the *Assigned Administrative Law Judge's Ruling Directing Responses to Questions Resulting from the February 11-12, 2019 Demand Response Action Mechanism ("DRAM") Workshop and Comments on Proposals to Improve Mechanism* (February 28, 2019) ("ruling"), San Diego Gas & Electric Company ("SDG&E") submits this response to the ruling's questions.

**I. COMMENTS ON FINAL DRAM EVALUATION REPORT FROM JANUARY 4**

SDG&E has participated in each of the workshops that were held following the release of the public version of the Energy Division's ("ED") DRAM evaluation final report,<sup>1</sup> as well as commenting on the recommended improvements to DRAM which were filed on January 11, 2019. SDG&E supported the working groups which addressed improvement in performance and accountability and the DRAM pro forma contracts, and was an active participant in the February 11 and 12, 2019 workshops facilitated by the ALJ. These activities focused on how to improve the DRAM, and SDG&E made an effort to be constructive in that context. SDG&E has

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<sup>1</sup> Energy Division's Evaluation of Demand Response Auction Mechanism Final Report (Public Version) (January 4, 2019) ("ED Report"). The ruling also refers to this as the "Pilot Evaluation."

maintained its position that the data in the ED Report does not support the report's conclusion that DRAM should be continued for 5-6 years. SDG&E submits that the public interest is best served by terminating the DRAM, and allowing demand response ("DR") to compete with other resources on a non-siloed basis. SDG&E has already executed one contract with a DR project that competed successfully in SDG&E's 2016 preferred resources RFO,<sup>2</sup> so the ability of DR resources to compete with other preferred resources has been demonstrated.

## **II. QUESTIONS AND RESPONSES TO THE RULING**

### **1. *Explain, in detail, whether the Commission should adopt a two-step approach wherein the auction mechanism is adopted allowing for:***

***Step One - limited critical improvements to the mechanism in the initial decision to provide for a solicitation in 2019 and deliveries in 2020 (considered to be a bridge period) and,***

***Step Two - continuous and iterative improvements to the mechanism in future decision(s) based on additional experience, continuous monitoring, and evaluation data from future solicitations.***

If the Commission decides to continue DRAM in a revised mechanism that comes with significant improvements, SDG&E supports a two-step approach.

SDG&E urges the Commission to consider Step One as an experimental implementation of DRAM that incorporates all the identified critical improvements, detailed in the response to Question #2, with an Independent Monitor that oversees the implementation details and is responsible for the verification and performance evaluation of each DRAM contract. SDG&E

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<sup>2</sup> See, D.18-05-024, ordering paragraph 3 at 26, *approving* A.17-04-017 (SDG&E 2016 Track IV Local Capacity Requirement Preferred Resources RFO).

recommends continuing the solicitation with a standard, revised pro forma contract that is enhanced with more transparency, responsibility and reliability of resources. It should also be attractive to existing Demand Response Providers (“DRPs”) and to new entrants. SDG&E also recommends the Commission require the IOUs issue the solicitation in Step One for a limited, one-year (12-month) implementation that starts the delivery in 2020 and covers all seasons. This limited one-year implementation should also incorporate a feedback loop design that carries out the evaluation periodically and requires all parties to provide substantive data and updates, throughout the entire implementation, and be able to quickly and effectively apply lessons learned. It should also have clear definition of success based on performance and the reliability of resources, preferably with clear signals of either pass or fail criteria.

This additional experience with feedback loop, along with the learnings of DRAM pilot III and IV, should be considered in the Commission’s future decision(s) whether or how to continue DRAM.

SDG&E recommends completing the evaluation of Step One before the start of Step Two. The Commission should only consider the continuation of DRAM into Step Two for further modifications and iterative improvements of DRAM when Step One is completed and determined to be successful. The role of the Independent Monitor and the feedback loop design in Step One should also be maintained and enhanced in Step Two. The ratepayers have spent tens of millions of dollars already on the design and implementations of DRAM over four and half years, including this limited experiment. Therefore, SDG&E believes it is time to carefully evaluate the performance and values of DRAM, especially when implemented with critical enhancements in Step One, before moving to a permanent DRAM in Step Two.

2. ***If the Commission authorizes a two-step approach, explain which critical recommendations or party proposals should be required in order to implement a solicitation in 2019 for 2020 deliveries (i.e., a bridge period). Be specific about the details of the recommendations, including timing.***

If the Commission authorizes a two-step approach, SDG&E urges the Commission to begin by defining the goal and objectives of the short term 2020 DRAM.

For a limited Step One implementation, SDG&E strongly urges the Commission to require the following critical recommendations and proposals:

- Feasible and standard determination of Qualifying Capacity (“QC”) that should be tied up with the customer enrollment goals and reporting. SDG&E provides the details of the QC methodology proposal in the response to Question #11;
- Feedback loop of Demonstrated Capacity that is based on dispatch and /or tests results to determine the future Supply Plan Capacity;
- Penalty structure for QC and Demonstrated Capacity deficiencies, as outlined in the response to Question #13;
- Oversight of Independent Monitor as outlined in the response to Question #20;
- Milestone reporting to increase the confidence level of resource capacity, as outlined in the IOU’s Subtopic 2.4 Implementation Milestone proposal<sup>3</sup> from the Working Group discussions;

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<sup>3</sup> Proposal was served by SDG&E on February 6, 2019 as ordered by the January 23, 2019 *Administrative Law Judge’s Ruling Providing a Plan for Addressing the Proposed Improvements to the Demand Response Auction Mechanism and Establishing Two Working Groups to Develop Proposals.*



- Invoices deadline and supporting documents, as outlined in the IOU’s Subtopic 2.2 Invoice Deadline proposal<sup>4</sup> from the Working Group discussions;
- Clear definition of Events of default that includes:
  - Failure to meet milestones within timelines;
  - More than 2 months of performance that is lower than 85% of contract capacity

3. ***If the Commission authorizes a two-step approach, what budget amount should the Commission authorize for the bridge period solicitation and related deliveries and why?***

If the Commission orders a two-step approach, SDG&E proposes to limit the term of the Step One implementation to be no more than one-year (12 months) with a budget of \$1.2 million to cover the capacity cost, plus an incremental budget to be determined and allocated among the Investor-Owned Utilities (“IOUs”) for the support of statewide Independent Monitor. The Independent Monitor should take on all the roles and responsibilities that are outlined in the response to question #20. SDG&E also asks for \$800,000 dollars for administrative support, IT, and audits.

4. ***If the Commission authorizes a two-step approach, describe the solicitation schedule the Commission should approve for the bridge period (a 2019 auction for 2020 deliveries). Include in your response a proposed schedule in which a final decision is issued by July 11,2019 and the proceeding remains open to address the second step improvements. Include details on the timing for the deliveries.***

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<sup>4</sup> *Id.*

SDG&E Proposed the following schedule based on a final decision issued on July 11, 2019:

Step	Date
Responses to ALJ's Feb. 28 Ruling Questions	3/29/2019
Replies to Responses to ALJ's Feb.28 Ruling Questions	5/1/2019
CPUC Issues Proposed Decision	6/11/2019
CPUC Issues Final Decision	7/11/2019
IOUs Submit AL with Contract and Solicitation Modifications	8/30/2019
CPUC Approval of AL	10/18/2019
IOUs Launch RFO	12/6/2019
IOUs Complete RFO and Sign Contracts	3/27/2020
DRPs Submit Supply Plans	5/15/2020
First Deliveries	7/3/2020

5. ***In the Pilot Evaluation, Staff recommended an expedited schedule in both the bridge period and future solicitations. If the Commission authorizes a two-step process, explain whether the Commission should waive Commission-specific review and approval of contracts for the Auction Mechanism.***

If the Commission orders a two-step process, SDG&E suggests continuing the Commission-specific review and approval of contracts for the DRAM.

In the DRAM pilot implementation, the Commission reviews and approves the pro forma contract in two steps:

- The Commission's approval is required for the modification of the statewide pro forma contract, as a result of stakeholders' collaboration and discussions, and
- The Commission's approval is required for the resulting contracts from DRAM solicitations administered by each Utility.

SDG&E considers the Commission-specific review and approval necessary to ensure consistent and compliant implementation of DRAM.

6. *If the Commission authorizes a two-step approach, explain what procedural steps the Commission should use to address the remaining questions regarding the Auction Mechanism: e.g., workshops, working groups, evidentiary hearings, etc. Include, in your response, a recommended timeline through which the record is complete by August 30, 2019 and a decision can be written and adopted by December 19, 2019 to allow for a solicitation in the Spring of 2020, if the Commission authorizes a future mechanism.*

To resolve any remaining questions regarding the DRAM, SDG&E believes workshops and/or working groups are the avenue to discuss any open questions or issues in DRAM. However, SDG&E does not support a timeline that completes the record in DRAM by August 30, 2019, and a decision to be adopted by December 19, 2019. As stated in the response to Question #1, SDG&E recommends completing the evaluation of Step One before the start of Step Two. The learnings (and success) from the Step One short-term one-year (12-month) pilot are necessary to develop a record sufficient to support any decision whether to adopt any continuation of DRAM. Therefore, a decision written and adopted by December 19, 2019 will not allow time for any learnings to be applied from the short-term Step One pilot or for the development of a complete record. Without these learnings and oversight of an Independent Monitor as outlined in the response to Question #20, the ED Report is the sole record.

Based on the Schedule provided in Question #4 for a limited short-term Step One pilot, and to allow for *any* learnings to be considered, SDG&E believes the soonest a decision could be adopted regarding the future of DRAM is by the summer of 2021.

7. ***If the Commission authorizes a two-step approach, explain the procedural steps and timeline the Commission should use to address improvements for future years of the Auction Mechanism. How often should the Commission address iterative improvements to the Auction Mechanism?***

If the two-step approach is authorized, and, if after Step One, the Commission still perceives value in DRAM, then SDG&E recommends a two-year period for iterative improvements to allow for review and analysis of modifications implemented in prior cycles.

8. ***Building on the small group discussion in the workshop and the developed options for a goal provided above in Table 1, what should be the goal of the Auction Mechanism? Keep in mind that a goal is abstract, not measurable and long term. For example, the adopted goal of demand response is: 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.***

Building on the established goal of demand response (“DR”) in D.16-09-056, which states: “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,”<sup>5</sup> SDG&E recommends that the long-term goal of DRAM should be:

To grow reliable DR that is competitive compared with other clean resources to meet the grid needs through a market-based, fungible, standardized mechanism.

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<sup>5</sup> D.16-09-056 at 46.

Along with Energy Efficiency, DR is on top of the State's loading order as a clean energy resource. Therefore, DR resources that are procured in a carve-out such as the auction mechanism (should DRAM continue) must be compared with other clean resources procured in solicitations, and the competition should be measured in relative price. SDG&E suggests that it is best for the stakeholders to discuss and work out the details of the comparison method and make it technology neutral, easy to implement and based on non-proprietary information. SDG&E urges the Commission to require the implementation of those identified critical improvements in the response to Question #2 to ensure stronger performance and reliability of DRAM resources to meet the grid needs. Better yet, end the siloed DRAM and allow DR to compete directly in the same solicitations as other preferred resources, where DR has prevailed in the past.<sup>6</sup> This also would meet the goal stated above.

***9. Building on the discussion in the workshop and the developed list of objectives and principles provided above in Table 2, what objectives and principles should the Commission adopt? Keep in mind that objectives are specific, measurable, attainable, realistic, and timed. Principles are assumptions, fundamental rules, or guiding doctrines.***

If DRAM continues, SDG&E proposes the Commission adopt the following objectives:

- Resources procured by DRAM represent 25 percent of total DR resource by 2025;
- Customer performance is 100% by 2025;
- Procurement of supply side DR by utilities and by third-party providers are equal by 2025;

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<sup>6</sup> See, D.18-05-024, ordering paragraph 3 at 26, *approving* A.17-04-017 (SDG&E 2016 Track IV Local Capacity Requirement Preferred Resources RFO).

- Customers are 100% compliant with CAISO reliability criteria by 2025;
- Emissions are reduced by 1 percent annually due to DRAM resources.

In addition, the following principals should be adopted:

- The DRAM and its processes should be transparent;
- Oversight should be consistent across all contracts;
- Contracts should be standard and fungible;
- There should be a level playing field for all third-party providers;
- DRAM costs should not be higher than the costs of comparable Resource Adequacy (“RA”) resources; and
- There should be a level playing field for third-party providers and utilities.

***10. If the Commission determines not to authorize a two-step approach, explain whether the Commission should authorize a continuation of the Auction Mechanism. If the Commission should authorize a continuation of the Auction Mechanism, provide justification for the length of time the authorization should cover, the budget the Commission should authorize, and the cost recovery approach the Commission should authorize.***

Based on sound policy, as well as upon review of the data presented in the ED Report, SDG&E cannot conclude that continuing the DRAM best serves the public interest. SDG&E does not recommend requiring the utility to procure DR resources on behalf of all customers without clear need, and only when the resource competes against other resources, as in preferred resource solicitations.

From the beginning of the DRAM discussions, SDG&E’ has maintained that DR should not have a “carve-out”; *i.e.*, an amount of DR capacity for RA that must be procured whether or

not the utility needs it, and without competing against other preferred resources. SDG&E has been ordered by the Commission to procure DR through the past DRAMs, and in some years, to procure up to the budget cap, whether or not the DR was needed, and whether or not the DR was priced competitively against other resources. This is harmful public policy, especially when considering California's IOU ratepayers have some of the highest rates in the nation.

Rather, each load serving entity ("LSE") should have the option to procure capacity from all resources, including that of DR, as part of their capacity portfolios that best suits their requirements. In the PCIA Track 2 proceeding,<sup>7</sup> the Commission signaled that as the state continues to embrace customer choice, the IOUs' historic role as default procurer of resources for reliability and to meet other policy objectives must be reconsidered. It indicated a need to minimize "over-procurement" by the IOUs, and to encourage community choice aggregators ("CCA") and Direct Access ("DA") providers to assume responsibility for procurement of necessary resources. Indeed, the Commission established as a Guiding Principle for PCIA reform that "any PCIA methodology adopted by the Commission to prevent cost increases for either bundled or departing load should allow alternative providers to be responsible for power procurement activities on behalf of their customers, except as expressly required by law."<sup>8</sup> A requirement for the utilities to procure DRAM resources on behalf of all customers would directly contradict the Commission's position on customer choice.

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<sup>7</sup> *Scoping Memo and Ruling of Assigned Commissioner*, (R.17-06-026, September 25, 2017) p. 14 (*emphasis added*).

<sup>8</sup> *Id.*

SDG&E has made significant upgrades to its systems to allow DRPs to access customers data and register customers, and at significant cost.<sup>9</sup> SDG&E believes that its system upgrades will continue to support DRPs to efficiently operate and manage their programs and offer capacity to individual LSE's Requests for Offers ("RFOs") for RA.

SDG&E does not support the ED Report's recommendation for a 5 to 6-year extension of the DRAM. The report's evidence does not provide compelling reasons to give DR preferential treatment against other resources. This is especially true given all the challenges that are addressed in the ED Report. If the Commission feels it must extend the DRAM, SDG&E recommends that parties collaboratively work together to implement recommendations for improvement for a one additional year and concurrently again let the DR resources participate in other LSEs' own capacity procurement processes, especially for 2020.<sup>10</sup> The Commission can then compare participation and success of DRPs outside of DRAM to that of DRAM I through IV. SDG&E believes that would be a useful exercise that would benefit ratepayers. SDG&E proposes the budget amount to be the same as that in the response to Question #3 if the extension is for a year. It may require adjustment if the Commission orders a different term for the extension. SDG&E also proposes the budget of this additional one-year DRAM to be tracked in its Advanced Metering and Demand Response Memo Account and recovered from all distribution customers in its Rewards and Penalties Balancing Account as are other DR costs.

***11. Describe and explain the standards that the Commission should adopt for estimating the Qualifying Capacity of an Auction Mechanism resource applicable to Supply***

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<sup>9</sup> To date, SDG&E has been authorized to spend more than \$12 million to accommodate its Rule 32 customers. This figure does not include the cost of DRAM contracts.

<sup>10</sup> SDG&E has awarded capacity contracts to DR providers in the past when those DRPs competed against other resources in its Local Capacity Resource RFO. *See*, nn. 2 and 6, *supra*.



***Plans. Be specific and include comments on the options discussed during the workshop: test, market dispatch, or an ex ante estimation method. Explain the process the Commission should use to implement the standards.***

SDG&E has previously proposed that DRPs utilize a simplified load impact protocol (“LIP”) analysis by limiting the amount of inputs, as well as outputs, of the current LIP analysis performed by the IOUs.<sup>11</sup> In its proposal SDG&E recommends that DRPs utilize two (2) of the 27 protocols to determine the QC for the RA proceeding for event-based resources. Protocols #18 and #22 are from the ex-ante or forecast section of the LIPs. The forecast required by these ex-ante output protocols is calculated based on the ex-post historical results required by protocols #4 and #8. DRPs have access to Proxy Demand Resource (“PDR”) data which provides the information needed for the forecast. The PDR data is available through the CAISO settlement process. SDG&E’s original proposal reduces the LIP rigor for third-party providers as the IOUs must continue to submit the data required for the entire LIP analysis. Additionally, SDG&E recommended that the Commission could calculate the monthly forecast based on an average of the most relevant subset of historical dispatches. The result would provide the monthly QC value for the supply side resource. However, once the DR resource has matured, the DRPs must use the simplified LIP analysis rather than the generic value.

***12. Explain whether the Commission should adopt an energy component requirement Auction Mechanism resources. If the Commission authorizes optional dispatch hours in solicitations, explain whether and how the values of the bids should be modified to account for this additional requirement. If the Commission adopts a minimum***

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<sup>11</sup> Revised Proposals and Responses to ALJ Ruling of ...[SDG&E] (R.14-10-010, March 25, 2016) p. 2: <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M161/K671/161671134.PDF>

***dispatch hour performance requirement, explain the parameters the Commission should adopt.***

The Commission should not expand the scope of DRAM with an energy component since the measurement of energy savings is highly uncertain and unmeasurable. Any energy component will not comply with CAISO metering requirements as described in their Business Practice Manual for Metering and should not run parallel with energy markets.

***13. Explain whether the Commission should adopt penalties for shortfalls in both Qualifying Capacity and Demonstrated Capacity. If the Commission adopts penalties, explain at what point in time penalties should be assessed and under what conditions. Explain whether the penalties should be based on costs incurred by a utility for failure to perform or the price of the contract.***

SDG&E makes the distinction between Qualifying Capacity (“QC”), Contract Quantity (“CQ”) and Demonstrated Capacity (“DC”). First, QC is a quantity assigned to a single resource, with a resource ID. The CQ is the total quantity in which the demand response provider (“DRP”) has contracted with the IOU to sell monthly. The CQ can be delivered by a single resource or multiple resources, each with individual QC values. When the sum of QCs is no less than the CQ for the month, then the IOU has been able to receive all of the CQ per the executed contract assuming both the Commission and the CAISO validates and approves the data. When the sum of QCs is lower than CQ for the month, then the DRP would not have delivered and the IOU would not have received the quantity expected per the executed contract. Traditionally, the seller can then provide replacement capacity and receive full payment from the buyer or IOUs can procure the replacement capacity, pay for the delivered quantity and then potentially charge any costs to the seller beyond the original executed price. Such replacement

provisions all occur prior to the month-ahead showing. If capacity cannot be delivered after that replacement deadline, then there are provisions for financial damages as well as passing through penalties and/or CAISO backstop procurement costs if any. SDG&E can understand that the Commission may have higher standards for DR resources and supports this higher standard, *i.e.* not allowing replacement capacity from non-DR resources. Therefore, it should not allow for replacement provisions within the DRAM contracts. To the extent that the seller is unable to deliver the contract quantity, the Commission should consider including a damages and penalties section within the DRAM pro forma contract.

Once the supply plans have been submitted and the IOUs have received the RA capacity to meet their RA obligations, the sellers have a must offer obligation with the CAISO to provide bids into the CAISO markets. If the seller is unable to bid and/or deliver the energy based on CAISO dispatch, the performance obligations are traditionally with the CAISO and the seller. In a traditional RA contract, the buyer or IOU is not party to any of the non-performance. The Commission created the DRAM pilot as a mechanism to procure RA capacity from third party DRPs. The penalty for shortfalls in both QC and DC to ensure ratepayers are not paying for capacity that could not be delivered and to ensure customers received benefits proportional to the costs. The Commission should only implement penalty structure for Demonstrated Capacity in a continuation of the DRAM pilot based on the ED's conclusions of "uncertainty" in the ED Report.

Additionally, if the Commission believes that DRAM is no longer procuring only RA capacity and must also include energy and dispatch rights, then the evaluation metrics for DRAM as a whole must also need to change. The current auction evaluations do not consider the energy and dispatch component for DRAM products today. If the Commission elects to

include energy and dispatch, then it may be reasonable to assess further penalties for the shortfall of DC based on the performance of dispatches and not meeting the energy delivery obligations.

**14. *Explain whether over-performance should be incentivized and what the incentive should be. Explain whether there should be a cap and what the cap should be.***

SDG&E's position is that there should be no incentive for over-performance as SDG&E is not getting any additional RA value for over-performance. The energy revenue from CAISO needs to be enough incentive for DRPs, if they do over-perform.

**15. *Explain the approach the Commission should adopt regarding Demonstrated Capacity on invoices including Must-Offer Obligation invoices and full or partial dispatch or test requirements. Explain what method demand response providers should use to calculate performance. Explain how the Commission should address the issue of locations moving between resources in a given month.***

SDG&E proposed to limit the Must-Offer Obligation ("MOO") option to demonstrate the capacity in the monthly invoicing to no more than one in any two consecutive months. That means, if a full dispatch is not available, a testing of four hours is required for every other month to encourage actual demonstration of the resources capacity based on the customer load reduction in the dispatch or test. SDG&E understands the challenge of conducting such tests, however, ratepayers have the right to receive the verifiable value of DRAM resource as a capacity commitment, that requires real delivery of the resources.

This bi-monthly testing requirement is applicable at the resource ID level. If a full hour dispatch is available for a resource that is part of a single DRAM contract, SDG&E requires no more testing for such resource. However, if only partial dispatch, which is a dispatch that does not cover at least an hour, the testing requirement would be applicable in this situation.

SDG&E considers it is reasonable to continue allowing the DC to be based on the maximum hourly calculation if DRAM continues as a short term (12 month) Step One pilot. SDG&E recommends that stakeholders collaborate and determine the performance calculation of a full dispatch for a future DRAM beyond Step One, if any. SDG&E proposes to use the hourly average of the four hours in a test to demonstrate the capacity of the resource.

Regarding the location movements between resources in a given month, SDG&E appreciates the Commission's willingness to address this issue. The behavior of moving locations between resources should be stopped by implementing penalty to the violating Seller. Every Seller is assumed innocent, until it is found to be violating by moving locations between resources in a given month without notifying the Buyer and the Independent Monitor in writing with good reason and supporting documentation. Only after the Buyer acknowledge and accept such move, the Seller can proceed without violating the requirement.

***16. Explain whether the Commission should allow partitioning of contracts for reassignment and under what conditions. Explain whether and how the Commission can improve the transparency of the reassignment process. Describe the deadlines the Commission should require for invoices and any exceptions that should be made.***

SDG&E does not support the proposal to allow partitioning of contracts for reassignment. Allowing partitioning of an existing contract that might just be in the hundreds of kilowatts would cause an administrative burden for contract management without apparent benefits. It is a complicated process to transfer a portion of the contract capacity to potentially multiple third parties. For example, the qualifications of the new owner of the partitioned contract have to be determined before the partition of contracts for reassignment. If the new owner is an existing third party that holds another contract under DRAM, all involved parties must monitor and

satisfy the limitation of the market share; if the new owner is a new entrant, it is very difficult to determine the competent and competition without the new entrant's participation in the auction. If the Commission allows partitioning of contracts for reassignment, it is inevitable for some companies to game the system in order to avoid competing in an open auction.

Regarding invoicing deadlines, SDG&E suggests the Commission to require the Seller to submit the monthly invoice within 60 days after the end of the showing month, with the exception when Revenue Quality Meter Data ("RQMD") is not timely, complete or accurate. The Seller will forfeit the monthly payment if the deadline passes and there is no evidence or process initiated by the Seller to provide satisfactory explanation as why the late submittal of invoice should be accepted as an exception. This is consistent with the IOU's Subtopic 2.2 Invoice Deadline proposal<sup>12</sup> as a result of the DRAM Working Group discussion.

***17. Explain whether the Commission should adopt a contract remedy for a utility's failure to deliver Revenue Quality Meter Data in time for CAISO settlement and what the remedy should be.***

***Explain what improvements could be made to streamline communication between utilities and third-party demand response providers regarding missing data, data quality concerns, and gaps in data.***

Rule 32 defines the liability of SDG&E in failure to meet the RQMD requirements and limits the penalties that are imposed upon the DRP by the CAISO. SDG&E does not support the proposal to impose contract remedy for SDG&E's responsibility to provide RQMD in time for CAISO settlement. The RQMD requirement should stay in Rule 32, and not be duplicated in DRAM contracts.

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<sup>12</sup> See footnote 3 at 4, *supra*.

Timely and specific issue reporting and communication between DRPs and SDG&E is crucial for SDG&E to fulfill its obligations to provide the timely and accurate RQMD within the timeline. SDG&E proposes that:

- a. The Pro Forma contract should include language requiring a DRP to notify SDG&E within 30 days that it believes RQMD is missing for particular date or date range for a particular customer or set of customers. This notification to SDG&E is critical. Due to the volume of data and system detection capability, SDG&E could not guarantee to identify and address every possible use case for missing interval data. Early notification from the DRP will allow SDG&E the opportunity to investigate the issue and troubleshoot where necessary, so that a DRP can meet the CAISO Settlement Quality Meter Data timelines without penalty. Most DRPs proactively engage SDG&E's Rule 32 team to identify cases of missing data and as a result of that open communication, cases of missing data have been successfully resolved. Also, not all reported claims of missing interval data are due to system issues on SDG&E side.
- b. Exceptions should be handled on a case by case basis following the existing process.

**18. *Explain whether the Commission should approve implementation milestones with regard to utility systems, Commission registration, CAISO registration, and customer acquisition and what the milestones should be.***

SDG&E suggests that the Commission adopt the IOU proposal in Subtopic 2.4 Implementation Progress Milestones which was served by SDG&E on February 6, 2019 as ordered.<sup>13</sup>

**19. *Explain whether the Commission should require third-party demand response providers participating in the Auction Mechanism to submit performance reports for the purpose of evaluation or providing a feedback loop. If the Commission should require performance reports, explain who should receive these reports and what should be included in the reports.***

SDG&E suggests that the Commission adopt the IOU proposal in Subtopic 2.5 Performance Reports which was served by SDG&E on February 6, 2019 as ordered.<sup>14</sup> SDG&E adds that the Commission and the Independent Monitor should be recipients of such performance report.

**20. *Should the Commission create a process for monitoring and evaluating the Auction Mechanism and what should be the guidelines or principles for that process?***

SDG&E strongly recommends the Commission to adopt the proposal for an Independent Monitor to monitor and evaluate DRAM. An Independent Monitor, who governs the statewide implementation of the DRAM, would ensure the consistent compliance of all third parties, especially when third parties could offer the DR resources under the statewide proforma contract in all three IOUs' markets.

The role of the Independent Monitor is to assess the Seller's compliance with the terms and conditions of the proforma contract to ensure that the Seller performs its obligations in a

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<sup>13</sup> See footnote 3 at 4, *supra*.

<sup>14</sup> *Id.*



timely and satisfactory manner. The Independent Monitor is the agent that will collaborate directly with the Seller. The Independent Monitor should assume all the administrative responsibilities to request, collect, compile and evaluate the DRAM, which includes, but is not limited to the following areas:

- To receive, analyze and accept or reject the Sellers' determination of Qualifying Capacity;
- To evaluate resource performance based on the Seller's monthly reports and dispatch or testing results;
- To receive and analyze the milestone reports;
- To periodically assess how modifications are working during the contract effective term;
- To monitor customer movements and other issues.

The Independent Monitor should provide consistency and transparent evaluation for the purpose of contract compliance statewide.

**21. *Should the Commission set a limit on market share? Explain what the limit should be.***

SDG&E recommends that the Commission set a limit on market share by any one vendor in each IOU territory. SDG&E supports the Commission's adopted principle<sup>15</sup> to expand the customer choice among demand response service providers. SDG&E's recommendation would ensure the diversity of DRPs in DRAM that offers greater customer choices. The Commission should grant SDG&E the discretion in managing the level of market concentration to not go beyond the maximum share at 50% by any single vendor in SDG&E's territory. This is in line with the commissions goal of robust DRAM participation by multiple DRPs.

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<sup>15</sup> D.16-09-056 at 97.

- 22. *Explain whether the Commission should maintain, revise, or eliminate the set aside of 20 percent for each utility of the total megawatts procured under the Auction Mechanism each year for residential aggregation.***

SDG&E recommends that the Commission eliminates the set aside for residential customers. The residential set-aside was first introduced in the DRAM to help DRPs serving the residential sector gain experience competing with DRPs serving non-residential customers in an auction for demand response products. Now that the DRAM has been in place for several years, residential customers and DRPs have experienced the whole process of aggregation, registration, and operations under the contract. Therefore, SDG&E does not see the need to continue this set-aside based on the historical participation of residential customers in the DRAM. The residential customers have been and will continue to be competitive compared to other types of customers within SDG&E territory, even without the residential set-aside.

- 23. *Explain whether the Commission should maintain, replace or eliminate the simple average August bid price cap. If the Commission decides to replace the average August bid price cap, should the Commission adopt the Net Market Value cap as the replacement, as proposed by SDG&E,<sup>16</sup> based on the adjusted Long Run Avoided Cost of Generation described in the Pilot Evaluation?***

SDG&E continues to support the Net Market Value cap, as proposed in the August 17, 2018 response to ALJ Hymes' August 6, 2018 ruling.<sup>16</sup> However, it is likely that disclosure of the DRAM RA Benefit data, identified as item (a) in Attachment A of the response, could

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<sup>16</sup> *Administrative Law Judge's Ruling Directing Responses to Questions Regarding the Demand Response Auction Mechanism Pilot.*

disclose market sensitive or confidential contractual information and the confidential information would require redaction.

Respectfully submitted,

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March 29, 2019