

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



FILED

12/21/18
04:59 PM

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

And Related Matters.

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

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

**JOINT RESPONSE OF CPOWER, ENEL X NORTH AMERICA, INC., AND
ENERGYHUB ("JOINT DR PARTIES") ON MOTION OF
SOUTHERN CALIFORNIA EDISON COMPANY FOR INCLUSION OF INDEPENDENT
AUDIT REPORT IN ENERGY DIVISION'S FINAL EVALUATION REPORT**

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December 21, 2018

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CPower, Enel X North America, Inc. (formerly known as EnerNOC, Inc.),¹ and EnergyHub (“Joint DR Parties”) respectfully submit this Joint Response to the Motion of Southern California Edison Company (“SCE”) for Inclusion of Independent Audit Report in Energy Division’s Final Evaluation Report of the Demand Response Auction Mechanism (“DRAM”) and Motion to File Report Under Seal (“Motion”), which was filed on December 6, 2018. This Joint Response is timely filed and served pursuant to Rule 11.1(e) of the Commission’s Rules of Practice and Procedure.

By its Motion, SCE asks that an “independent audit” conducted by SCE, to “verify the data” upon which one DRAM Seller “based its claimed Demonstrated Capacity under its DRAM contract” be made a part of the Energy Division’s final evaluation of DRAM subject to confidentiality treatment.² That is, no DRAM Seller or market participant would be able to see or access this audit, referenced by SCE as the “Nexant Audit Report.”³

¹ On October 24, 2018, Enel X served a Notice of Name Change in this proceeding.

² SCE Motion, at pp. 1, 2.

³ *Id.*, at p. 1.

The Joint DR Parties do not object to the use of this report in this evaluation, but do object to this being provided solely in a non-transparent fashion. The Joint DR Parties believe a discussion regarding if and how Energy Division intends to rely on the Nexant Audit Report to support any changes to DRAM should take place in the public Workshop that is scheduled for January 16, 2019. This discussion should include whether or not SCE has actually followed the protocol required to conduct or release such an audit for any purpose.

In addition, the Joint DR Parties are very concerned about representations made by SCE in support of its Motion. SCE's Motion begins by repeating the Nexant Audit Report's opinions related solely to the single DRAM Seller whose data gave rise to SCE's decision to engage an independent auditor for this purpose. However, the Motion seeks to extend the basis or outcome of that audit to other DRAM Sellers and appears to suggest that it could be used to influence the outcome of the Energy Division's DRAM evaluation.

Thus, SCE states in its Motion:

“The importance of the resources that SCE and the grid rely upon for resource adequacy (RA) cannot be overstated; if the DRAM contracts do not provide actual curtailable load, reliability could be affected. The independent audit supports SCE's position that invoices claiming curtailable load that is close to or greater than actual customer usage during the RA window are simply not reasonable.”⁴

SCE continues that the results of the audit support the Commission's recent decision (Decision (D.) 18-11-029) “declining to authorize any further DRAM solicitations until the ED's final evaluation is completed,” “that a DRAM construct that would permit the results shown in the audit report is likely to produce unreliable RA,” and that “any potential future auctions demonstrate that all DRAM resources can perform as RA resources.”⁵

⁴ SCE Motion, at p. 2.

⁵ *Id.*, at p. 3.

What is known at most at this time, however, is that, in *one* DRAM auction for this *one* Utility (SCE), there was *one* DRAM Seller that SCE and Nexant allege may not have had the resources to support its claimed Demonstrated Capacity under its DRAM contract.. However, there have been multiple DRAM auctions over the last three years held by all three Utilities involving many DRAM bidders and Sellers for which compliance with all of the Commission's adopted DRAM bidding protocols and Contract terms have been preeminent in offering bids and providing DR resources that demonstrate the reliability of DR for RA, among other things.

Under these circumstances, the Joint DR Parties strongly object to SCE using this one instance of exercising its claimed right to conduct an audit of a single DRAM Seller for this one auction to “paint” all DRAM Sellers in all years with this same brush of alleged non-performance. Neither SCE nor Energy Division can use the Nexant Audit Report to reach any generalizations about adverse outcomes, as has been done in SCE's Motion. The Nexant Audit Report certainly cannot serve as the basis for any recommended changes to a future DRAM Contract term, to the extent a further DRAM auction is ordered, without notice to all affected stakeholders and the opportunity for them to be heard.

In sum, SCE's Motion should be denied to the extent that it would permit Energy Division to rely on a confidential audit report to inform the evaluation of DRAM or to reach generalizations about the future of DRAM or other DRAM Sellers that could serve as the basis for developing recommendations on any future DRAM structure, bidding protocol, or contract term, unless said report is used in a transparent fashion as one data point among many. The goal of the Commission should be to provide the most transparent evaluation and discussion of DRAM at its Workshop scheduled for January 16, 2019, to ensure a level-playing field and full notice and opportunity to be heard for all stakeholders in addressing the future of DRAM.

December 21, 2018

Respectfully submitted,

/s/ SARA STECK MYERS

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On Behalf of the Joint DR Parties

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