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**BEFORE THE PUBLIC UTILITIES COMMISSION**

**OF THE STATE OF CALIFORNIA**

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| Application of Pacific Gas and Electric Company (U39E) for Approval of Demand Response Programs, Pilots and Budgets for Program Years 2018-2022 | Application 17-01-012 |
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# SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) REPLY TO RESPONSES TO ADMINISTRATIVE LAW JUDGE'S FEBRUARY 28, 2019 RULING


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Dated: **April 10, 2019**

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# SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) REPLY TO RESPONSES TO ADMINISTRATIVE LAW JUDGE'S FEBRUARY 28, 2019 RULING

## I.

## INTRODUCTION

Pursuant to the Rules of Practice and Procedure of the California Public Utilities Commission (Commission or CPUC), and in compliance with the Administrative Law Judge (ALJ) Ruling Directing Response to Questions Resulting from the February 11-12, 2019 Demand Response Auction Mechanism Workshop and Comments on Proposals to Improve the Mechanism (February Ruling), dated February 28, 2019, Southern California Edison Company (SCE) respectfully submits this Reply to those Responses and Comments filed on March 29, 2019 in response to the ALJ's February Ruling.

SCE supports the continuation of the DRAM program, with targeted corrections and contract amendments intended to address the reliability of DRAM resources as a resource adequacy product and to mitigate performance issues experienced to date. SCE appreciates the constructive suggestions put forth by all parties in their Comments, and takes this opportunity to

respond by noting areas of agreement and disagreement with those suggestions, focusing in particular on those critical areas that SCE believes must be addressed before the authorization of funding for any future solicitations.

As an initial matter, SCE echoes the concern raised by the CAISO and notes that SCE has also "experienced implementation difficulties" with respect to DRAM "because not all new demand response providers fully understood the wholesale electricity market, market participation requirements, or the resource adequacy rules."[1] Throughout the four DRAM solicitations and ensuing months, SCE has communicated to Sellers their obligation as wholesale market participants to comply with all requirements related to provision of a Resource Adequacy Product in the wholesale market. And yet, Comments continue to reflect that parties to this proceeding may not understand that the DRAM is a procurement of a Resource Adequacy (RA) Product and that the CAISO rules related to RA impose compliance requirements in addition to any applicable CPUC rules and requirements related to Demand Response (DR). As one example, the California Efficiency + Demand Management Council (Council) notes throughout its Opening Comments that the goal of the DRAM is to "procure cost-effective DR."[2] While SCE supports procurement of cost-effective DR, this is not the stated DRAM goal. The Commission was clear in D.16-09-056 that "the demand response auction mechanism shall be administered by the Utilities and serve as the main procurement mechanism for **resource adequacy** from all third-party demand response supply sources."[3]

1 *See* CAISO Comments, p. 2.
2 *See* Council Opening Comments, at pp. 2, 5, and 12.
3 D.16-09-056 at p. 70, issued October 5, 2016 (emphasis added); *see also* SCE's Comments at p. 27, filed March 29, 2019.

**A. SCE opposes any proposal suggesting that a DRAM Seller could perform at less than 100% of its Supply Plan, invoice for the amount delivered, and not be subject to any penalties for failure to comply with the CPUC and the CAISO Resource Adequacy Supply Plan requirements.**

Consistent with SCE's introduction to this Reply, SCE's reliance on DRAM resources for Resource Adequacy (RA) is paramount. SCE is relying on Supply Plan submittals by DRAM Sellers for its CPUC RA obligations—that is, to ensure that there will be sufficient resources available to serve electric demand. The suggestion by the Joint DR Parties that a DRAM Seller should not be penalized unless it has failed to achieve 60% of its Supply Plan commitment[4] is unacceptable when SCE is relying on 100% of the Supply Plan submittals for RA. SCE also objects to the Joint DR Parties' proposal that a resource that achieves between 50%-60% of its Supply Plan commitment "can invoice for 50% relative to actual performance,"[5] without also being subjected to penalties for non-performance.

SCE supports CAISO's position that the Commission must "ensure that DRAM resource capacity listed on resource adequacy supply plans accurately reflects resource performance capability."[6] SCE also notes that any proposal that would require the IOUs to pay for resources submitted on Supply Plans but not delivered, without implementing any penalties for failure to perform, is not consistent with the underlying purpose of DRAM and the CPUC-approved DRAM contracts. When Sellers and IOUs submit year ahead or month-ahead Supply Plans to the CAISO, they are both committing to "the delivery of the energy associated with the shown resource adequacy capacity."[7] Any failure to deliver 100% of what is committed to on the Supply Plan would not be "fully compliant with CAISO market participation and must-offer obligation tariff requirements, and in accordance with their resource supply plans submitted to the CAISO."[8] Delivering anything less than 100% of the capacity submitted on a Supply Plan

4 Joint DR Parties Comments, p. 6.
5 *Id*.
6 CAISO Comments, p. 3.
7 *Id.*
8 *Id*. p. 5

runs counter to the current DRAM *pro forma* contract[9] and CPUC RA requirements, and more important, could impact grid reliability.

The Joint DR Parties have expressed their preference "to evaluate DRAM en par with the evaluation of other RA resources"[10] and their Comments acknowledge and affirm their understanding that "DRAM . . . is fundamentally a resource adequacy product"[11] and "DRAM is an RA resource, and should be treated like other RA resources."[12] However, the Joint DR Parties contradict these principles when they advocate that their DRAM resources **not** be held to the same standard of performance or assessed the same level of penalties as other RA resources. They even suggest that this disparate treatment should continue for another year by asserting that an "interim penalty structure . . . may not be implementable in time for a 2019 auction because it does require an adjustment to the contract to include the application of penalties for failure to perform relative to the supply plan."[13] If the DRAM RA is to be evaluated "en par" with other RA resources, then penalties applied to other RA resources should apply for DRAM non-performance. Additional solicitations cannot and should not be authorized until that penalty structure is implemented. With its March 29, 2019 Comments, SCE provided a marked version of the current DRAM *pro forma* contract with the revisions necessary for SCE to support any continuation of the DRAM solicitations. SCE believes that incorporating an appropriate penalty structure into the DRAM contract is not just entirely possible, but imperative.

SCE also objects to the California Energy Storage Alliance (CESA) recommendation "to mirror the CBP penalty structure and not establish a more punitive structure for DRAM."[14] DRAM resources are used for RA and reliability, and currently there is no approved "tolerance

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9 *See* Section 3.4(a) (Seller's Obligations) and Section 3.5(d) (requiring Seller to "Meet CPUC Resource Adequacy requirements per the CPUC Filing Guide.").
10 *See* Joint DR Parties Comments, p. 7.
11 *Id.* p. 15.
12 *Id.* p. 22.
13 *Id.* p. 6.
14 CESA Comments, pp. 14-15.

band for an acceptable amount of underperformance"[15] for resources relied upon for Resource Adequacy. The proposals submitted by the Joint DR Parties and CESA run counter to both CPUC[16] and CAISO RA requirements.

**B. The Commission must enforce the IOUs' ability to reject a Supply Plan when a Seller submits Qualifying Capacity on a Supply Plan that the IOU has reason to believe is not capable of being delivered as required by the CAISO Tariff.**

SCE is concerned that some Parties are selectively relying on Staff's DRAM Report to support the proposition that DRAM has been entirely successful. For example, SCE does not disagree with the DRAM Report's findings that "[b]etween DRAM I-IV (contract delivery years 2016 -2019) the IOUs procured nearly 715 MW,"[17] but that statement alone is misleading without context. SCE believes the record in this proceeding shows that, although the IOUs may have procured 715 MW *on paper*, there is a very real question about whether those 715 MW were delivered or were even physically capable of being delivered by the DRAM providers as is required by the DRAM *pro forma* contract.[18] Moreover, some of the 264 MW that Staff's DRAM Report indicates SCE procured for DRAM I-IV were not delivered due to terminated contracts, Seller non-performance, and Seller reporting of MW that SCE, and its independent auditor, have determined were physically impossible to deliver. SCE is committed to supporting the future of DRAM, but believes any future solicitations authorized through the DRAM pilot must ensure that all DRAM resources "demonstrate performance capability based on market or test dispatch responses."[19] Requiring Sellers to provide dispatch results and regularly test their DRAM resources will provide valuable insight, for both the Commission and stakeholders into

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15 *Id*.

16 *See e.g.*, D.14-06-050, *Decision Adopting Local Procurement and Flexible Capacity Obligations for 2015, and Further Refining the Resource Adequacy Program*, "For demand response, we recognize that such resources, like all other resources, must comply with the testing requirements in the applicable CAISO tariff."

17 Staff DRAM Report, p. 20.

18 *See* Public Advocates Comments at p. 9 ("Certain DRPs significantly overstated capacity by up to three times overall customer usage.").

19 *See* CAISO Comments, p. 6.

whether the RA purchased through the DRAM procurement mechanism truly is a reliable resource capable of providing value for customers and grid reliability.

### 1. SCE supports in principle the Joint DR Parties' proposed plausibility test to validate Supply Plans.

The Joint DR Parties propose a plausibility test to validate that Supply Plans can provide the capacity indicated. They propose that if an IOU believes substantiation of a DRP's Supply Plan capacity is needed "the DRP could provide information on enrolled customers and their historical loads during availability assessment hours as a plausibility screen as to whether a portfolio could reasonably be expected to perform the claimed curtailment."[20] SCE appreciates that the Joint DR Parties base their proposal on actual historical loads, and agrees that this information is credible for conducting a plausibility test. The Joint DR Parties' recommendation also aligns with Section 3.4(a) of the DRAM *pro forma* contract, which requires Seller to "cause each of the PDRs or RDRRs in the DRAM Resource" to be bid "into the applicable CAISO Markets during the Availability Assessment Hours as required by the CAISO Tariff." Also, the IOUs already have limited access to the enrolled customers and historical loads during availability assessment hours to know whether curtailment "can reasonably be expected to perform."

Although the Joint DR Parties' proposal appears to be appropriate in principle, the details may require revision. For example, the Joint DR Parties recommend that, if available customer load is at least 130 percent of supply plan capacity, it should be considered reasonable and allowed to stand without adjustment.[21] SCE agrees that available load of 130 percent of a Supply Plan, which would equate to a 77 percent load drop, may be reasonable for some commercial customers and technologies. However, residential customers are likely to be different, especially if the method by which the residential customers drop load is behavioral, rather than automated by technology. As a reference point, SCE's analysis of the IOU programs

[20] *See* Joint DR Parties Comments, p. 14.
[21] *Id.*

shows that load drop in residential technology-enabled programs ranges from 28 to 36 percent, and that this range drops to between 2 and 4.5 percent for residential behavioral programs.[22] Therefore, using the Joint DR Parties' proposal as guidance, the starting point of available load for residential should be closer to 2000 percent of a supply plan (for 5 percent load reduction) to 333 percent (for 30 percent load reduction).

If the Joint DR Parties' proposal is adopted, clarification is required as to how historical loads are to be used to perform the plausibility screen and Sellers should not be permitted to assert that their resources can "plausibly" be expected to curtail at levels that are not supported by a review of the historical loads of those customers during the availability assessment hours. SCE reiterates that a capacity number based on what a resource could *theoretically* curtail for a limited hour outside of the Availability Assessment Hours does not represent the resource's actual performance capability, and does not comply with Section 3.4 of the DRAM contract which specifically refers to Seller's requirement to bid "the DRAM Resources into the applicable CAISO Markets during the Available Assessment Hours"[23] and the DRAM contract's reference to the CPUC's Filing Guide for Resource Adequacy Compliance Filings.[24] In fact, within the CPUC's Filing Guide, the Commission clarifies that a resource must be "*physically available and capable of operating at its Qualifying Capacity during peak load hours to meet the LSE's RAR*" and further explains that if the resource is only available outside the peak hours required (and for DRAM the applicable peak hours are the Availability Assessment Hours dictated by the must-offer obligation specified in the CAISO Tariff), then the resource "would not deliver RA benefits."[25]

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[22] *See* SCE Comments, p. 15.

[23] *See also* Section 1.6(a)(iii) and Section 1.6(a)(i) ("provide[] load reduction during all of the hours referenced in the Dispatch Instruction corresponding to the applicable MOO hours").

[24] *See* Section 3.5(d) (requiring Seller to "Meet CPUC Resource Adequacy requirements per the CPUC Filing Guide"); *see also* CPUC Filing Guide (link below) at p. 14 ("a resource that an LSE reports on its applicable RA filing will bear obligations under the flexible must-offer obligation specified in the CAISO Tariff").

[25] *See* http://www.cpuc.ca.gov/WorkArea/DownloadAsset.aspx?id=6442459140 (at p. 41, Question 4)

### 2. SCE opposes OhmConnect's proposed "plausibility demonstration" to validate Supply Plans.

OhmConnect proposes a "plausibility demonstration" to "give the IOU added confidence that the DRAM capacity quantities it is including in its RA Plans to the CAISO are indeed reasonable."[26] OhmConnect's proposal does not give SCE added confidence. On the contrary, we believe that it is highly likely to overstate the available RA.

The proposed method, as articulated in Appendix A of OhmConnect's Comments, would assume that each customer account included in the DRAM resource will reduce customer load from its historic level to zero. It is a faulty premise to base a Supply Plan on the assumption that customers can or will drop their entire load during the applicable availability assessment event hours. SCE's experience suggests that this is implausible with respect to residential customers, as SCE's residential technology enabled programs show an ex-post load reduction of 36 percent at best.[27] In addition, the "scaling up" suggested by OhmConnect will further undercut the reliability of the resulting quantities. OhmConnect's suggestion that the "plausibility demonstration" allow for the customer load described above to be scaled up, without bounds, based on the Seller's projection of customer registrations anticipated to be active in CAISO's DRRS system by the first day of the delivery month, is unacceptably subjective. SCE's experience has found that the capacity submitted on some Sellers' Supply Plans grossly exceeded the historic load of the customers and the methodologies built into OhmConnect's proposed model are likely to allow this to continue. Additionally, SCE objects to OhmConnect's suggestion in No. 4 (of Appendix A) to "Determine the expected aggregate load" based on the use of the median load hour of "200 observations." The proposal and the criteria for selecting the representative aggregate load amongst the month's availability assessment hours raises cause

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[26] OhmConnect Comments, p. 27 (Appendix A).

[27] In order for a residential customer to completely drop load, in most instances the customer would have to physically go to the circuit breakers associated with the residence and physically switch them off. It is not feasible to expect that all customers would do this, as some customers may not be home when an event is called, some customers may not understand where their breakers are or how to switch them, and some may not be willing to drop all electricity usage. Moreover, for some customers, completely switching off the residence's electricity may raise safety implications.

for concern in that a Seller may be able – without CPUC oversight – to inflate the actual available capacity of the resources on the Supply Plan.

### C. SCE opposes OhmConnect's proposed payment structures and method for calculating Demonstrated Capacity.

OhmConnect submitted two alternative payment structures for addressing under and over performance of Demonstrated Capacity versus Supply Plan capacity (Appendix B). In the first proposal, no penalties are assessed within a tolerance of 15% of the Supply Plan capacity, where the "Adjustment Factor applied to the Seller's monthly capacity payment is 1.0 as long as Demonstrated Capacity is at least 85 percent of Supply Plan Capacity." SCE interprets this to mean that the Buyer pays 100% of the supply plan capacity for any over/under delivery that is within a 15% tolerance, applying no penalties for the underperformance and no payment reduction for the missed deliveries. OhmConnect's second proposal includes rewards for over-delivery, capped at 15% above contract capacity, and symmetric penalties for under delivery within the same 15% tolerance band.

SCE agrees with the Public Advocates Office that "[r]atepayer funds should not be used to incentivize over-performance because over-performance does not provide any additional RA benefit."[28] SCE also notes that CAISO's Comments indicate that if resources do not perform according to the CAISO market instructions, "the CAISO must issue re-dispatch instructions to balance the system [and] [r]esource re-dispatch can be costly."[29] SCE agrees that "[t]he Commission's goal should be to incentivize DRAM resources to make their capacity available to the market and perform as accurately as possible with the CAISO's dispatch instructions."[30]

SCE disagrees that "it could be justifiable to relax the underperformance thresholds" to include "some form of weather-related tolerance . . .if the expected summer conditions (e.g., 1-in-2 weather conditions) do not materialize in a month that a DRP is required to test/dispatch."[31]

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[28] Public Advocates Comments, p. 13.
[29] *See* CAISO Comments, p. 8.
[30] *Id*.
[31] *See* OhmConnect Comments at p. 29 (Appendix B).

While this proposal may sound similar to how IOU DR programs currently are treated, it is missing several key components: namely, if an IOU DR program over-delivers in a given period, no additional RA is credited. If DRAM Sellers prefer a more "probabilistic" approach to their RA capacity counting, then they need to go through Load Impact Protocols, where an expected RA contribution level is determined based on actual historical dispatches and forecast participation and load drop potential, reviewed by independent parties and the Energy Division. In this approach, the Sellers would have to meet the forecast customer enrollment targets, but would not be at risk from cooler than expected weather, and would also not benefit from hotter than expected weather. However, if Sellers prefer to determine their own load drop potential (e.g. count contract capacity as Qualifying Capacity), then they have to be held accountable to their obligation. Current CPUC and CAISO rules do not allow for a "conditional" Demand Response resource in the Supply Plan, which may or may not be available based on weather reaching a specified temperature - therefore, such conditional submissions would be, in effect, useless to SCE.

It bears repeating that DRAM Resources submitted on Supply Plans must be available for dispatch during all availability assessment hours as required by the DRAM contract.[32] As explained in its initial Comments,[33] SCE believes the established Load Impact Protocols are most instructive as a means to determine Qualifying Capacity and the Commission could develop a generic Load Impact Protocol, where based on certain resource parameters – including location and weather/regions, a generic factor could be applied to derive the resource-specific Qualifying Capacity.

OhmConnect's proposal for calculating Demonstrated Capacity, as described in Appendix C of its Comments, would introduce additional complexities in contract administration

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[32] *See also* CAISO Comments at p. 6 ("The Commission should adopt standards that ensure that the estimated DRAM qualifying capacity values reflect the ability of the resource to deliver the energy associated with that capacity as required by the CAISO tariff and approved performance methodologies.").

[33] *See* SCE Comments at p. 13.

(because it would require contract settlements performance different from the performance calculations supporting the CAISO settlement of each resource ID). The proposal would also permit a Seller to use over-performance at a certain time to make up for underperformance *at a different time*. This is inappropriate because RA resources are expected to perform when dispatched by CAISO, at the levels dispatched by CAISO, and over-performance at one time does not mitigate the effects of underperformance at a different time. Additionally, CAISO in its Comments emphasized that performance accuracy is important to reliability.[34] Deviations from the Supply Plan should be minimized and cannot be simply "made up" at a different time.

As discussed in SCE's initial Comments, SCE does not believe there should be a financial incentive for DRAM sellers to over perform, because IOU customers receive no additional RA value for over-performance.[35] Allowing over-performance (for which customers receive no value), to offset underperformance is a form of financial incentive, and should be rejected. SCE's proposed improvements for the process to determine Demonstrated Capacity, as presented in SCE's initial Comments to the February Ruling, build on the current DRAM *pro forma* and are based on a coincident load reduction for a single PDR/RDRR resource, consistent with SCE's discussion in the Resource Adequacy OIR Track 3 proceeding.[36]

## D. SCE opposes maintaining the status quo of permitting Sellers to invoice for Demonstrated Capacity using MOO in lieu of actual performance.

In their Comments, several demand response providers maintain that the Commission should continue to permit Seller to use MOO bids as the basis for demonstrated capacity for all

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[34] *See* CAISO Comments, p. 8 ("From the CAISO's perspective, there is no such state as 'over-performance' and a resource is considered to be deviating from its dispatch instruction if it produces more or less energy than instructed. The Commission's goal should be to incentivize DRAM resources to make their capacity available to the market and perform as accurately as possible with the CAISO's dispatch instructions.")

[35] SCE Comments, p. 17.

[36] *See* SCE's Track 3 Proposals, at pp. 8-9, filed March 4, 2019 in R.17-09-020, *Order Instituting Rulemaking to Oversee the Resource Adequacy Program, Consider Program Refinements, and Establish Annual Local and Flexible Procurement Obligations for the 2019 and 2020 Compliance Years*.

months except for August (unless the Delivery Period is greater than six months in the calendar year, in which a second test or Full Dispatch is required).[37] In contrast, and as evidenced by their Comments, the IOUs and the Public Advocates Office disagree with keeping this status quo.[38] SCE's experience with DRAM III and DRAM IV revealed that invoices based only on MOO (and not dispatch or testing) created incentives for some DRAM Sellers to take as aggressive an approach as possible in estimating available MW.

In its initial Comments, SCE sought more transparency into actual load-drop capabilities by increasing the frequency of testing required by the DRAM contract.[39] PG&E and SDGE also recommended bi-monthly testing or dispatch to demonstrate capacity and advocated for the Commission 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."[40] SCE supports the Public Advocates' recommendation to have "more frequent testing (testing every two months if DRAM resources are not fully dispatched in those months)"[41] and agrees with the position that "MOO invoices should be eliminated because MOO does not actually 'demonstrate' whether capacity/load-shedding abilities are available or deliverable."[42]

### E. The Commission should seek to enforce penalties for variances in contracted capacity and supply plans and reinforce that all DRAM participants are required to comply with wholesale market participant rules and regulations.

SCE maintains that it is critical that Seller capacity offered and procured in the DRAM solicitations is realistic, achievable, and not inflated. The current lack of sufficient penalties to

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37 *See e.g.*, Joint DR Parties Comments at p. 18; OhmConnect Comments at p. 17, Council Comments at p.18.

38 *See* PG&E Comments at Appendix A, p. 5 ("Bi-monthly testing/dispatch for DRPs"), SDG&E Comments at p. 16 ("…if a full dispatch is not available, a testing of four hours is required for every other month"), and Public Advocates Comments at p. 2 ("Capacity payments should be based on Demonstrated Capacity established through tests or dispatch.").

39 *See* SCE Comments at p. 19 ("SCE expects that the transparency gained by increasing the frequency of testing required…will help to ensure the capacity is available and reliable.").

40 PG&E Comments, p. 5, SDG&E Comments, p. 16.

41 Public Advocates Comments, p. 10.

42 *Id*. p. 13

address variances between the contract capacity and Supply Plan quantities has contributed to Seller-initiated contract terminations and reassignments after several months of non-performance. As SCE proposed in its initial Comments, an improved penalty structure is necessary to better (i) encourage more accurate estimations of quantities committed to by Sellers during the RFO (Auction), (ii) provide more realistic supply plan quantities, and (iii) provide earlier notification from Seller to Buyer of reductions in deliveries, to better protect customers from additional cost and reliability impacts.[43]

SCE disagrees with the Joint DR Parties' statement that: "Instituting penalties for failure for the supply plan to meet the contract capacity would create an incentive for parties to inflate their supply plans to avoid a penalty for being under the contract capacity."[44] Irrespective of whether the Commission decides to penalize DRAM Sellers for submitting Supply Plans to the IOUs that do not align with initial contract capacity, all wholesale market participants must currently comply with CAISO tariff and FERC market behavior rules and Sellers are at risk if they claim demand response capability on their Supply Plans that is "inflated" and, therefore, not likely to be available absent extraordinary circumstances. SCE believes that submitting inflated Supply Plans to SCE or the CAISO violates Section 18 C.F.R. 35.41(b) (Market behavior rules) which states:

> A Seller must provide accurate and factual information and not submit false or misleading information, or omit material information, in any communication with the Commission, Commission-approved market monitors, Commission-approved regional transmission organizations, Commission-approved independent system operators, or jurisdictional transmission providers, unless Seller exercises due diligence to prevent such occurrences.

FERC has broad authority to investigate and penalize conduct that is in violation of its market behavior rules and has the authority to impose significant financial penalties for such conduct.[45]

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[43] SCE Comments, p. 17.

[44] Joint DR Parties Comments, p. 16.

[45] *See* Energy Policy Act of 2005, Pub. L. No. 109-58, 119 Stat. 594 (2005) (EPAct 2005) (Congress increased the maximum civil penalty FERC can assess to persons and organizations up to $1 million per day, per violation for any violation of Part II of the Federal Power Act, which includes violations of CAISO tariff, market behavior rules, and FERC's anti-manipulation rule.); *see also Enforcement of*

SCE intends to take all actions necessary to remain compliant with these federal market behavior rules. To that end, if SCE has reason to believe that a third party demand response provider has submitted an inflated Supply Plan to SCE, SCE will not include those resources in its monthly or year ahead Supply Plan to the CAISO.

## F. SCE Provides Revenue Quality Meter Data Consistent with its Obligations; An Additional Service Level Agreement is Redundant

Several parties assert that a service level agreement (SLA) is needed to hold the IOUs accountable for providing revenue quality meter data (RQMD) in a timely fashion.[46] RQMD is required for settlement purposes, and receiving it late may subject a DRP to penalties from the CAISO. SCE agrees that it should be held responsible if a DRP receives penalties due to SCE providing late RQMD. In fact, this is already the case, as stated in SCE's Rule 24, Section F.2.d.[47] SCE disagrees that an additional service level agreement is necessary to compel SCE to comply with its own Rule 24. Parties make several allusions to instances of late or missing RQMD but provide no evidence to support their statements.[48] Until evidence is provided and the Commission can substantiate parties' claims, it is redundant and inefficient to implement a service level agreement for the provision of RQMD. In addition, any issues related to data delivery and the performance of associated systems are more appropriate to raise and address in the current Click-Through application proceeding, A.18-11-016.

OhmConnect inappropriately conflates and extends SCE's requirement under Rule 24 to provide RQMD to include daily interval data and other types of data. SCE provides unprocessed interval (non-RQMD) data on a daily basis for customers that have authorized a DRP to receive their data. However, due to the nature of SCE's smart meter system, communications errors can and do occur. These errors may result in a daily interval data file being incomplete or having

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*Statutes, Orders, Rules and Regulations*, 113 FERC ¶ 61,068 (2005) (2005 Policy Statement); 130 FERC ¶ 61,220 (2010) (Policy Statement on Penalty Guidelines); and 132 FERC ¶ 61,216 (2010) (Revised Policy Statement on Penalty Guidelines).

46 *E.g.,* OhmConnect Comments, pp. 19-20; Council Comments, p. 3.

47 Available at https://www1.sce.com/NR/sc3/tm2/pdf/Rule_24.pdf.

48 OhmConnect Comments, pp. 19-20; Council Comments, pp. 19-20.

gaps in the data. These gaps are normal and to be expected, and are corrected on a monthly basis when SCE provides the RQMD file to the DRPs. RQMD is the only data authorized for settlement with CAISO, which is why the requirement in Rule 24 refers only to RQMD, and not to other types of data. If a DRP decides to settle with its customers using daily interval data, that is its prerogative, but it must understand that the daily interval data may be incomplete and has not undergone revenue quality validation. Revenue quality validation only occurs at time of billing. Implementing an SLA for daily data would not resolve the issue, as the issue is one of communications spanning a 50,000 square mile service territory. SCE can only provide what is in its database, and does so on a daily basis, with verification and correction on a monthly basis.

Finally, SCE has endeavored to proactively provide relief to the DRPs for any instance that RQMD is provided late. In its proposed revisions to the DRAM *pro forma* contract, included as Attachment A to its initial Comments, SCE proposed to extend the deadline for DRPs to invoice SCE if RQMD is provided late. SCE also proposed to allow the DRP to submit a partial invoice, with an invoice for the remainder of the DRAM resource to follow, upon receipt of all RQMD. These concessions should partially relieve DRPs' concerns in the event that RQMD is not provided in a timely manner.

### G. Parties' requests to authorize between $36 to $42 million for a bridge year before improvements have been shown to address critical performance issues is not a prudent use of customer ratepayer funds.

In their Comments, all parties acknowledge the findings in Staff's Final DRAM Report that "any continuation of DRAM should be associated with higher standards and stronger accountability for results."[49] Notably, the Public Advocates Office asserts that "if the Commission does not address the discrepancies between Demonstrated and actual curtailable load, then the utilities and ratepayers will consequently pay for undeliverable and non-existent

[49] See Staff's DRAM Report, p. 85.

capacity."[50] The Public Advocates further argue that "the Commission should not authorize recovery for these costs because they are unreasonable."[51]

SCE does not support any further authorization of funds unless the Commission implements the critical changes to address the issues identified: specifically, changes to provide the IOUs assurance "that capacity purchased in the DRAM is real and deliverable without significant risks to ratepayers or reliability."[52] Proposals to authorize for **one** bridge year, almost two-thirds of the $63 million in funds that was authorized for **four** years of DRAM, is not "relatively modest"[53] and would be an imprudent use of customer funds until the Commission addresses the gaps, loopholes, and potential bad behavior identified by the IOUs,[54] the Public Advocates Office[55] and Staff in its DRAM Report.[56]

The Joint DR Parties' comment that the "current cost recovery approach should be continued until next DR application and budget cycle"[57] lacks support. As explained in its Comments, SCE would need new authorization for cost recovery to support this bridge-year (or any future solicitations), because there is no current mechanism available to recover this funding and SCE does not have $4 million in available funds to transfer from the budget approved to fund SCE's DR programs for 2018-2022.

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50 Public Advocates Comments, p. 9.

51 *Id*.

52 *Id.*, p. 4.

53 *See* OhmConnect Comments at p. 4 (recommending up to $40 million); *see also* proposals by the Council at p. 6 (recommending a budget of $36-$42 million for 2020 delivery); Joint DR Parties at p. 8 (recommending a budget of $40.5 million for a 2019 DRAM V solicitation with deliveries in 2020).

54 *See* Public Advocates Comments and Attachment A (PG&E Confidential Independent Audit Report) and Attachment B (SCE Confidential Independent Audit Report).

55 *Id*. p. 4 ("Independent Audit Reports from SCE and PG&E raise serious concerns and identify defects in the way certain DRPs calculate capacity on monthly invoices and supply plans. The audits suggest certain DRPs significantly misrepresented actual load shedding abilities and curtailable capacity of subject customers. As a result, ratepayers (and IOUs) paid for inflated or non-existent RA capacity.").

56 *See* Joint DR Comments at p. 13 ("bad behavior should not be rewarded"); CESA Comments at p.5 ("the DRAM Evaluation Report revealed some concerns about some bad actors in the mechanism").

57 *See* Joint DR Parties Comments, p. 14.

## H. The Objective to have "25% of all customers in CA enrolled in DR by 2030" may be unrealistic and infeasible given the level of customer attrition SCE has witnessed in its third-party aggregator DR programs since the implementation of the Prohibited Resources Policy for DR Resources.

The Joint DR Parties list an objective to have "25% of all customers in CA enrolled in DR by 2030."[58] It is worth bringing to the Commission's attention the Supplemental Testimony that SCE filed in the A.18-10-10 proceeding, and specifically, the data showing that, following the implementation of the Commission's Prohibited Resources Policy for DR resources, SCE's collection of attestations reveals that 65% of the customers previously enrolled in SCE's third party aggregator DR program, the Capacity Bidding Program (CBP), have not returned.[59] All parties should be aware that the enforcement of the Prohibited Resources Policy for all DR resources may significantly impact any customer growth in DRAM.

# II.

# CONCLUSION

As a resource adequacy product, the demand response offered in the DRAM supports grid reliability, and SCE, the CPUC, and the CAISO must be able to depend on the Seller's ability to provide the contracted load reduction when called upon. Accordingly, should the Commission authorize any future DRAM solicitations, it should reaffirm its position that all DRAM participants must comply with all provisions of the CPUC-approved DRAM contract, all CPUC RA obligations and the CAISO Tariff given the Commission requirement that demand response be integrated into the wholesale market.

SCE appreciates the opportunity to provide this reply to the responses and comments filed on March 29, 2019.

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[58] *Id.* p. 12.

[59] *See Supplemental Testimony of SCE in Support of its Application in Compliance with Ordering Paragraph 37, Resolution E-4906, To Allow Appropriate Consideration and Evidentiary Development on the Issue of Loggers and Meters for the Prohibited Resources Verification Plan*, SCE-02 at p. 2, filed March 15, 2019 in A.18-10-08 *et al.*

Respectfully submitted,

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