

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA



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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

**NOTICE OF EX PARTE COMMUNICATIONS OF THE JOINT DR PARTIES**

November 16, 2018

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**NOTICE OF EX PARTE COMMUNICATIONS OF THE JOINT DR PARTIES**

Pursuant to Rule 8.4 of the Commission's Rules of Practice and Procedure, CPower and Enel X North America, Inc. (formerly known as EnerNOC, Inc.)<sup>1</sup> (Joint Demand Response (DR) Parties) hereby give notice of the following three ex parte communications.<sup>2</sup>

The three communications occurred on Tuesday, November 13, 2018. Each involved the same proceeding (A.17-01-012, et al.), the same information, and the same persons initiating and present in person or by telephone during each communication in addition to the attending advisor. The Joint DR Parties timely filed and served a Three Working Days' Notice for these meetings on November 6, 2018 (Notice). A copy of the Notice was provided or offered to the attending advisor at the beginning of each meeting.

The communications were oral. Each communication took place at the location of or by conference call at the Commission's offices at 505 Van Ness Avenue, San Francisco, California 94102. Each communication was initiated by Sara Steck Myers,

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<sup>1</sup> A Notice of Name Change for this change from EnerNOC to Enel X was filed and served in this proceeding on October 24, 2018.

<sup>2</sup> Pursuant to Rule 8.4(a) of the Commission's Rules of Practice and Procedure, the "notice may address multiple ex parte communications in the same proceeding, provided that notice of each communication identified therein is timely."

attorney for the Joint DR Parties. Mona Tierney-Lloyd, Senior Director, Regulatory Affairs, for Enel X, and Jennifer Chamberlin, Executive Director, Market Development/CAISO, for CPower, were also present in person or by telephone at the time of the three communications.

The first communication occurred at 10:00 a.m. with Yuliya Shmidt, Advisor to Commissioner Clifford Rechtschaffen. The second communication occurred at 11:00 a.m. by conference call with Joanna Gubman, Advisor to Commissioner Liane Randolph. The third and final communication took place at 2:00 p.m. with Maria Sotero, Advisor to Commissioner Martha Guzman-Aceves. Each of the communications lasted between 20 to 30 minutes each. No one else was present at these communications, except as named herein.

At the beginning of each communication, Ms. Myers indicated that CPower and Enel X had reviewed the Proposed Decision (PD) of Administrative Law Judges (ALJs) Hymes and Atamturk mailed in A.17-01-012, et al., on October 25, 2018, and planned to file Opening Comments on the Proposed Decision on November 14, 2018. Ms. Tierney-Lloyd indicated that those Comments would address several disappointing outcomes reached by the Proposed Decision that required modification or correction.

First, Ms. Tierney-Lloyd explained that, while it was understandable that the Commission would wish to consider the final Energy Division analysis of the Demand Response Auction Mechanism (DRAM), the Proposed Decision does not provide any specificity as to what to expect after that analysis is completed in December 2018. Ms. Tierney-Lloyd stated that the Proposed Decision further wrongly assumes that there are comparable alternative opportunities for third-party DR capacity in the meantime.

Yet, according to Ms. Tierney-Lloyd and Ms. Chamberlin, there are limitations to the alternative DR procurement mechanisms to the DRAM. Utility DR Programs are either fully, or nearly fully subscribed (Base Interruptible Program) or have not been embraced by customers (Capacity Bidding Program). Both Ms. Chamberlin and Ms. Tierney Lloyd stated that CPower and Enel X have lost a significant amount of their customer base during this transition. In addition, other procurements either have not resulted in any significant DR procurement (Local Capacity Resource (LCR) Requests for Offer (RFOs) or Resource Adequacy (RA) procurements) or have been too small and with different operating characteristics (Integrated Demand Energy Resource (IDER)), to be substitutes for DRAM. Ms. Tierney-Lloyd and Ms. Chamberlin advised that their companies had also expended significant time and resources to provide DR into the CAISO market, specifically through the DRAM auctions, and to suggest that customers could be moved back into Utility-managed programs creates a whipsaw effect both from moving from third-party managed to utility-managed programs and from a customer perspective.

Because of these circumstances, Ms. Tierney-Lloyd and Ms. Chamberlin strongly urged the modification of the Proposed Decision to adopt a meaningful timeline by which changes to the DRAM auction in response to the Energy Division analysis could be accomplished and a DRAM auction could be held and completed in 2019 for 2020 deliveries, including approval of contracts with successful bidders in time for the Utilities' year-ahead RA report due in October 2019. Both advised that CPower and Enel X would be including a suggested timeline to that end in their Comments on the Proposed Decision. Both agreed that the failure to articulate a clear path forward for DRAM in the

Commission's Final Decision would create significant DR market uncertainty and disruption, leave few alternative options for customers to place resources they had gone to great expense and time to build, and undermine any opportunity to grow DR to help meet the State's clean energy and greenhouse gas emission reduction goals.

Second, Ms. Tierney-Lloyd expressed further disappointment in the Proposed Decision's determination on dual participation. Instead of exploring how to expand dual participation and remove barriers for customers of third parties, Ms. Tierney-Lloyd stated that the Proposed Decision removes dual participation as an option for new customers in Utility-managed programs. According to Ms. Tierney-Lloyd, such a step moves in the wrong direction for customer choice and for the multi-use application intended for storage. Ms. Chamberlin noted that there is a small, but growing, percentage of DR that relies on storage, and the role that dual participation can serve in continuing that trend should not be ignored.

Third, as to Auto Demand Response (ADR), Ms. Tierney-Lloyd and Ms. Chamberlin supported the Proposed Decision's determination to examine ADR incentives for energy storage resources through future workshops, but both asked for the Proposed Decision to be revised so as not to require Open ADR 2.0 at the customer premise, where the customer's existing ADR technology is capable of receiving and responding to an ADR signal. Ms. Chamberlin stated that this would be an unnecessary expense where the aggregator of those ADR customers should be able to receive an Open ADR 2.0 signal at the Network Operation Center and convey that signal to its customers, automatically, through the deployed technology.

Finally, as to the 2% Reliability Cap, Ms. Tierney-Lloyd stated her appreciation for the Proposed Decision's determination to allocate available capacity first to third-party DRPs and then to the Utilities, but that the additional criteria of reducing islanded capacity are unworkable. According to Ms. Tierney-Lloyd and Ms. Chamberlin, there are several problems with such an approach where third parties would have to be directed to recruitment of capacity where islanded capacity exists. But, Ms. Tierney-Lloyd and Ms. Chamberlin advised that third parties do not currently know what capacity is stranded, or why, because that information is known exclusively to the Utilities. Thus, according to both, in order for a third-party to solve the problem of an islanded resource, the third-party would need to know the sub-LAP, the size of the deficiency, the Load Serving Entity (LSE), and, potentially, the customer. Both indicated that such information could or would violate the privacy policy of the Commission. In that case, both recommended that the Proposed Decision should be modified to remove the dependencies that allocated capacity under the Reliability Cap be required to reduce or not increase islanded DR capacity.

Respectfully submitted by:

November 16, 2018

/s/ SARA STECK MYERS

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