



April 14, 2020

Via E-Mail (EDTariffUnit@cpuc.ca.gov)

California Public Utilities Commission

Attention: Tariff Unit

505 Van Ness Avenue

San Francisco, CA 94102

**RE: Advice Letter (AL) 4191-E (Southern California Edison)
(Supplemental 2020 Demand Response Auction Mechanism Solicitation
Results)
RESPONSE OF CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT
COUNCIL**

Dear Energy Division Tariff Unit:

On April 10, 2020, Southern California Edison (“SCE”) submitted its Supplemental 2020 Demand Response Auction Mechanism (“DRAM”) Results. The California Efficiency + Demand Management Council (“the Council”) appreciates the opportunity to respond to this Advice Letter filing.

The Council addresses SCE’s decision to commence delivery of the supplemental 2020 DRAM contracts awarded to Enerwise, Leapfrog, OhmConnect, and Voltus beginning on July 1 rather than June 1 as directed in the Energy Division’s March 6, 2020 Non-Standard Disposition Letter (“Disposition Letter”) in response to SCE AL 4140-E. The Council disagrees with SCE’s proposed commencement date, and urges the Energy Division to approve the supplemental 2020 DRAM contracts and direct SCE to accept delivery of the 2020 DRAM contracts included in AL 4191-E beginning on June 1, 2020.

Response

The Energy Division’s Disposition Letter directed SCE to, among other things, execute purchase agreements for the selected bids from its original 2020 DRAM auction shortlist that do not exceed the Long-Run Avoided Cost of Capacity (LRAC) using a revised methodology, to the extent the DRAM Bidders are willing to accept the contract terms, including June 1 delivery.¹ (Emphasis added)

¹ Disposition Letter, at p. 5

In response to the Disposition Letter, SCE revisited the bids it had disqualified for exceeding SCE's original calculation of the partial-year LRAC and selected additional winning bids from four DRAM Bidders which it identified in AL 4191-E. In so doing, it indicated that it would take delivery of these additional contracts on July 1, 2020 because the DRAM pro forma specifies that the Delivery Period for 2020 DRAM contracts "does not start until the later of June 1, 2020 or the first day of the first month that begins after 75 days following Commission approval."² However, SCE could take delivery of these contracts on June 1 if the Energy Division directed SCE to modify the pro forma contract to permit June 1 deliveries.

This effort by SCE to delay the delivery of the supplemental DRAM contracts must not be allowed to proceed. In its Disposition Letter, the Energy Division clearly specified its intention that these contracts commence on June 1, 2020. Therefore, SCE already has adequate authorization. Furthermore, SCE's claim that the Disposition Letter was somehow not sufficiently authoritative was offered with no legal support, and in fact, conflicts with governing law, such as Public Utilities (P.U.) Code Section 702 and General Order 96-B, Rule 7.6.1.

By allowing so much time to pass before highlighting this requirement, the Energy Division now has less than a week to approve SCE's proposed contract revision in order for the supplemental DRAM contracts to be included in SCE's June supply plan. This all but guarantees that these supplemental contracts cannot be included in SCE's June supply plan. If such a contract revision was deemed necessary by SCE, even with the explicit language in the Disposition Letter authorizing a June 1 commencement date, SCE had five weeks to notify the Energy Division after the March 6 Disposition Letter was issued and before AL 4191-E was submitted.

We respectfully request that the Energy Division reject SCE's effort to delay the supplemental DRAM contracts and immediately reaffirm its direction to SCE to take their delivery beginning on June 1. No basis exists to condition approval of the June deliveries on a revision to the DRAM pro forma. If the Energy Division believes that a revision to the DRAM pro forma is necessary, it should be applied prospectively *after* the June deliveries and should include a revision to Section 1.3 only as follows (see underlined):

The "Delivery Period" shall commence on the later of (a) the first day of the first month that begins after seventy-five (75) calendar days following CPUC Approval unless otherwise directed by the Commission or Energy Division, and (b) *[Date]*, and shall continue in full force and effect until *[Date]*, unless terminated earlier in accordance with the terms and conditions of this Agreement. Notwithstanding anything to the contrary contained in this Agreement, the Delivery Period will not commence until CPUC Approval is obtained or waived by Buyer in its sole discretion.

² SCE AL 4191-E, at p. 4.

The Council notes that load-serving entities' ("LSEs") June supply plans are due on April 17 so Energy Division action is needed before then.

CONCLUSION

The Council recommends that the contracts submitted by Advice Letter 4191-E be approved immediately and that SCE be directed again to include the supplemental DRAM contracts in its June 2020 supply plan. As such, the Council respectfully requests that Energy Division inform SCE no later than the close of business on April 15, 2020, that SCE, as directed in the Disposition Letter, must include June 2020 in the selected and signed contracts resulting from its 2020 DRAM RFO.

Respectfully submitted,

April 14, 2020

/s/ Greg Wikler

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