

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA

Application of Pacific Gas & Electric Company (U 39-E) for Approval of Demand Response Programs, Pilots and Budgets for Program Years 2018-2022.	Application 17-01-012 (Filed January 17, 2017)
And Related Matters.	Application 17-01-018 Application 17-01-019

**JOINT OPENING COMMENTS OF  
CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT COUNCIL, CPOWER,  
ENEL X NORTH AMERICA, INC., AND LEAPFROG POWER, INC. ON THE  
FINAL REPORT OF THE DEMAND RESPONSE AUCTION MECHANISM WORKING  
GROUP**

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GROUP**

The California Efficiency + Demand Management Council, CPower, Enel X North America, Inc., and Leapfrog Power, Inc. (collectively referred to as the Joint Parties) respectfully submit these Joint Opening Comments on the Final Report of the Demand Response Auction Mechanism (DRAM) Working Group (DRAM Report) mailed in this proceeding on August 9, 2019. These Joint Opening Comments are timely filed and served pursuant to the Commission’s Rules of Practice and Procedure and the instructions accompanying the DRAM Report.

**I.  
REPLACEMENT FOR AUGUST BID PRICE.**

The Joint Parties support the Joint Demand Response Parties’ (Joint DR Parties) proposal to refrain from replacing the Average August Bid Price.<sup>1</sup> With the exception of the Public Advocates Office, there was general agreement among working group participants that a replacement is unnecessary. The Joint Parties would also like to echo the Joint DR Parties’ concern that the net benefit calculations of the DRAM bids are based on the short-run avoided cost of capacity whereas the capacity benefits of the investor-owned utilities’ (IOUs’) demand response (DR) programs are based on the long-run avoided cost of capacity. Decision (D.) 15-11-042 affirmed that the generation capacity value of DR should be the long-run avoided cost of capacity.<sup>2</sup> The IOUs’ practice of not evaluating DRAM bids using the long-run avoided cost of

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<sup>1</sup> Final Report of the Demand Response Auction Mechanism Working Group, at p. A-5. The Joint DR Parties are comprised of CPower, Enel X North America, Inc., and EnergyHub.

<sup>2</sup> D.15-11-042, Appendix A, at p. 16.

capacity is not in compliance with this decision. Should the Commission adopt a cost-effectiveness requirement for the DRAM, the Commission should affirm that DRAM capacity benefits also be based on the long-run avoided cost of capacity. It should be noted that because they are both subject to periodic Commission approval, IOU DR programs and the DRAM are equally deserving of long-run avoided cost of capacity benefits.

## **II. MINIMUM DISPATCH HOURS.**

### **A. Floor Dispatch Activity.**

The Joint Parties support Southern California Edison Company's (SCE's) conclusion that working group participants were generally in agreement that adopting some sort of floor for dispatch activity would be inappropriate at this time.<sup>3</sup> Because the DRAM is a mechanism to procure Resource Adequacy (RA), it would be inappropriate to adopt dispatch requirements on DRAM resources when dispatch requirements are not adopted for other RA resources.

A minimum dispatch requirement has effectively already been adopted in D.19-07-009 by adopting a testing or dispatch requirement in half of the contract months, so adopting another one is unnecessary. Furthermore, adopting any criterion (e.g. minimum dispatch hours, energy market price, or a specific system condition) to force the dispatch of a DRAM resource ignores the purpose of market integration of DR – to let the energy market determine when and where these resources are needed. The Commission has already rejected the use of load-based hard triggers for load-modifying DR in D.15-11-042 because “it may lead to an increase in the number of dispatches during times when a) customers are not anticipating being dispatched; b) capacity needs may not be high; c) capacity values are based on moderate loads, d) over-generation problems already exist; and e) energy prices are lower.”<sup>4</sup> These arguments for rejecting the use of hard triggers of all kinds are still applicable so the Commission should not adopt them now.

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<sup>3</sup> Final Report of the Demand Response Auction Mechanism Working Group, at p. A-8.

<sup>4</sup> D.15-11-042, at p. 15.

## **B. Voluntary Bid Parameters.**

As explained in the Joint DR Parties' proposal, voluntary bid parameters would be highly problematic.<sup>5</sup> As such, the Joint Parties respond to Pacific Gas and Electric's (PG&E's) proposals.

**i. Proposal 1.** The Joint Parties agree with PG&E that as an RA product, DRAM resources should not be subject to any minimum energy dispatch requirement, but strongly disagrees with the proposal to require DRAM Sellers to disclose their bidding behavior and rationale for it.<sup>6</sup> This would be discriminatory to DRAM Sellers because other suppliers of RA capacity are not subject to this requirement. Furthermore, these data are extremely proprietary and market sensitive, and it is unclear what standard would be applied to determine whether a DRAM Seller's bidding behavior and rationale was "reasonable" or not.

The issue of DRAM resources being bid at a high price and subsequently failing to dispatch when scheduled is a separate issue from bidding behavior and the Joint Parties support investigation of this practice, but collecting the economic energy market bidding behavior and rationale for all DRAM Sellers is a blunt approach to addressing this problem and punishes those who meet their obligations in the energy market. As an energy market issue, the California Independent System Operator's (CAISO) Department of Market Monitoring (DMM) and the FERC are the appropriate entities to address this behavior. While DRAM resources are currently not subject to market mitigation by CAISO, as per FERC, they are subject to review by the DMM if there is concern about their bidding behavior in the energy market. The Commission should respect the role of the DMM in this area.

On a related note, the Joint Parties disagree with PG&E's proposal to impose an after-the-fact reporting requirement on DRAM Sellers. As PG&E has acknowledged, DRAM is an RA-only product for which the IOU is not the scheduling coordinator and is not an IOU DR program; therefore, the energy market bidding behavior should not be subject to any form of reasonableness review.<sup>7</sup>

**ii. Proposal 2.** The Joint Parties do not believe that the addition of an energy component to the DRAM is necessary and therefore do not support PG&E's second proposal. Specifically,

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<sup>5</sup> Final Report of the Demand Response Auction Mechanism Working Group, at p. A-14.

<sup>6</sup> Ibid, at p. 10.

<sup>7</sup> Ibid, at p. 9.

the DRAM should not be converted into an IOU DR program with a prescribed set of market- and/or non-market-based triggers dictating when DRAM resources are to be dispatched. This would represent a significant departure from the current DRAM product design. DRAM was intended to be a mechanism to procure third-party managed wholesale market-integrated DR resources and not an IOU-managed program. The Commission has conflicting initial results of DRAM, at least partially due to the challenges associated with wholesale market integration. The DRAM has attracted both new and well-established DR providers but some of them have not performed to as high a standard as others. Due to these conflicting results, it is not surprising that PG&E's proposal to remedy the situation is to roll DRAM back under utility control which would in effect turn the DRAM into a variant of the Capacity Bidding Program (CBP). However, as a pilot, there were always going to be some DRAM Sellers who performed better than others due to the learning curve experienced by the DRAM Sellers, IOUs, and CAISO associated with market integration. Furthermore, the Joint Parties stress that many DR providers operating in California have invested significant amounts of money and time to participate in the current structure of the DRAM and these investments were made based on the explicit statement by the Commission in D.16-09-056 that the DRAM was going to be the primary procurement vehicle for third-party DR.<sup>8</sup> Rolling the DRAM under IOU control would be a contradiction of this statement and the Joint Parties urge the Commission not to adopt this proposal.

Applying a non-market trigger such as a minimum load or reliability condition ignores this role of the CAISO market to translate grid conditions and grid needs into an energy market price. The evidence cited by PG&E ostensibly to support a price cap actually undermines their argument.<sup>9</sup> Over the past few years, the size of the IOUs' CBP has generally fallen, likely due to the low energy market bid price which leads to frequent dispatches, and often does not align economically with how customers value their curtailments.

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<sup>8</sup> D.16-09-056, Ordering Paragraph 12.

<sup>9</sup> Ibid, at pp. 11-12.

<b>August Capacity Bidding Program Ex Ante MW<sup>10</sup></b>			
	PG&E	SCE	SDG&E
<b>2016</b>	14	16.6	8.87
<b>2017</b>	21	14.1	5.26
<b>2018</b>	34	9.2	3.46
<b>2019</b>	23 (June)	7.1 (May)	2.59 (June)

Though PG&E’s CBP grew in 2018, it is likely due to customers participating in its CBP Elect which allows them to choose at what price they will be bid into the CAISO market. Though some customers clearly find the CBP’s low bid price to be acceptable, participation levels in the IOUs’ CBP programs reflect this low bid price. Conversely, the amount of capacity procured through third parties through the Base Interruptible Program and DRAM far surpasses the amount procured through the CBP. The Commission should consider that because DRAM resources may not be bid at \$95 does not mean they do not have value. What truly matters is the ability to deliver if dispatched, at any price that constitutes a valid bid in the CAISO energy market. If the CAISO felt that resources bid at a higher price were not useful, they would reduce the market bid cap.

### **III.**

#### **REVENUE QUALITY METER DATA (RQMD) PENALTY/CONTRACT REMEDY.**

##### **A. PG&E Proposal.**

The Joint Parties agrees with PG&E’s position that good communication between DRAM Sellers and IOUs is essential to ensure that DRAM Sellers receive the necessary data to deliver on their contracts.<sup>11</sup> This applies to all other types of data needed by the DRAM Sellers as well. However, clear timelines and options for the DRAM Seller if data are not provided must be codified in the DRAM pro forma with assurances that data are timely delivered to the DRAM Sellers. The Joint Parties disagree with PG&E’s assertion that “before any new contractual remedies are required, the Commission would need to formally find that Sellers incur penalties due to Buyer’s late provision of meter data.”<sup>12</sup> It was mentioned during the workshops by the Energy Division that scheduling coordinators will typically submit data with zeros for those

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<sup>10</sup> Unless otherwise noted, based on Interruptible Load and DR Report for August.

<sup>11</sup> Final Report of the Demand Response Auction Mechanism Working Group, at p. A-16.

<sup>12</sup> Ibid, at p. A-15.

times in which they do not receive data in order to avoid penalties. So, DRAM Sellers will often choose to not collect energy payments so as to avoid incurring penalties.

Though some IOUs are more effective than others in providing data, the DRAM Sellers cannot simply hope that each IOU adopts the same best practices; not all IOUs provide the same level of responsiveness to data quality issues and some IOU's data delivery processes are smoother than others. Therefore, more explicit requirements should be adopted to enforce uniformity among the IOUs. Also, good communication regarding data problems is not only the responsibility of the DRAM Sellers – the IOUs should take some accountability to ensure that issues are being addressed on an ongoing basis. One example for this is for each IOU to assign a point of contact who will hold a monthly call with DRAM Sellers to discuss systemic data delivery issues as well as any other questions or issues that arise during the contract period.

Assurance of timely delivery of accurate data should include IOU penalties for late delivery of data to motivate them to make improvements in their processes. Otherwise, with a slow Rule 24/32 dispute resolution process, IOUs have little motivation to ensure they are providing the DRAM Sellers all of their data the first time. PG&E expresses concern that imposing penalties on the IOUs would create a motivation for DRAM Sellers to delay notifying the IOU if data were incomplete or incorrect.<sup>13</sup> This argument lacks merit – DRAM Sellers are in the business of delivering DR in return for IOU capacity payments and CAISO energy payments, not of collecting penalty payments from the IOUs. Furthermore, the penalty payment does not necessarily need to go to the DRAM Seller. That is an open question needing further discussion. Absent a penalty structure for late or incomplete data delivery, the IOUs have no motivation to improve their performance in this area. PG&E's concern would be moot if the IOUs performed quality control on their data prior to submitting to the DRAM Sellers, thereby ensuring complete and accurate data were provided the first time and foregoing the need to penalize the IOU. Furthermore, in comparison to the potential for DRAM Sellers to lose their revenue opportunity for failure to deliver a timely invoice, there is no commensurately severe penalty to the IOUs for failure to deliver timely, accurate data. Rule 24/32 allows third-party DR providers to invoice the IOUs for costs incurred by the DR provider from the CAISO for failure to meet the DR provider's data delivery requirements or for re-settlement. However, the DR Provider does not have the ability to assess penalties.

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<sup>13</sup> Final Report of the Demand Response Auction Mechanism Working Group, at p. A-15.

If the IOUs are unable to do quality control of their data prior to providing it to the DRAM Seller, there should be a clear timeframe for communication between the DRAM Seller and IOU regarding missing data which, as PG&E proposed, should begin with the DRAM Seller informing the IOU of late or incomplete data.<sup>14</sup>

The Joint Parties disagree with PG&E that Rule 24/32 and Section 6.2 of the DRAM pro forma is sufficiently robust to ensure data are delivered on a timely basis.<sup>15</sup> If PG&E's assertions were correct, there would be far fewer problems and legal challenges regarding data delivery, so it is clear that additional steps are needed. Section 6.2 lacks a clear timeline for a process for DRAM Sellers to inform the IOUs regarding missing data and the IOUs to rectify the problem. The Rule 24/32 dispute resolution process is too slow and leaves stranded revenues critical for the ongoing operation of the DRAM Sellers. If the IOU is unable to rectify the situation within a pre-determined timeframe, the DRAM Seller must have some recourse to invoice based on the data they do have rather than being held hostage to the IOU's inability to provide the appropriate data.

#### **B. OhmConnect Proposal.**

The Joint Parties support OhmConnect's proposal for the creation of data delivery metrics.<sup>16</sup> These metrics should be tied to regular assessments of IOU performance for the purpose of driving improvements and assessing penalties for failure to timely deliver accurate and complete data.

### **IV. CONTRACT REASSIGNMENTS.**

#### **A. SCE Proposal.**

The Joint Parties believe that SCE's concerns about reassignments and partitioning are exaggerated.<sup>17</sup> First, market concentration is not necessarily a negative outcome, especially if better-performing DRAM Sellers are taking on contracts by poor-performing DRAM Sellers. Second, to address SCE's concern about overly-optimistic estimates by the Assignee, the Assignees can be required to provide data equivalent to the year-ahead supply plan in Appendix

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<sup>14</sup> Final Report of the Demand Response Auction Mechanism Working Group, at p. A-16.

<sup>15</sup> Ibid, at p. A-15.

<sup>16</sup> Ibid, at pp. A-18-19.

<sup>17</sup> Ibid, at p. A-21.

A. This would ensure the IOU is comfortable with the Assignee's ability to deliver on the reassigned contract.

Regarding SCE's contention that partitioning can weaken the reliability of the grid, it should be noted that D.19-07-009 took several steps to improve load assessments and prevent double-counting. In fact, partitioning will improve the reliability of the grid by ensuring that there is an opportunity for contracted capacity to be delivered and reducing contract defaults.

Should the Commission allow for the reassignment and/or partitioning of contracts, language specifying a clear process and timeline will be necessary for the DRAM pro forma contract.

#### **B. OhmConnect Proposal.**

OhmConnect's proposal for contract partitioning can serve as the basis for language in the pro forma DRAM contract.<sup>18</sup>

### **V. BID FEES.**

The Joint Parties reiterate that SDG&E was the sole workshop participant to express a preference for bid fees. As an initial step toward addressing concerns expressed in the DRAM Evaluation Report, the Commission should adopt the Council's proposal.

### **VI. CAISO REGISTRATION.**

#### **A. PG&E Status Update.**

The Joint Parties do not support PG&E's and San Diego Gas & Electric's (SDG&E's) proposal to assign residential meter reprogramming costs on the DR Providers beyond 200,000 and 60,000 registrations, respectively.<sup>19</sup> This will surely discourage participation in the DRAM by the residential sector which is a critical area of growth in DR participation. This would also be inconsistent with the IOUs' CBP which includes no requirement that participants pay for their meter reprogramming costs. Furthermore, the IOUs have vastly different reprogramming costs which would discourage participation in some IOU service areas and push up DRAM bids. Furthermore, the IOUs' current use of average reprogramming costs risks creating the impression that some reprogramming costs are greater than they really are.

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<sup>18</sup> Final Report of the Demand Response Auction Mechanism Working Group, at pp. A-23-24.

<sup>19</sup> Ibid, at pp. A-28, A-30.

**VII.**  
**GUIDELINES FOR UTILITY AUDITS AND WITHHOLDING INVOICE PAYMENTS.**

The Joint Parties support the concerns expressed by the Joint DR Parties. Given the significant expansion of data to be collected by the IOUs from the DRAM Sellers, audits should be limited to substantiation of invoices and only if a DRAM Seller has not met the Appendix A and B requirements beforehand. In the event that an IOU initiates an audit, there should be some advance notice and communication about what additional information, relative to invoicing, that the IOUs need from the DRAM Sellers.

In addition, the Joint Parties echo the Joint DR Parties' concerns regarding the proper handling of the DRAM Sellers' data. The Commission should require an explicit set of controls regarding the handling of DRAM Seller data by the IOUs and third parties to ensure a consistent set of protections.<sup>20</sup>

**VIII.**  
**COST-EFFECTIVENESS.**

**A. PG&E/SCE Proposal.**

The Joint Parties agree to a certain extent with PG&E and SCE that DRAM should be aligned with the RA and integrated resource planning (IRP) proceedings in that DRAM resources should be able to meet RA and IRP requirements.<sup>21</sup> However, as a preferred resource, the amount of DRAM procured should be based on Commission policy goals more than resource need. If the Commission wants to promote the growth of carbon-free capacity resources like DR, then general resource need should not be a limiting factor in the amount of DR procured through the DRAM. If the amount of DRAM capacity procured exceeds the need, then it should be generally considered a positive outcome as long as carbon-emitting resources are being displaced.

The Joint Parties urge the Commission not to subject DRAM resources to a cost-effectiveness test. The PG&E/SCE proposal is neither sufficiently detailed nor persuasive enough to support a cost-effectiveness requirement at this time. Procurement of DRAM resources is already done through a competitive process to select the lowest cost bids, so any cost-effectiveness requirement would only set a new arbitrary bid price cap. If the resulting cap was lower than the most competitive DRAM bids, the Commission would risk discouraging

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<sup>20</sup> Final Report of the Demand Response Auction Mechanism Working Group, at p. A-32.

<sup>21</sup> Ibid, at p. A-34.

participation in the DRAM. As the Council stated in the Working Group Report, there are many key policy and technical questions that need to be addressed prior to deciding whether to move forward with developing a DRAM cost effectiveness methodology.<sup>22</sup>

However, should the Commission ultimately decide to develop a cost-effectiveness methodology for the DRAM, as discussed above, pursuant to D.15-11-042, the methodology should use the long-run avoided cost of capacity for capacity benefits. The IOUs' DR programs benefit from this treatment in their cost-effectiveness evaluations and so should the DRAM. The IOUs may argue that their DR programs have been in existence for a longer time and that this durability should be reflected in their capacity value whereas the DRAM is new and deserving only of the short run avoided cost of capacity. However, neither the DRAM nor IOU DR programs are authorized to function into perpetuity and must be periodically approved by the Commission, so their longevity is never a foregone conclusion.

The Joint Parties agree with PG&E/SCE that a third party should complete any cost-effectiveness analysis. However, this will further drive up the administrative costs of the DRAM so, given the recently-approved budget for the 2020-2023 delivery years, the budget for this third party should be incremental to the DRAM budget.

## **IX. DISPUTE RESOLUTION PROCESS.**

### **A. SCE Proposal.**

In its proposal, SCE notes that it has the final decision on the capacity value for the DRAM resources it has under contract when it submits on its supply plans to the CAISO.<sup>23</sup> The IOU should inform the DRAM Seller of any decision to derate a resource as early as possible and provide some documentation or explanation to substantiate the need for a derate. This is necessary to enable DRAM Sellers to make adjustments over time to avoid future derates.

### **B. OhmConnect Proposal.**

The Joint Parties generally support the OhmConnect proposal because it provides a clear set of steps for dispute resolution that have so far been lacking in the DRAM process.<sup>24</sup> A uniform and transparent approach across the IOUs will be easier for DRAM Sellers operating in multiple service areas. The Joint Parties are also supportive of using an independent monitor to

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<sup>22</sup> Final Report of the Demand Response Auction Mechanism Working Group, at pp. A-37-39.

<sup>23</sup> Ibid, at p. A-40.

<sup>24</sup> Ibid, at pp. A-42-44.

evaluate supply plans for all three IOUs to create consistency in the evaluation standards. However, there should be a very high bar for any derates made to DRAM bids and year-ahead supply plans. As DR parties have noted during the workshops, there are many legitimate reasons for why it will be difficult to provide Appendix A data with any real accuracy in the DRAM bid and year-ahead supply plan, so derating a contract that is partially based on forecasted customer data would seem to be an extreme measure with little basis. At most, derates should be limited to those contracts for which the DRAM Seller has no customers enrolled and no real plan to enroll them. Qualitative criteria may be another way to address these extreme situations.

The Joint Parties agree that the IOUs should have identical informal dispute resolution language regarding disagreements over the Demonstrated Capacity in invoices for the reasons explained above.<sup>25</sup> The language cited by OhmConnect from Section 10.1(a) of PG&E's pro forma contract is generally adequate and should be adopted by the other IOUs as well. The Commission should also adopt OhmConnect's proposed requirement, and associated modifications to Section 10.1(a)(i), that the IOUs pay the undisputed portions of invoices so that DRAM Sellers can meet their cash flow requirements without holding hostage what could be a significant amount of revenue.<sup>26</sup> For similar reasons, there should be consistent language across the IOUs' pro forma contracts that includes a timeline for mediation and arbitration.<sup>27</sup> It would be unfair to DRAM Sellers for disputes to drag on with little motivation by the IOU to come to a resolution.

## **X. REFINEMENTS TO APPENDICES A AND B.**

### **A. Joint DR Parties Appendix A Proposal.**

The Joint Parties are generally supportive of the of the Joint DR Parties' Appendix A proposal.<sup>28</sup> However, the data requirements in Appendix A will be very burdensome and would seem to penalize those DRAM Sellers who consistently deliver the capacity they are contracted to provide. As the Joint DR Parties recommend, consideration should be given to DRAM Sellers with a track record of good performance.<sup>29</sup> The Commission should establish a minimum level of performance above which the good performing DRAM Sellers are either absolved of providing

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<sup>25</sup> Final Report of the Demand Response Auction Mechanism Working Group, at p. A-43.

<sup>26</sup> Ibid, at p. A-44.

<sup>27</sup> Ibid, at p. A-44.

<sup>28</sup> Ibid, at pp. A-46-49.

<sup>29</sup> Ibid, at p. A-46.

data with DRAM bids and year-ahead supply plans or are subject to a less rigorous or less frequent data requirement.

Furthermore, the benefits of the Appendix A data requirements are unclear, especially given that much of the data provided will be estimated or based on publicly-available studies. As the DR Providers have explained during the Step 2 workshops and in pleadings, the time of the DRAM solicitation and year-ahead supply plans will often be too far in advance for accurate customer data to be available, which will undermine the value of these estimates. Furthermore, review by a third party or the IOUs is not guaranteed to result in a higher quality assessment of the load reduction capability compared to what the DRAM Sellers can provide. Some of the DRAM Sellers have extensive domestic and international DR experience in calculating the true capacity value of their DR resources whereas the IOUs rely on the DR Load Impact Protocols to estimate the capacity value of their own DR programs, for which there is no penalty to the IOUs for inaccurate assessments of capacity value. The IOUs have been clear that they are required to submit accurate supply plans to the CAISO pursuant to FERC requirements; DRAM Sellers are subject to the same requirements and also have an interest in assessing the correct capacity value of the customers comprising their DRAM contracts.

The Joint Parties agree with the Joint DR Parties' proposal that the same baseline methodology should not be required for every stage of the contract, and propose to take this one step further and argue that no baseline methodology is necessary when providing Appendix A data.<sup>30</sup> It is unclear how an IOU or independent monitor could review customer data (some of which may be estimated) and somehow determine that a DRAM Seller is capable of delivering the capacity of a DRAM contract one year in the future under one baseline but not another. If some of these data are speculative, it is unclear how it could be argued that one baseline is more suitable than another if not for some degree of false precision. For similar reasons, Appendix A data should only be required at the contract level and not the resource level because DRAM Sellers would be hard-pressed to estimate with any degree of accuracy the composition of each of their resources one year in advance.<sup>31</sup> The sometimes-speculative nature of the data will limit

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<sup>30</sup> Final Report of the Demand Response Auction Mechanism Working Group, at p. A-47.

<sup>31</sup> Ibid, at p. A-48.

its conclusiveness so requiring the reporting of these data at a level more granular than contract-level will simply exacerbate any potential inaccuracies.

Like the Joint DR Parties, the Joint Parties are very concerned about the confidentiality of the data provided by the DRAM Sellers.<sup>32</sup> D.19-07-009 adopted no real confidentiality protections for customer-level data provided to meet Appendix A requirements. The Commission should require protections similar to those put in place for the data collected from DRAM Sellers for the DRAM Evaluation Report.

**B. Joint DR Parties Appendix B Proposal.**

The Joint Parties have similar concerns regarding invoicing as expressed by the Joint DR Parties.<sup>33</sup> As discussed above regarding dispute resolution, more rigorous language is needed to ensure the IOUs deliver accurate and complete RQMD in a timely manner to allow DRAM Sellers to submit their invoices on a timely basis and be paid for the services they are providing. As the Joint DR Parties suggest, there need to be financial consequences for the IOUs' failure to deliver RQMD.<sup>34</sup> However, as a starting point, better clarity must be provided by the Commission as to what constitutes 95% of RQMD so there is no confusion over whether an IOU has met its data delivery requirement.

**C. PG&E Appendix B Proposal.**

The Joint Parties disagree with PG&E's proposal that Demonstrated Capacity in a dispatch month be based on a minimum two-hour dispatch.<sup>35</sup> As the DR parties have explained in Step 2 workshops, it can sometimes be a challenge to be dispatched by the CAISO for one hour let alone for two hours. If a DRAM Seller is bidding into the CAISO market in good faith with the full intention of being dispatched but is only scheduled for a one-hour event, this should continue to be sufficient for the purposes of determining the Demonstrated Capacity of the DRAM resource outside of August. Otherwise, this could force DRAM Sellers to dispatch multiple times in a month when energy prices are low simply to attempt to achieve a two-hour dispatch. In months other than August, the Commission should continue to allow DRAM Sellers to use the dispatch hour with the greatest load reduction in a month for purposes of Demonstrated Capacity. Calculating Demonstrated Capacity for all months other than August

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<sup>32</sup> Final Report of the Demand Response Auction Mechanism Working Group, at p. A-48.

<sup>33</sup> Ibid, at pp. A-50-51.

<sup>34</sup> Ibid, at pp. A-50-51.

<sup>35</sup> Ibid, at p. A-52.

using the average load reduction across all dispatch hours would discourage DRAM Sellers from dispatching more frequently if market conditions indicate the economic need.

## **XI. RESPONSES TO APPENDIX C QUESTIONS**

### **A. Question 1: Should the Commission require the Auction Mechanism resources to be cost-effective? If yes, what process should the Commission use to develop such protocols.**

The Commission should not adopt a cost-effectiveness requirement for DRAM resources. As discussed in the Council's proposal in the Working Group Report, the DRAM is a procurement mechanism for RA capacity provided by DR resources in which multiple bidders compete with one another to win awards in a solicitation. The competitive nature of these solicitations forces bidders to submit the lowest bid prices which are then selected by the IOUs on a least-cost, best-fit basis. Applying a cost-effectiveness requirement on top of this mechanism would be contradictory to the purpose of competitive procurement and could result in less competitive bids. Once it is known what the cost-effectiveness threshold for a bid would be, bid prices are likely to cluster close to that price rather than a lower price. As one DR provider indicated during one of the Step 2 workshops, the cost effectiveness requirement for the Aggregator Managed Portfolio (AMP) contracts were a direct factor in driving the prices bid by the DR providers.

If the Commission chooses to adopt a cost-effectiveness requirement, the Commission must address the key questions posed in the Council's proposal in the Working Group report and seek input from parties on what other issues must be considered before moving forward with developing a methodology.

### **B. Question 2: Should the Commission allow or require Qualitative Criteria in the Auction Mechanism solicitation? If yes, what process should the Commission use to develop the criteria?**

Conceptually speaking, the Joint Parties generally support the use of qualitative criteria in the DRAM solicitation. However, they should be formally proposed and approved by the Commission in the context of the appropriate proceeding and not unilaterally inserted by the IOUs into an advice letter. For instance, the August 12, 2019 joint Advice Letter 4054-E (SCE)/5615-E (PG&E)/3418-E (SDG&E) contains several qualitative criteria based on prior

performance with percentages that are overly aggressive and punitive, especially given all of the other rules approved in D.19-07-009 to improve DRAM resource performance.

Furthermore, qualitative criteria should be balanced to both reward good behavior and punish bad behavior, and should have a cap in both the positive and negative direction. The current DRAM qualitative criteria are all punitive but some criteria should be added to improve bids so that DRAM Sellers with good performance records can stand above new entrants with no track record with the IOU.

**C. Question 3: What process should the Commission use to address CAISO markets and resource adequacy related issues?**

The Commission should address some DR-related RA issues in the DR proceeding because DR is typically considered lower priority in the RA proceeding which results in DR-related issues being deferred year after year. One of the latest examples of this is the absence in the June 2019 RA decision of the Supply-Side Working Group proposal to allow the use of DRAM contract capacity in the year-ahead supply plan. When DR-related RA rules are approved in the DR proceeding, they can then be harmonized in the RA proceeding to ensure alignment with RA rules. There is a stronger likelihood of DR related issues being taken up in the RA proceeding if they are adopted in the DR proceeding first.

**D. Question 4: Should the Commission shift the focus of the Auction Mechanism procurement from System resource adequacy to local and flexible capacity? If yes, what process should the Commission use to make this shift?**

No, the DRAM should continue to be used to procure all three types of RA. Future resource needs are fairly fluid at the moment, with generators retiring, backstop procurement being considered in the RA proceeding, the Procurement Charge Indifference Adjustment (PCIA) Phase 3 proceeding still underway, and the Commission's June 20, 2019 preliminary recommendation in the Integrated Resource Plan proceeding to procure another 2,000 MW of System RA. Additionally, at this point there is limited additional value seen in Local and Flexible RA relative to System RA; as need and value are identified by the IOUs, and the market rules regarding how DR participates in Local and Flexible RA constructs stabilize, the DRAM will naturally move in that direction. At this time there is no need to arbitrarily force it one way or the other.

**E. Question 5: What improvements could be made to streamline communication between Utilities and Providers regarding missing data, data quality concerns and gaps in data?**

It is essential that there be a clear process and timeline for addressing missing data and data quality issues. The Joint Parties have expressed support for these proposals in these comments. As discussed earlier, there are also organizational steps the IOUs can undertake. For example, each IOU should be required to designate a consistent point of contact with whom the DRAM Sellers can communicate on an as-needed basis to informally address data problems, and a point of contact among each IOU's systems engineers who work on their data systems so that DRAM Sellers' engineers can work with them directly to resolve technical issues. Once an issue has been flagged by a DRAM Seller, the Joint Parties recommend the following steps:

- Confirmation by the IOU that they have received notification of the issue
- Confirmation by the IOU that they have created a help ticket (or equivalent process) to address the issue
- Initial estimated time of delivery (ETD) of the data
- Any updates that would change/alter the initial estimated ETD
- Confirmation that the IOU has successfully delivered the data and that it should be available to the DR Provider
- Updates every three business days on the status of the help ticket
- Responses to any inquiries no later than 48 hours after the inquiry was received

In addition, each IOU should have a standing monthly call on Rule 24/32 issues for DRAM Sellers to ask questions and report any issues that might come up.

The Commission should also ensure that both the IOUs and DRAM Sellers take some of the responsibility to minimize delivery delays of data. Specifically, DRAM Sellers should notify IOUs within a specified timeframe if they receive incomplete or flawed data from the IOUs, but the IOUs should be required to take steps to ensure the quality and completeness of the data they are providing the DRAM Sellers. In several instances of the Step 2 working group process and in their related proposals in the Working Group Report, the IOUs have taken little responsibility to perform quality control on the data they provide to the DRAM Sellers and instead rely on the DRAM Sellers to determine if the data are accurate and complete. This creates delays if there are problems with the data because the DRAM Seller has to go back to the IOU to notify them of

the error, which the IOU could have identified and fixed before giving the data to the DRAM Seller. This process can be time-consuming and can result in the need for dispute resolution which further delays the settlement process. Again, this extra effort would be completely unnecessary if the IOUs would take steps to deliver the correct data the first time. If the IOUs are unable to meet the required data quality requirements then the DRAM Sellers should not be forced to incur unnecessary costs, and suffer delayed payments and potential penalties. As such, any improvements to this area of the DRAM should include a recourse made available to DRAM Sellers for them to submit an invoice to the IOU based on partial data if the IOU cannot rectify the missing and/or incorrect data within a specified timeframe. Otherwise, the IOUs will have little motivation to provide complete and timely data.

**F. Question 6: Should the Commission condition payment of invoices on registration with the Commission?**

Per Section 6.B of Electric Rule 24, DR providers acting as a CPUC DR Provider as defined in Rule 24 that serve bundled service customers must register with the CPUC. However, to the Joint Parties' knowledge, no such language exists for DR providers serving Direct Access or Community Choice Aggregator customers exclusively.

**G. Question 7: This decision adopts an informal, staff-led refinement process as part of the Two-Step Approach in Ordering Paragraph 1. What process steps and schedule should the Commission use to develop and adopt further refinements to the Auction Mechanism?**

The Joint Parties are highly supportive of a regular, predictable process to improve the DRAM. The Council provided a proposal for a regular process to make ongoing improvements to the DRAM in its March 29, 2019 response to Question 7 of the February 28, 2019 *Administrative Law Judge's Ruling Directing Responses to Questions Resulting from the February 11-12, 2019 Demand Response Auction Mechanism ("DRAM") Workshop and Comments on Proposals to Improve the Mechanism*.<sup>36</sup> For the sake of simplicity, the Joint Parties summarize here as a Joint Parties proposal. One key principle that the Commission should

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<sup>36</sup> Opening Comments of California Efficiency + Demand Management Council on Administrative Law Judge's Ruling Directing Responses To Questions Resulting from the February 11-12, 2019 Demand Response Auction Mechanism Workshop And Comments On Proposals To Improve the Mechanism, at pp. 11-12.

explicitly adopt is that any changes made to the DRAM through this process should not be retroactive in nature.

The Joint Parties recommend that the Commission create a regular, predictable process by which improvements can be made to the DRAM. One approach is an annual process, similar to the process used in the Resource Adequacy proceeding, in which the Commission would issue a ruling seeking input from parties on the highest priority improvements for the DRAM. Parties would then submit their priority issues along with associated proposals that would then be followed up with a workshop where parties can present their proposals. Following the workshop, the ALJ could issue a ruling to request responses to key clarifying questions that would then inform a decision by April of each year. This would leave time for the IOUs to submit advice letters to implement the approved improvements prior to the next auction. As part of this ongoing process for making improvements to the DRAM, the Commission could include a test phase for new improvements to ensure that they have the desired effect before adopting them fully.

To demonstrate this approach, the Joint Parties propose a draft timeline for a process that would begin in October 2020 (assuming that a December 2019 decision approves some substantive improvements for 2020). These dates are meant to demonstrate the concept and can easily be adjusted:

- ALJ ruling soliciting comments on priority improvements: October 1
- Parties submit proposals: November 1
- Workshop to discuss proposed improvements: December 15
- ALJ ruling seeking responses to necessary questions to inform a decision: February 1
- Decision issued: April 1
- IOUs submit advice letters (as needed): May 1
- Commission approval/rejection of IOU advice letters: July 1
- RFOs issued for following year: July 15
- IOUs submit Tier 1 advice letters for winning bids: August 15
- Commission approval/rejection of winning bids: September 15
- DRAM Sellers submit supply plans to IOUs for upcoming year: September 30

As part of this process, the Joint Parties recommend that the Commission direct a third-party review of the DRAM structure itself and whether it is producing fair results, including the question of whether the DRAM should transition from a pay-as-bid model to a market clearing price model.

## **XII. CONCLUSION**

The Joint Parties appreciate the opportunity to comment on the DRAM Report.

Respectfully submitted,

August 23, 2019

/s/ MEGAN M. MYERS

Megan M. Myers

On Behalf of

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