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

OPENING COMMENTS OF CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT COUNCIL, CPOWER, AND ENEL X NORTH AMERICA, INC. ON PROPOSED DECISION REFINING THE DEMAND RESPONSE AUCTION MECHANISM

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December 5, 2019

SUBJECT INDEX

Page

TABLE OF AUTHORITIES

Page

CPUC DECISIONS

CPUC RULES OF PRACTICE AND PROCEDURE

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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)
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OPENING COMMENTS OF CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT COUNCIL, CPOWER, AND ENEL X NORTH AMERICA, INC. ON PROPOSED DECISION REFINING THE DEMAND RESPONSE AUCTION MECHANISM

The California Efficiency + Demand Management Council, CPower, and Enel X North America, Inc. (the Joint Parties) respectfully submit these Opening Comments on the Proposed Decision of Administrative Law Judge (ALJ) Hymes Refining the Demand Response Auction Mechanism (Proposed Decision or PD) mailed in this proceeding on November 15, 2019. These Opening Comments are timely filed and served pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure and the instructions accompanying the Proposed Decision.

I. SUMMARY

The Joint Parties appreciate the opportunity to respond to the PD. The following is a summary of these Opening Comments.

The Required Energy Quantity (REQ) should not be adopted. The PD's adoption of a REQ is not supported by the record, contradicts the PD's own finding that Resource Adequacy (RA) issues should be addressed in the RA proceeding, and does not to account for late delivery of meter data. This issue should be addressed in the new RA rulemaking where energy requirements for use-limited resources is being contemplated.

Revenue Quality Meter Data (RQMD) and customer data delivery must be addressed. The Joint Parties strongly disagree with the PD's assertion that more information is needed to support adoption of investor-owned utility (IOU) penalties for failure to deliver RQMD and other customer data. The Energy Division clearly recommended in the Demand Response Auction Mechanism (DRAM) Evaluation Report that RQMD delivery issues be addressed and the problem was acknowledged in the Step 2 workshop scope approved in Decision (D.) 19-07-009. This issue has been discussed in two workshops already so a third

workshop will not be effective in collecting the additional information specified in the PD; instead, the Commission should issue a ruling directing IOUs and DR providers (DRP) to respond to the questions listed in Table 3.

The Joint Parties agree that no replacement is needed for the Average August Bid Price Cap but there are concerns regarding the proposed assessment process. The relevance of the proposed criteria for triggering reconsideration of a replacement for the Average August Bid Price Cap is unclear. The PD should simply affirm the Energy Division's prerogative to revisit this issue in future DRAM refinements.

Clarification of Demonstrated Capacity (DC) audit guidelines and monitoring audit activity for DC and Qualifying Capacity (QC). The Joint Parties appreciate the PD's adoption of guidelines governing IOU audits including a clear timeline for initiation and completion of audits, and for payment of invoices. The proposed guidelines look reasonable and can be re-visited should the need arise.

The QC dispute resolution process is reasonable but the Commission should monitor how frequently it is used. IOUs that trigger this process should have good cause for doing so and the Energy Division should monitor this for potential signs of IOU abuse.

DRAM cost-effectiveness data requirements need to be refined. DRAM Sellers do not have the ability to calculate the A Factor because they do not have access to the information to calculate it. Also, it is not clear how the B-G Factors will be applied to the DRAM bids, so additional details are needed for the DRAM Sellers to provide this information. Finally, the PD should be revised to direct the IOUs to use the long-run avoided cost of capacity (LRAC) in their DRAM bid assessments.

The proposed milestones for invoice receipts are prudent. These will hopefully improve the likelihood that only DRPs with a sincere intention to accept a DRAM contract will participate in the DRAM going forward.

Clarity is needed regarding the requirement to provide California Independent System Operator (CAISO) settlement data. There is a lack of specificity regarding the PD's requirement to provide documentation to the contracting IOU showing CAISO settlement data and there are several questions that should be answered before approving this requirement. The Commission should address these questions in a workshop so that a more detailed proposal can be approved by the Commission.

II. A REQ SHOULD NOT BE ADOPTED

The Joint Parties have serious concerns regarding the proposed Required Energy Quantity (REQ) of 30 MWh per MW of Average QC for May-October. Adoption of an REQ contradicts the PD's own finding that RA-related DR issues should be addressed in the RA proceeding, is not supported by the evidence, and would be highly problematic to implement.

A. The PD Errs by Misrepresenting D.19-10-021

The PD misleadingly references a statement in D.19-10-021 as the justification for creating an REQ for DRAM resources and stating that RA has both capacity and an energy requirement. The Joint Parties fail to see where the Commission has transformed the RA capacity obligation into both a capacity and energy requirement and fail to see how D.19-10-021 provides the foundation for imposing an energy requirement upon DRAM resources, while still in a pilot phase.

The PD states, "This is consistent with existing Commission policy where, affirming the purpose of the resource adequacy program, the Commission stated that the program should 'ensure that sufficient energy flows into California when the system is peaking, in order to maintain grid reliability.'"[1] However, the statement cited in the PD actually refers to the need for RA capacity that is imported into California to provide the associated energy. D.19-10-021 states, "*One* [emphasis added] of the goals of the RA program is to ensure that sufficient energy flows into California when the system is peaking in order to maintain grid reliability."[2] However, this statement in D.19-10-021 is without citation to any prior RA decision, specifically in reference to the other two RA decisions referenced in D.19-10-021, which are D.04-10-035 or D.05-10-042. Further, D.19-10-021 does not create a minimum energy requirement for import contracts. Instead, D.19-10-021 upholds the existing requirements for import contracts to qualify as RA, and clarifies and also establishes minimum bidding periods. DRAM already has mandated bidding requirements established through the Availability Associated Hours (AAH) in order to qualify for RA. Therefore, it is not clear at all how D.19-10-021 can be interpreted that the RA requirement now carries with it a minimum energy requirement for RA resources, nor is it clear how this would clearly apply to DR resources or more specifically to a subset of DR resources that are served by third parties through DRAM.

[1] Proposed Decision, at p. 13.
[2] D.19-10-021, at p. 8.

Despite the lack of foundation, the PD's representation of the unreferenced statement in D.19-10-021 would lead one to conclude that delivery of energy to meet peak demand was the sole and exclusive purpose of RA, when it clearly is not. One could easily conclude that a primary purpose of RA is to provide adequate capacity, plus a reserve margin to meet peak system and local demand. Therefore, the characterization in the PD that the purpose of RA is to ensure sufficient energy to meet peak needs does not reflect the entirety of the purpose of RA, to date.

This is a significant departure in the interpretation of RA requirements that should not be undertaken in the PD of a DR proceeding. D.19-10-021 and its applicability to the DRAM was never discussed in workshops or comments and the PD lays no foundation as to why a REQ ought to be adopted for DRAM as a result of this Decision.

B. The PD contradicts its own determination that RA-related DR issues will be addressed in the RA proceeding.

The PD attempts to justify adoption of a REQ by citing prior Commission decisions that approved minimum energy requirements.[3] As an initial point, none of the three RA decisions cited support an REQ and the PD provides no citations to support one. Second, the PD explicitly finds that RA-related DR issues should be addressed in the RA rulemaking.[4] Indeed, the recently-approved Order Instituting Rulemaking (R.) 19-11-009 includes within its preliminary scope the potential for minimum energy requirements for RA resources.[5] Thus, in approving an REQ for Auction Mechanism resources, the PD is contradicting itself and preempting the new RA rulemaking. Consistent with the finding in the PD that RA-related issues should be addressed in the RA proceeding, the Commission should address the issue of an REQ by making a staff proposal in the new RA rulemaking so that it can be considered in the context of potential energy requirements for all use-limited RA resources and not solely DRAM resources. Doing otherwise risks getting ahead of this issue before it can be considered more comprehensively in the RA rulemaking and potentially prejudicing the outcome.

[3] Proposed Decision, at p. 15.
[4] Proposed Decision, Finding of Fact 97.
[5] R.19-11-009, at p. 5.

C. The comparison of DRAM resources to out-of-state RA resources, and the IOUs' Capacity Bidding Program (CBP) and local capacity resources is flawed.

The PD claims prior decisions pertaining to out-of-state RA resources as a precedent for the Commission to impose an REQ on DRAM resources, including D.19-10-021.[6] However, D.19-10-021 affirms the existing requirements for imports to count for RA are appropriate and does not adopt a minimum dispatch requirement for import capacity. Instead, it clarifies the meaning of the phrase, "cannot be curtailed for economic reasons", for import contracts to qualify for RA capacity.[7]

The PD also errs in equating a trigger price with an REQ. The PD cites the trigger prices used by the IOUs' CBPs and all-source local capacity resource solicitations as precedent for adopting a REQ for DRAM resources.[8] However, a trigger price and REQ are fundamentally two very different things. Generally speaking, an energy market trigger price is a price at or below which a resource is required to bid in the energy market. The amount of time that a resource with a trigger price is dispatched is based on how frequently the energy market reaches the trigger price. If the energy market never reaches the trigger price within a given year, then that resource is not expected to dispatch. Conversely, the REQ as described in the PD specifies the number of hours each MW of a DRAM resource must be dispatched regardless of energy market prices. So, even if energy market prices are very low, DRAM resources would be required to dispatch even if those resources with a trigger price are not dispatched.

The Joint Parties also notes that the CBP trigger price is only meant to serve as a minimum bid price and is not meant to serve as a "hard" trigger; i.e. the IOU is not obligated to dispatch their CBP if there are sufficient resources to meet the need. This flexibility is perfectly appropriate but it should not be misconstrued as an REQ. For some local capacity resources procured through an all-source local capacity resource solicitation, it very well may be appropriate to adopt a unique trigger price linked to a specific local condition to ensure that the resource will be dispatched when it is needed. For example, an IOU might observe that a certain critical load level within a load pocket tends to correlate with a specific energy market price. Including a contractual obligation that the contracted resource will dispatch at that specified

[6] Proposed Decision, at p. 15.
[7] D.19-10-021, at Ordering Paragraphs 2 and 3.
[8] Proposed Decision, at p. 15.

price would ensure that the local reliability requirements are met when local load reaches a certain level. However, specifying an REQ in this instance would not be practical because it would not ensure that the local resource was being dispatched exactly when load in the local area reaches a critical level.

D. Implementation of the proposed REQ would be highly problematic.

The PD ignores the possibility that there could be an insufficient number of hours within the Availability Assessment Hour (AAH) timeframe from May-October when the CAISO day-ahead market price will meet or exceed the opportunity cost of each DR resource. The analysis cited by the PD indicates that the highest priced 30 hours in 2017 and 2018 add up to $10,506 and $13,342, respectively.[9] However, some of these hours could have occurred outside the AAH and outside of the May-October period. Also, the PD does not indicate whether the highest-prices occurred for a full hour or only in sub-hour (e.g. 15-minute) intervals. This is relevant because for some DRAM resources, dispatching for 15 minutes at a time is highly undesirable due to the opportunity cost relative to the energy market benefits.

The Joint Parties see a flaw in the PD's assertion that the REQ will give DRPs the flexibility to bid and dispatch when market prices are above their marginal costs.[10] There is nothing in the record to indicate what these marginal costs are so the PD appears to assume that market prices will exceed the marginal costs of all DR resources for a sufficient number of hours during the AAH. Furthermore, there is nothing to guarantee that future energy market prices will be sufficiently high for DRPs to meet their marginal costs while complying with the REQ. The Commission should not force DRAM Sellers to sell their energy at prices below their opportunity costs to satisfy an arbitrary availability requirement.

The Joint Parties recommend that if any REQ should be implemented, the requirement should be spread across all months for which a DRAM resource is contracted. Though energy prices tend to be higher during the May-October period, this is not always the case. The PD should be revised to allow DRPs to count dispatches any time of the year against the REQ. Because high energy market prices tend to correlate with system need, expanding the delivery period would motivate DRAM Sellers to dispatch their resources when they are most needed.

[9] Proposed Decision, at p. 19.
[10] Proposed Decision, at p. 20.

E. The proposed penalty is unreasonably high.

The Joint Parties have serious concerns about the PD's proposed penalty. DRAM Sellers may be put into a position where they either lose money by bidding below their opportunity cost simply in order to satisfy the REQ or they pay a penalty for not satisfying the REQ. In either scenario, they would lose money. To help mitigate this possibility, if the Commission ultimately approves an REQ, the decision should explicitly state that all market dispatches and test events conducted pursuant to the Demonstrated Capacity requirement approved in D.19-07-009 should count against the REQ. Though this would not eliminate the possibility of DRAM Sellers being forced to lose money, it would at least ensure that all dispatches are counted against the REQ.

F. Any REQ should be delayed until RQMD can be timely delivered.

If an REQ is adopted, the Commission should link its implementation to the resolution of the current delays in RQMD data delivery. The Joint Parties understand that IOUs are making improvements to their data delivery capabilities and that more time is needed to see them through, but until each IOU is able to reliably and timely deliver complete RQMD, the REQ should be suspended. For instance, CPower has only received its final RQMD associated with several DRAM resources from June in November. For these same resources, no data after June has yet been received. While this sounds like an extreme case, at least one IOU does not deliver RQMD if the service account has not yet been billed and is known to possess a non-trivial percentage of customers who are being billed several months in arrears. If an REQ was in place now, CPower would be unable to determine if it had satisfied its REQ before the end of October and would risk being penalized through no fault of its own. Until all IOUs are able to timely provide complete RQMD, DRAM Sellers will be unable to track their progress against the REQ on a month-to-month basis because these data will indicate the actual number of MWh each DRAM resource has delivered during an event. Referring to Item 4 in Appendix C of the PD, delays in timely delivery of complete RQMD will put DRAM Sellers at risk of being unfairly penalized because they will not know whether they have satisfied the REQ. The Joint Parties recommend that no REQ be adopted until RQMD can be provided in time for DRAM Sellers to assess their progress in complying with it. In the alternative, any penalty associated with RQMD delays should be waived or applied to the applicable IOU rather than the DRAM Seller.

G. If adopted, a REQ should be applied at the contract level, not the resource level.

If the Commission ultimately adopts an REQ for the DRAM, it should be applied at the contract level, not the resource level. This would allow DRAM Sellers to make adjustments to the customer composition of each resource as needed throughout the year and would not limit their ability to meet their contractual obligations. For instance, if a DRAM resource loses a large customer during the contract period, the DRAM Seller would have the flexibility to replace the lost capacity and associated energy with another customer on a different resource, if necessary. This would not abrogate the proposal above that penalties be waived due to undelivered RQMD or passed to the delinquent IOU.

III. RQMD AND CUSTOMER DATA DELIVERY MUST BE ADDRESSED

A. RQMD delivery deficiencies are real and sufficient evidence exists for Commission action.

The Joint Parties are dismayed by the PD's proposal to kick the can down the road yet again on the issue of RQMD delivery times. The PD states, "we find that there is insufficient information regarding the frequency, causes and consequences of Revenue Quality Meter Data delays to allow us to determine whether penalties are necessary."[11] The Joint Parties wholeheartedly disagree with this statement. The DRAM Evaluation Report provides a recommendation to "develop a remedy in the DRAM RFO Pro Forma contracts for IOU failure to deliver timely, complete, and correct Revenue Quality Meter Data (RQMD)."[12] The Energy Division staff and the consultant who developed the report evidently found that there was a sufficient amount of evidence to support making this recommendation. Unfortunately, the evidence underlying this recommendation has not been submitted into the record but if the Energy Division made the recommendation, the Joint Parties would find it hard to believe there was no evidence to support it.

Commission acceptance of the legitimacy of the RQMD delivery problem is further supported by the Commission's January 23, 2019 Ruling which specifically directed that proposals for addressing RQMD data delivery issues be discussed in February working group

[11] Proposed Decision, at p. 23.
[12] Energy Division's Evaluation of Demand Response Auction Mechanism Final Report, issued January 4, 2019, at p. 118.

discussions.[13] This ruling did not request additional evidence of RQMD delivery problems, it only directed that parties develop solutions for these problems. During the February working group discussions, no party made the claim that all RQMD was being delivered on a timely basis. In spite of the recommendations developed during these workshops, no action was taken in D.19-07-009 but directed that RQMD Penalties/Contract Remedy proposals be developed in the Step 2 workshops in July. Decision 19-07-009 said only that the Step 2 working group process was meant to further develop the record but did not specify that additional evidence was needed to demonstrate that an RQMD data delivery problem. Indeed, the Step 2 policy questions listed in Appendix C of the decision implicitly acknowledged that there is a problem with RQMD delivery. Question 5 asks, "What improvements could be made to streamline communication between Utilities and Providers regarding *missing data, data quality concerns and gaps in data*? [Emphasis added].[14] Pursuant to the guidance provided in Appendix C of D.19-07-009, multiple proposals were put forth in the *Final Report of the Demand Response Auction Mechanism Working Group* (Step 2 DRAM Working Group Report).[15]

In spite of the recommendations made in the DRAM Evaluation Report by the Energy Division and independent evaluator, and two rounds of recommendations in the February and July 2019 workshops, and implicit acknowledgment by the Commission in its January 23, 2019 ALJ Ruling and D.19-07-009 that RQMD delivery is a problem that needs to be addressed, it is unclear why the Commission still does not believe that this is a sufficiently severe problem as to warrant penalties. If the Commission was not confident at any time up until it approved D.19-07-009 that sufficient evidence existed to support that there is an RQMD delivery problem, it had several opportunities to state this and request additional information. The fact that there is an open complaint at the Commission because a DRAM Seller is unable to receive its RQMD would seem to support the DRPs' contention that RQMD delivery is a problem and that the IOUs require more motivation to provide the data needed for DRAM Sellers to demonstrate their performance and invoice the IOUs. Additionally, it is worth noting that regarding CPower's

[13] "Administrative Law Judge's Ruling Providing a Plan for Addressing the Proposed Improvements to the Demand Response Auction Mechanism and Establishing Two Working Groups to Develop Proposals", Attachment A, at p. 5, January 23, 2019.
[14] D.19-07-009, Appendix C.
[15] "Final Report of the Demand Response Auction Mechanism Working Group", August 9, 2019, at pp. 14-19.

situation discussed above, it has not filed a complaint with the Commission and has been working constructively with the IOU in question to manage the data issues rather than engage in litigation, despite data being consistently several months delayed for customers amounting to a minimum of 5-10% of the capacity it delivers to this IOU under CPower's DRAM contract. If this PD is adopted as written, DRAM Sellers may have no choice but to engage in litigation to avoid an erroneous and onerous penalty.

B. Another working group process to address RQMD delivery issues would not be helpful.

The Joint Parties disagree that a third working group process is necessary nor would it be useful. As demonstrated in the Step 2 DRAM Working Group Report, the IOUs and DRPs have opposing positions on how to address the RQMD delivery problem and another workshop is not going to change this.[16] If the Commission requires additional evidence, then the Joint Parties recommend that parties be directed to submit written responses to the questions provided in Table 3 of the PD and a determination made by the Commission on the basis of these responses, the DRAM Evaluation Report recommendation, and the February and July workshop reports. The Joint Parties offer the following initial responses to some questions in Table 3:

Question 1b. What is the frequency of Providers or Scheduling Coordinators receiving Revenue Quality Meter Data beyond the T+48B CAISO deadline? For at least one utility approximately 10% of data is received past the T-48B CAISO deadline.

Question 2. What are the causes of missing or delayed Revenue Quality Meter Data? Causes are both meter reading and processing and, more disconcertingly, one IOU's inability to forward meter data until it has passed through its billing system. Much missing data stems from this process. In the instance where this is the issue, no preliminary estimated data is provided and there is simply no data available until after billing occurs. There is no timeline to correct this issue.

Question 3c. What are other impacts from missing or delayed Revenue Quality Meter Data? If the REQ is adopted the inability of DRAM Sellers to correctly estimate their compliance would put them in a penalty or litigation position. The Joint Parties also note that in addition to problems with RQMD delivery, there are also serious problems

[16] *Id*.

with the timely delivery of initial customer data sent following customer authorization, as well as delayed estimated data delivery. Delayed initial customer data prevents a DRP from enrolling the affected customers into CAISO resources in a timely manner and could limit the amount of capacity a DRP is able to provide. Estimated meter data is typically delivered with a two-day delay, but as noted above, for one IOU, estimated data is not provided at all for some customers. On other occasions, estimated data has been delivered weeks after the day of the meter reading. This has made it impossible for DRAM Sellers to create baselines for upcoming events and quickly gauge performance, which would be especially important should the Commission adopt an REQ. Given that RQMD is only delivered once a month, DRAM Sellers must rely on more frequent estimated data for basic operations.

If DR is to be a nimble, readily available resource with a substantial energy delivery requirement, the Commission must clarify the rules around timely estimated data delivery in addition to RQMD data and establish penalties for failure to provide all necessary data. To address this issue, the Energy Division should expand the scope of the Table 3 questions to include IOU provision of initial customer and estimated meter data so as to establish an evidentiary record for a future Commission decision.

IV. THE JOINT PARTIES AGREE THAT NO REPLACEMENT IS NEEDED FOR THE AVERAGE AUGUST BID PRICE CAP BUT THERE ARE CONCERNS REGARDING THE PROPOSED ASSESSMENT PROCESS

The Joint Parties agree with the PD that a replacement for the Average August Bid Price Cap is unnecessary at this time and supports authorizing the Energy Division to develop additional protections if necessary.[17] However, the conditions that would trigger this are unclear as is the relationship of these triggers to the potential for improper bidding behavior.

The PD adopts the following triggers to develop additional protections: 1) if DRAM bids are dispersed narrowly, or 2) there are large price variations across different DR procurement mechanisms.[18] The first trigger is unclear in that it does not specify whether the dispersal of DRAM bids is to be measured for each bidder individually, across bidders within a single IOU's auction, across multiple IOUs' auctions for a given year, or across multiple years. The second

[17] Proposed Decision, at p. 8.
[18] Proposed Decision, at p. 8.

trigger is similarly unclear in that the PD does not specify whether the price variations are to be measured for a single or all bidders, across one or multiple IOUs, and within one auction year or across multiple auction years. Like the first trigger, depending on how the Commission defines the second trigger, it is unclear how a variation in prices in and of itself is an indicator of improper bidding. The dispersal of bids may not be indicative of improper bidding practices. For instance, a narrow range of bids by a DRP may simply mean that opportunity costs of its customers are similar; similarly, a wide range of bids could be a reflection of a wide range of customer opportunity costs. Bid grouping could also be due to bidding strategies – a wide range of bids could reflect an attempt to achieve price discovery and a narrow set of bids could be an indication that the DRAM bidder believes it has a competitive price and does not want to deviate from it. The Joint Parties recommend that these triggers be removed. Bids are already limited to the Long Run Avoided Cost of Capacity and bid prices have been competitive since the DRAM began.[19] Furthermore, given the significant reduction in the DRAM budget, it seems doubtful that there will be unreasonably high bids in the 2020-2023 auctions unless current DRAM participants exit the market. Based on the PD's proposed process for making future adjustments to the DRAM, the Energy Division will always have discretion to reconsider price mitigation measures in the future so the overly-vague triggers proposed in the PD are unnecessary. In fact, they could be a significant distraction from more important matters if the Energy Division is obligated to assess bid distribution in each auction for no discernable benefit.

V. CLARIFICATION OF DC AUDIT GUIDELINES AND MONITORING AUDIT ACTIVITY FOR DC AND QC

The Joint Parties appreciate the PD's adoption of guidelines governing IOU audits including a clear timeline for initiation and completion of audits, and for payment of invoices. The proposed guidelines look reasonable and can be re-visited should the need arise.

VI. THE QC DISPUTE RESOLUTION PROCESS IS REASONABLE BUT THE COMMISSION SHOULD MONITOR FOR POTENTIAL ABUSE

The Joint Parties are supportive of the proposed informal QC dispute resolution process.[20] However, the Joint Parties foresee the possibility of a scenario in which an IOU could arbitrarily trigger the informal dispute resolution process every month, thereby forcing a DRAM Seller to

[19] Decision 19-07-009, Finding of Fact 3.
[20] Proposed Decision, Ordering Paragraph 12.

be derated or conduct a test event. IOUs that trigger this process should have good cause for doing so and the Energy Division should monitor this for signs of IOU abuse.

VII. CERTAIN DR ISSUES MUST URGENTLY BE ADDRESSED IN THE RA PROCEEDING

Though the Joint Parties respects the PD's determination that all RA-related DR issues be addressed in the RA proceeding, the Joint Parties remain concerned about follow-through. As the Joint Parties argued in their respective December 3, 2019 opening comments to the new RA Order Instituting Rulemaking (OIR), there are several important issues that must be addressed in the first half of 2020, so the best way to ensure that they are addressed in the RA proceeding is to create a dedicated track that operates in parallel with the primary track.[21] Otherwise, because most RA proceedings aim for a final decision in June of each year, DR issues will continue to be squeezed out of the proceeding scope. In an attempt to impress upon the Commission the necessity for prompt attention to key RA issues, the following are the key DR-related issues the Joint Parties identified in their respective opening comments to the RA OIR:

- Guidelines for application of DR Load Impact Protocols to third-party DR Resource Adequacy (RA) contracts
- RA Reporting Template changes
- Role of the Loading Order in RA procurement
- Local RA by "slow" DR

VIII. DRAM COST EFFECTIVENESS DATA REQUIREMENTS NEED TO BE REFINED

It is not clear how the A-G Factors will be applied to DRAM bids as directed in the PD.[22] Significant clarification is needed so the Joint Parties welcome the directive for the Energy Division to work with parties to develop these details. As an initial point, DRAM Sellers do not have the ability to determine the A Factor, which is the driver for cost-effectiveness because the IOU's avoided cost of capacity is protected from public disclosure as confidential and market

[21] "Opening Comments of the California Efficiency + Demand Management Council on the Order Instituting Rulemaking to Oversee the Resource Adequacy Program, Consider Program Refinements, and Establish Forward Resource Adequacy Procurement Obligations" on Order Instituting Rulemaking R.19-11-009, December 3, 2019; "Joint Comments of CPower, Enel X North America, Inc., and EnergyHub ("Joint DR Parties") on Order Instituting Rulemaking R.19-11-009, December 3, 2019.
[22] Proposed Decision, Ordering Paragraph 14.

sensitive.[23] DRAM Sellers, as well as any market participant, do not have access to this information. Therefore, it is not possible for DRAM Sellers to calculate the A.

In addition, the Joint Parties disagree with the continued use of the short-run avoided cost of capacity (SRAC) by the IOUs to evaluate DRAM bids. The PD would continue to allow this practice on the grounds that doing so "does not impact the capacity bid evaluation and selection of the bids."[24] However, using the SRAC to value DRAM bids does allow the IOUs to continue to represent that DRAM bids have a negative value. If the Commission believes that DRAM must be cost effective, then DRAM resources should be assigned their appropriate value even as a pilot. If, as the PD states, that using the SRAC versus the LRAC does not impact DRAM bid evaluation, then using the LRAC should present no problems to the IOUs.[25]

IX. MILESTONES FOR INVOICE RECEIPTS ARE PRUDENT

The Joint Parties support the PD's proposed milestones. These will hopefully improve the likelihood that only DRPs with a sincere intention to accept a DRAM contract will participate in the DRAM going forward.

X. CLARITY IS NEEDED REGARDING REQUIREMENT TO PROVIDE CAISO SETTLEMENT DATA

The Joint Parties are concerned by the lack of specificity regarding the PD's requirement to provide documentation to the contracting IOU showing CAISO settlement data.[26] This was never addressed in the Step 2 DRAM Working Group Report and parties were never given an opportunity to respond to any proposal. Because the exact data to be provided to the IOUs is not defined in the PD, the Joint Parties are unable to advise in these comments on what data may be appropriate and/or practical to provide. Though the Energy Division is directed to lead the development of the reporting template, it is unclear what prerogative DR providers will have to object to providing certain data if they feel it goes beyond the guidelines provided in the PD. Furthermore, there is no language in the PD specifying what departments within each IOU will receive the data, how the data should be used, and how it should be handled (i.e. confidentiality protections). In light of all of this uncertainty, the Joint Parties recommend that these questions be addressed in a workshop and a more detailed proposal be approved by the Commission.

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[23] *Id.*, Ordering Paragraph 15.
[24] *Id.*, at p. 8.
[25] *Id.*,
[26] *Id.*, at p. 20.

XI. THE PROPOSED AUCTION MECHANISM REFINEMENT PROCESS IS REASONABLE

The Joint Parties support the proposed refinement process. However, the PD should be revised to explicitly include the proposed Appendix C among the areas eligible for ongoing refinements because the REQ process is technical in nature.

XII. CONCLUSION

The Joint Parties appreciate the opportunity to comment on the Proposed Decision.

Respectfully submitted,

December 5, 2019

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APPENDIX A

CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT COUNCIL, CPOWER AND ENEL X NORTH AMERICA, INC. PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDERING PARAGRAPHS FOR THE PROPOSED DECISION OF ALJ HYMES

California Efficiency + Demand Management Council, CPower and Enel X North America, Inc. propose the following modifications to the Findings of Fact, Conclusions of Law, and Ordering Paragraphs in the Proposed Decision of ALJ Hymes Refining the Demand Response Auction Mechanism mailed in A.17-01-012, et al., issued on November 15, 2019 (Proposed Decision).

Please note the following:

- A page citation to the Proposed Decision is provided in brackets for each Finding of Fact, Conclusion of Law, or Ordering Paragraphs for which a modification is proposed.
- Added language is indicated by **bold type**; removed language is indicated by **~~bold strike-through~~**.
- A new or added Finding of Fact, Conclusion of Law, or Ordering Paragraph is labeled as "**NEW**" in **bold,** underscored capital letters.

PROPOSED FINDINGS OF FACT:

~~4. [69] The use of the short-term avoided cost of capacity versus the long-run avoided cost of capacity does not impact the capacity bid evaluation and selection of the bids.~~

~~7. [70] If Auction Mechanism resources are not being dispatched, they are neither used nor useful, nor are they meeting the environmental objectives of California or the goal of the Auction Mechanism established in D.19-07-009.~~

~~8. [70] Auction Mechanism resources are both resource adequacy capacity and energy products.~~

~~12. [70] The Commission has imposed energy requirements on other resource adequacy resources.~~

~~**14. [70] Without the establishment of a minimum dispatch requirement, the Commission cannot address the concerns in the Evaluation Report that the Auction Mechanism resources were the least active among the resources in the CAISO market and the associated energy bids were higher than other resources.**~~

~~**16. [71] The Commission must adopt the minimum dispatch requirement in time for the 2021 Auction Mechanism, otherwise, the results of implementing the requirement cannot be considered in the Auction Mechanism evaluation.**~~

~~**17. [71] It is appropriate, fair, prudent, and timely to adopt and implement a minimum dispatch requirement and a related penalty structure for the 2021 Auction Mechanism.**~~

~~**21. [71] Replacing the time requirement with an energy requirement in a minimum dispatch requirement provides the Commission with a tool to potentially attain success in the Auction Mechanism while giving Providers more flexibility.**~~

~~**23. [71] May through October represent the primary seasonal demand response months.**~~

~~**24. [71] The revised minimum dispatch requirement is not a hard trigger but rather a flexible requirement allowing Providers to perform over the course of five months.**~~

~~**25. [71] The point of the minimum dispatch requirement is to give Providers the flexibility to competitively bid and dispatch demand response resources when market prices are above their marginal costs.**~~

~~**29. [72] There is insufficient information regarding the frequency, causes, and consequences of Revenue Quality Meter Data delays to determine whether penalties are necessary.**~~

New: A minimum dispatch requirement for Auction Mechanism resources should be addressed in the Resource Adequacy proceeding with other use-limited resources.

New: There is sufficient information and evidence in the record to support penalties for Revenue Quality Meter Data delays.

PROPOSED CONCLUSIONS OF LAW:

~~**4. [80] The Commission should adopt a minimum dispatch requirement in this decision.**~~

~~**5. [81] The Commission should adopt a revised minimum dispatch requirement based on energy instead of time.**~~

PROPOSED ORDERING PARAGRAPHS:

1. [83] The Director of the Energy Division is authorized to work with stakeholders through the Demand Response Auction Mechanism (Auction Mechanism) refinement process adopted in Decision 19-07-009, and further defined in Ordering Paragraph 26 below, to develop a recommendation for Commission approval, to replace the average August bid price cap if **it is deemed necessary.** ~~**one of the following happens: 1) capacity bid prices in the Auction Mechanism are dispersed narrowly, or 2) there is a large price variation across different demand response procurement mechanisms.**~~

2. [83] Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company shall ~~**continue the**~~ use of the long run avoided cost of capacity to calculate the benefits of a resource in the Demand Response Auction Mechanism.

~~**3. [83-84] Beginning with the 2021 Demand Response Auction Mechanism, Demand Response Auction Mechanism Sellers shall deliver 30 megawatt hours for each megawatt of the average qualifying capacity in the months of July through September, as set forth in Attachment 1 entitled, "Appendix C – Minimum Energy Dispatch Requirements." The required energy quantity shall be delivered during the contract months the months of May through October and during the Availability Assessment Hours. If the energy delivery requirement is not met, Sellers will be assessed a penalty based upon the following calculation: *$10,000/MW X Average Qualifying Capacity X (1- delivered energy quantity/required energy quantity) = Delivered Energy Penalty $* Providers shall submit documentation to the contracted Buyer showing California Independent System Operator settlements for the delivery of the required energy quantity, along with the calculation of average Qualifying Capacity at the time of the October Demonstrated Capacity Invoice submission. Sellers may omit price and revenue data.**~~

~~**4. [84] The Director of the Energy Division is authorized to work with stakeholders to develop a reporting template for the purposes of submission of documentation verifying Seller compliance with Ordering Paragraph 3 of this decision. The reporting template shall be ready for use in the 2021 Demand Response Auction Mechanism.**~~

7. [84-85] The Director of the Energy Division is authorized to investigate the ~~**alleged**~~ delays in Revenue Quality Meter Data delivery times through **responses to the questions indicated in Table 3 of this decision.** ~~**the use of the working group process and the Demand Response Auction Mechanism evaluation contractor. The working group shall explore the questions indicated in Table 3 of this decision and develop a report. No later than one year from the issuance of this decision, the working group**~~ **Responses to the Table 3 questions** shall **be** provide**d** ~~**the report**~~ to the evaluation contractor **and**~~**. The report shall be**~~ included as part of the Demand Response Auction Mechanism evaluation; the evaluation contractor shall provide recommendations to the Commission regarding whether penalties should be imposed.

NEW: If a Seller is unable to submit documentation at the time of the October Demonstrated Capacity Invoice submission due to a delay on the part of the Utility in providing Revenue Quality Meter Data, then the Provider's obligations to confirm compliance with this energy delivery showing shall be waived until such time as the Provider has necessary RQMD data from the Utility.

NEW: If a Provider is not able to calculate its REQ due to missing meter data from an IOU any penalty associated with missing data shall be waived.