

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE
STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company for Approval of Its Proposals and Cost Recovery for Improvements to the Click-Through Authorization Process Pursuant to Ordering Paragraph 29 of Resolution E-4868. (U39E)	A.18-11-015 (filed November 26, 2018)
And Related Matters.	A.18-11-016 A.18-11-017

**JOINT RESPONSE OF CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT
COUNCIL, CALIFORNIA ENERGY STORAGE ALLIANCE, HOME ENERGY
ANALYTICS, MISSION:DATA COALITION AND OHMCONNECT, INC.
TO THE JOINT CASE MANAGEMENT STATEMENT OF PACIFIC GAS &
ELECTRIC, SOUTHERN CALIFORNIA EDISON, AND SAN DIEGO GAS &
ELECTRIC**

1. Introduction

Pursuant to the Administrative Law Judge Andrea McGary’s instructions at the July 1st, 2020 case management conference held in the above-referenced consolidated dockets, California Efficiency + Demand Management Council (the “Council”), California Energy Storage Alliance (“CESA”), Home Energy Analytics (“HEA”), Mission:data Coalition (“Mission:data”) and OhmConnect, Inc. (“OhmConnect”; together, the “Joint Responders”) respectfully submit this Joint Response to the Joint Case Management Statement of Pacific Gas & Electric (“PG&E”), Southern California Edison (“SCE”) and San Diego Gas & Electric (“SDG&E”; together, the

“Joint IOUs”) filed June 9, 2020 (the “Joint IOU Statement”).¹ Together, the Joint Responders represent over 170 firms that provide energy efficiency, demand management, demand response, energy storage, rooftop solar, and other distributed energy resources (“DERs”) across the state of California.

2. Issue #12 from the Scoping Memo Should Not be Severed From This Proceeding

In Assigned Commissioner Martha Guzman Aceves’s Scoping Memo and Ruling dated May 27, 2020 (“Scoping Memo”), thirteen (13) issues are identified to be resolved in these consolidated proceedings. In the Joint IOU Statement, the Joint IOUs object to the inclusion of Issue #12, which reads, “Should the IOUs current click-through programs for Demand Response Providers be expanded to include other distributed energy resource and energy management providers?” The Joint IOUs state:

While Applicants agree that the use of Click-Through as a means for third party energy service providers to obtain access to utility and customer data is within scope, the Applicants believe there are questions about what types of information should be available to different types of third-party energy service providers, the issue of indemnification for the Utilities, and the larger concern that the broader questions about who should be eligible to access those different types of data and at customer expense have been raised in numerous Commission proceedings. To avoid the potential for inconsistent guidance on these issues, Applicants believe issue twelve should be the subject of a proceeding specifically focused on the

¹ Pursuant to the Commission’s Rules of Practice and Procedure 1.8(d), Mission:data confirms that CEDMC, CESA, HEA and OhmConnect have authorized Mission:data to file this Joint Response on behalf of their organizations.

broader questions of data access for third party energy service providers to support the expansion of distributed energy resources (DERs).²

The Joint Responders strongly object to severing Issue #12 from consideration in the present docket. Such a severing would be inappropriate and unreasonable, and would conflict with Resolution E-4868. It would also make the present docket impossible to adjudicate until Issue #12 had been separately resolved because the issues in the Scoping Memo are inextricably linked; the result would be further delays to customer receiving the full energy-saving benefits of advanced metering infrastructure (“AMI”). For these reasons, and as detailed below, the Joint IOUs’ request to sever Issue #12 should be rejected.

A. The Joint IOUs’ “concerns” regarding data access for third party service providers have already been addressed in D.11-07-056 and D.13-09-025.

The Joint IOUs state a “broader concern” regarding “who should be eligible to access those different types of data.” Stating that this question of eligibility has been “raised in numerous Commission proceedings,” the Joint IOUs argue, without adequate justification, that expansion of the click-through enhancements to all DERs should be postponed to a future proceeding. The Joint Responders strongly disagree with the suggestion that eligibility of non-demand response DERs to receive customer data with permission is in any way unclear or unsettled.

Following the enactment of Senate Bill 17 (Padilla) in 2009 and Senate Bill 1476 (Padilla) in 2010, the Commission undertook one of the most comprehensive rulemakings on privacy in the country. Decision D.11-07-056 established thoughtful and detailed privacy requirements on

² *Joint Case Management Statement of PG&E, SCE and SDG&E*. Application A.18-11-015 *et al.* (consolidated). Dated June 9, 2020 at 2.

energy-related data for utilities, vendors to utilities, and customer-authorized third parties of all types. A subsequent decision, D.13-09-025, established technical methods for customers to authorize third parties of their choosing to receive energy-related information, as well as codified the eligibility criteria of third parties. In D.13-09-025, the Commission opted for a simple approach, establishing four eligibility criteria: Third parties must (1) obtain the requisite customer authorization; (2) meet technical eligibility requirements; (3) acknowledge receipt of the relevant Commission privacy rules; and (4) not be prohibited by the Commission from receiving such data.³ Decision D.13-09-025 makes no distinction between third parties that use customer energy data for different uses. For example, it does not establish one set of requirements for solar energy providers, another for energy efficiency providers, or another for bill management providers. Nor does Decision D.13-09-025 establish different eligibility criteria for third parties serving residential customers versus third parties serving commercial or industrial customers.

These Commission decisions have determined the overarching treatment of customer-authorized third parties, their eligibility to receive information from utilities, and other matters such as dispute resolution procedures. These decisions were thorough, reasonable, and unanimous actions by the Commission. The notion that third party eligibility is somehow not on a sound basis in California is simply untrue. Furthermore, if the Joint IOUs take issue with any of the provisions of D.11-07-056 or D.13-09-025, they can file petitions to modify those decisions; the present docket is not an appropriate venue to reconsider prior Commission decisions.

³ Decision D.13-09-025. September 19, 2013. Finding of Fact #40 at 67-68.

Furthermore, PG&E seems to contradict the premise of the request because, in its own Application, PG&E notes that it has already expanded the click-through authorization process to all third parties, not merely demand response providers.⁴ Notably, this work was implemented without the need for a separate proceeding to consider the “broader issues” suggested by the Joint IOUs. For its part, SCE in its opening testimony supports expanding the click-through improvements to DERs without a separate proceeding. SCE states:

SCE’s vision for Click-Through is that it will eventually become the primary means for third parties to obtain access to customer data. As such, SCE supports providing data via Click-Through to all types of DER providers upon proper customer authentication and authorization.⁵

In the Joint IOU Statement, the IOUs do not provide specific considerations that have emerged to justify a reversal of the position of PG&E and SCE. Furthermore, to the Joint Responders’ knowledge, PG&E, SCE and SDG&E have not taken any action to modify previous decisions concerning third party eligibility. Not only do the Joint IOUs fail to provide an adequate justification for severing Issue #12 from the present docket, but two of the three Joint IOUs argued the opposite in opening testimony. Therefore, it would be inappropriate to move

⁴ “This solution, which third parties and customers successfully use today, allows PG&E to authenticate the customer, to obtain a valid authorization, to transmit data securely, and to terminate access when a customer revokes an authorization. Since the click-through process builds upon SMD [Share My Data], it is already available to any third party seeking customer authorization to release data from electric and gas customers.” A.18-11-015 *et al.* (consolidated), *Pacific Gas & Electric Company Improvements to Click-Through Customer Data Access Application*. Prepared Testimony dated November 26, 2018 at 1-10:18-24.

⁵ A.18-11-015 *et al.* (consolidated). *Testimony of Southern California Edison Company in Support of its Application in Compliance with Ordering Paragraph 29, Resolution E-4868, Seeking Cost Recovery for Improvements to the Click-Through Authorization Process*. Dated November 26, 2018 at 26:6-8.

Issue #12 to a separate proceeding and the Joint Responders urge the Commission to reject their request.

B. Severing Issue #12 would necessarily require postponing all other issues until Issue #12 is adjudicated.

The Joint Responders point out that click-through enhancements have already been significantly delayed by many years. Because Issue #12 is interconnected to Issues #1 through #11, the reality is that, should the Commission decide to consider Issue #12 in a separate docket, the Commission would simultaneously be making a decision to delay consideration of *all* click-through enhancements until after Issue #12 has been resolved. Such a result would be inappropriate because California ratepayers would not receive benefit from enhancements to data-sharing with DERs for months or potentially years.

The Joint Responders wish to underscore to the Commission that the click-through enhancements that are the subject of this docket have already seen delays of approximately 10 years, depriving customers of the many benefits of advanced metering infrastructure (“AMI”) such as improved tools to help manage their electric bills. Making energy information electronically accessible, convenient, and “portable” to third party energy management firms has been a saga that began in 2009 and is still ongoing. In Decision D.09-12-046, the Commission required the Joint IOUs to provide “an authorized third party with access to the customer’s usage information collected by the utility” by the end of 2010. (This deadline was not achieved using modern, electronic methods.) In Decision D.11-07-056, the Commission, in Ordering Paragraph 8, required the Joint IOUs to “each file an application that includes tariff changes which will provide third parties access to a customer’s usage data via the utility’s backhaul when authorized

by the customer. The three utilities should propose a common data format to the extent possible and be consistent with ongoing national standards efforts.” Then, two years later, the Commission approved the Joint IOUs’ applications in Decision D.13-09-025, which authorized cost recovery for the Joint IOUs to develop Green Button Connect (“GBC”) systems that allow customers to authorize any eligible third party to receive energy usage and related data electronically. The Joint IOUs’ GBC platforms were not immediately available for use by Californians; after a 12-18 months for an initial implementation, some IOUs’ GBC platforms then entered a “pilot” phase that was limited to a small number of third party energy management firms. Then, in a series of direct participation demand response proceedings in 2015-2016, two problems became clear. First, the IOUs’ GBC platforms would not support “revenue-quality” meter data suitable for settlement at the California Independent System Operator.⁶ Second, even if they did, the Joint IOUs’ GBC platforms were alleged by DRPs to be cumbersome to use, presenting tedious and unnecessary obstacles to customers enrolling in demand response and authorizing a DRP to access the customer’s energy-related data.⁷ Subsequently, Decision D.16-06-008 attempted to resolve some of these issues by, among other things, ordering the Joint IOUs, Energy Division staff and interested stakeholders to convene workshops in order to propose a detailed, streamlined, “click-through” authorization process. In 2017, the Joint IOUs’ filed Advice Letters to implement some, though not all, of the enhancements asked for by third parties and DRPs. Protests to the Advice Letters were filed, and

⁶ See, e.g., the October 9th, 2014 workshop materials in Application A.14-06-001 *et al.*, as referenced in *Opening Brief of OhmConnect* in A.14-06-001. December 22, 2014 at 7.

⁷ See, e.g., *Testimony of Seth Frader-Thompson on behalf of the Joint Demand Response Parties* in Application A.14-06-001 *et al.*, dated March 25, 2016.

the Commission then issued Resolution E-4868 in August, 2017 in order to resolve many, though not all, of the issues identified in the Joint IOUs' GBC platforms. After another 18 months of workshops and, once again, resolution of some, but not all, of the issues inhibiting customer utilization of the Joint IOUs' GBC platforms, we have arrived at the present docket. And now the Joint IOUs have proposed yet another delay in implementing numerous necessary improvements across the state.

The Joint IOUs' information technology ("IT") systems involving customer consent to share information with third parties have been the subject of Commission proceedings for over a decade. And yet, as demonstrated in the 2018 protests filed in the present docket by Mission:data, OhmConnect and Home Energy Analytics, much remains to be done to ensure that customers have simple and convenient mechanisms for accessing energy management services from third parties. Put simply, the Commission should be rightfully exasperated at the snail's pace of progress to date. Severing Issue #12 from the present docket in order to consider it separately on the basis of flawed logic serves little purpose but to further delay the already long-overdue improvements that are necessary for California ratepayers to realize the benefits of investments in AMI.

Even supposing that Issue #12 were to be severed, it would quickly become apparent to the Commission that Issues #1 through #11 are inextricably linked with Issue #12. For example, how could the Commission address the question of whether the click-through enhancements "comply with current Commission privacy rules" (Issues #3, #7, #11) if those rules are being amended in another docket? How could the Commission determine whether the Joint IOUs' applications currently pending are "just and reasonable" (Issues #1, #5, #10) if changes to the legal framework of third party eligibility are underway in a separate proceeding? The reality is that

these topics are inseparable: This is precisely why Issues #1 through #12 need to be considered together in a single proceeding.

Therefore, a decision to sever Issue #12 is necessarily a decision to indefinitely postpone consideration of Issues #1 through #11. Not only is such a postponement problematic for logical and due process considerations, as described below, but it also serves to further delay many of the customer benefits of AMI, for which ratepayers have paid some \$5 billion.

C. Issue #12 should be considered in the present docket for reasons of consistency and adherence to Resolution E-4868

The Scoping Memo's directive to consider Issues #1 through #13 should be maintained not only because of the logical relationships among them, but also in order to adhere to Resolution E-4868. A decision to sever Issue #12 amounts to a significant modification of Resolution E-4868 without sufficient due process. For these reasons alone, the Joint IOUs' proposal should be rejected.

The Joint IOUs' argue that "inconsistent guidance" would somehow result by the Commission addressing Issue #12 in the present docket. The Joint Responders strongly disagree: In fact, it would be inconsistent *not* to include Issue #12 in the present docket. First of all, the fact that Applications A.18-11-015, A.18-11-016 and A.18-11-017 were consolidated by ALJ McGary's ruling on December 5, 2019 means that all of the state's electric IOUs will be treated consistently in the present docket. While technical details of the Joint IOUs' back-end software and information technology ("IT") systems obviously differ, the features and functionalities usable by both customers and third party demand response providers ("DRPs") will be assessed

through the same lens in this single, consolidated proceeding. The Joint IOUs' concern regarding inconsistency is misplaced.

Second, Issues #2, #3, #6, #7, #10 and #11 directly address questions of consistency. The aforementioned issues ask whether each IOU's proposal "complies with Commission Resolution E-4868, Ordering Paragraph 29" and "complies with current Commission privacy rules and California consumer data privacy and cyber security laws." Consistency of the Joint IOUs' proposals with existing Commission orders and state law is already "baked in" to the docket's scope. If inconsistencies with Commission orders or state law are ultimately discovered through the process of testimony, cross examination and briefs, then the Joint Responders believe the present docket is both an adequate venue, and the appropriate one, for the Commission to address such inconsistencies.

Finally, a decision to sever Issue #12 would, necessarily, be a significant modification of Resolution E-4868 without due process. Ordering Paragraph 29 of Resolution E-4868 requires the Joint IOUs to file applications addressing "a proposal to expand the click-through solution(s) to other distributed energy resource and energy management providers." The Commission came to this conclusion by reasoning:

We find that supporting one third-party that provides multiple services [*i.e.*, DERs other than demand response] is consistent with many of the Commission policies and findings of research studies around resource integration... We find that it is reasonable to take steps to plan for future expansion to other distributed energy resource and energy management providers now, in order to "future-proof" the solution(s) and protect the ratepayer investment.⁸

⁸ Resolution E-4868. Dated August 24, 2017 at 67-68.

It is not procedurally appropriate to modify Resolution E-4868 by severing Issue #12 because that would amount to a retraction of the Commission's conclusion above.

It should be mentioned that, prior to the Commission's issuance of Resolution E-4868, SDG&E made the same argument that expanding the "click-through" solution to other DERs should be delayed. First, in a reply to protests to its first set of click-through enhancements, SDG&E argued that expansion of the click-through enhancements to all DERs "should be addressed in a broader context."⁹ The Commission overruled SDG&E and approved the aforementioned language in Resolution E-4868, Ordering Paragraph 29. Then, in 2018, SDG&E made yet another attempt at delay by arguing in opening testimony in the present docket that "an expansion of click-through to all DERP [DER providers] is premature and imprudent" and "SDG&E believes that the CTP [click-through process] should not yet be expanded for use by DERPs."¹⁰ The Joint IOU Statement represents SDG&E's third attempt at further delaying the adjudication of expanding the click-through enhancements to other DERs. The Commission has already considered SDG&E's request and rejected it.

3. Conclusion

For all the reasons stated above, severing Issue #12 is neither necessary, appropriate or desirable. The Joint Responders urge the Commission to reject the Joint IOUs' request.

⁹ *SDG&E Reply to Protest of Advice Letter 3030-E*. January 30, 2017 at 6-7.

¹⁰ *Prepared Direct Testimony of Raghav Murali on Behalf of San Diego Gas & Electric Company*. Chapter 1, November 26, 2018 at 8-9.

