



December 7, 2020

Via E-mail ([EDTariffUnit@cpuc.ca.gov](mailto:EDTariffUnit@cpuc.ca.gov))  
Energy Division  
California Public Utilities Commission  
**Attention: Tariff Unit**  
505 Van Ness Avenue  
San Francisco, CA 94102

**Re: Comments of the California Efficiency + Demand Management Council on Draft Resolution E-5110 re Request of San Diego Gas & Electric Company, Pacific Gas and Electric Company, and Southern California Edison Company for a Demand Response Auction Mechanism Pilot in 2022**

Dear Energy Division,

The California Efficiency + Demand Management Council (the "Council")<sup>1</sup> appreciates the opportunity to respond to the request for comment on the Draft Resolution E-5110 Request of San Diego Gas & Electric Company ("SDG&E"), Pacific Gas and Electric Company ("PG&E"), and Southern California Edison Company ("SCE") for a Demand Response Auction Mechanism ("DRAM") Pilot in 2022.

## I. BACKGROUND

The Council is a statewide trade association of non-utility businesses that provide energy efficiency, demand response, and data analytics services and products in California.<sup>2</sup> Our member companies employ many thousands of Californians throughout the state. They include energy efficiency ("EE"), demand response ("DR"), and grid services technology providers, implementation and evaluation experts, energy service companies, engineering and architecture firms, contractors, financing experts,

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<sup>1</sup> The views expressed by the California Efficiency + Demand Management Council are not necessarily those of its individual members.

<sup>2</sup> Additional information about the Council, including the organization's current membership, Board of Directors, antitrust guidelines and code of ethics for its members, can be found at <http://www.cedmc.org>. The views expressed by the Council are not necessarily those of its individual members.

workforce training entities, and manufacturers of EE products and equipment. The Council's mission is to support appropriate EE and DR policies, programs, and technologies to create sustainable jobs, long-term economic growth, stable and reasonably priced energy infrastructures, and environmental improvement.

## II. DISCUSSION

### **The Draft Resolution Correctly Rules that Unsupported Proposals Are Out of Scope.**

The Council appreciates the Draft Resolution's disqualification of several investor-owned utility ("IOU") proposals that were not included in the DRAM Working Group ("WG") report.<sup>3</sup> This affirms the DRAM WG process, not solely the advice letter at the end, as the route through which technical changes to the pilot are to be made.

### **The Draft Resolution Correctly Declines to Adopt a New Penalty Structure.**

The Commission is correct to forego any changes to the DRAM penalty structure at this time. Any such changes can have a significant impact on the success of the DRAM, so it is entirely appropriate to wait for the DRAM Independent Evaluator to collect evidence and consider whether the current penalty structure, which has only come into effect in 2020, has been effective in providing the right incentives for Sellers to perform. The Draft Resolution also correctly notes that there is already a qualitative factor the IOUs can apply when assessing DRAM bids that penalizes bidders who deliver less capacity than contracted for in prior contracts.

### **No Evidence Was Provided that Additional Customer Movement Restrictions Are Needed.**

The Draft Resolution errs in concluding that Sellers are moving high-performing customers across Resource IDs in order to inflate market dispatches or capacity tests.<sup>4</sup> This was never demonstrated by the Energy Division or the IOUs in the DRAM WG report ("Report"). In fact, it is unclear how the IOUs would be able to know at the time of the DRAM Working Group workshops, which were held on June 30, July 15, and August 3, whether the current customer movement restrictions have been ineffective because they had only gone into effect beginning in June with the commencement of the delivery period of the 2020 DRAM contracts.

The IOU proposal in the Report stated that "DRPs have indicated that some of their customers are higher performing or are more inclined to be dispatched."<sup>5</sup> This should not be controversial at all because each customer is unique and will have different capabilities. Even the IOUs' proposal concedes that "any DRAM portfolio will

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<sup>3</sup> Draft Resolution, at pp. 5-6.

<sup>4</sup> Draft Resolution, at p. 13.

<sup>5</sup> AL 3608-E et al, Appendix A, at p. 11.

have stronger performing customers and weaker performing customers.”<sup>6</sup> However, none of the DR providers (“DRP”) in the DRAM WG made these statements in the context of saying that they shift their highest performing customers to inflate their performance as a general practice. The IOUs’ out-of-context use of the DRPs’ uncontroversial statement does not constitute any admission that Sellers are gaming the customer movement rules to their benefit. Therefore, there is no evidence to show that any wrongdoing is occurring; lacking that, additional customer movement restrictions are unjustified.

The sole justification for these additional customer movement restrictions is that, according to the IOUs, “parties have looked upon customer shifting as perhaps being a bit suspect” because it is “difficult to verify at best, or at worst, as an opportunity to inflate testing or dispatch results...”.<sup>7</sup> As the Council highlighted in its October 5 Protest, the IOUs have not even indicated that they believe customer shifting is suspected. Instead, they cite the concern of unnamed “parties”.<sup>8</sup> So, as the IOUs’ proposal demonstrates, they 1) do not explicitly state that they have concerns about customer shifting, and 2) have no evidence to support the need for this proposal, only on a vague suspicion that additional restrictions are needed. This does not meet any evidentiary standard because the IOUs have not cited which parties have found inter-month customer movements to be problematic, nor have they shown that Sellers are even engaging in this behavior.

Without the flexibility to manage the composition of their Resource IDs, Sellers could be unnecessarily and unfairly constrained from delivering on their DRAM contracts. The Council continues to maintain that there are legitimate business reasons for Sellers to move customers between Resource IDs. These reasons include:

- A customer that is being utilized to meet the requirements of a DRAM contract may need to be moved to a Resource Adequacy contract signed with a community choice aggregator, with one or more new customers being used to backfill the DRAM contract.
- Customer movements may be required due to changes to a customer’s capabilities due to new enabling technologies or load characteristics.
- Some customers have varying load curtailment capabilities in different months, so Resource IDs may need to be rebalanced on occasion.
- If a Seller has a shaped DRAM contract in which they provide different amounts of capacity across different months, this may require movement of customers into or out of Resource IDs.

The Draft Resolution has not refuted any of these reasons and therefore should be revised to decline this proposed revision. Instead, the Independent Evaluator should

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<sup>6</sup> AL 3608-E et al, Appendix A, at p. 11.

<sup>7</sup> AL 3608-E et al, Appendix A, at p. 10.

<sup>8</sup> *Id.*

assess the frequency and circumstances of customer movements and make a recommendation based on actual evidence over the course of the 2020 delivery period, and not on the hearsay of unnamed parties.

### **Testing the Net Long-Run Avoided Cost (“LRAC”) Proposal as a Cost-Effectiveness Protocol is Reasonable.**

The Council supports the Draft Resolution’s adoption of the Net LRAC proposal as a cost effectiveness methodology to test in 2022 rather than the IOU proposal. This is a creative solution by the Commission to consider a simpler approach that will require significantly less time and resources to utilize. Though the Council continues to oppose any cost effectiveness methodology for DRAM on the basis that it is a highly competitive auction, it will be interesting to see how effective the Net LRAC proposal will be in valuing DRAM bids.

### **A Customer Information Working Group Will Provide a Constructive Forum to Address Customer Data Transfer Issues.**

The Council greatly appreciates the Draft Resolution’s directive to create a Customer Information Working Group (“CIWG”) to further discuss the Council’s Customer Data Transfer Process proposal.<sup>9</sup> This is a very important issue for the Council’s DRP members because it directly impacts their ability to deliver on their DRAM contracts. The Council would also like to recognize the IOUs’ and other parties’ willingness to participate in a separate dedicated technical discussion on this issue to help inform the Council’s proposal.

The Draft Resolution would require CIWG recommendations by May 1, 2021 for 2022 implementation. The Council recommends that the Commission should not limit recommendations to only those that can be implemented for 2022. The customer data transfer process is technology- and software-intensive, so any necessary improvements to IOU systems and processes may require more time to design and implement. In addition, some or all of the IOUs may need to request incremental funding. The Council would certainly like to have fixes in place for the 2022 delivery year but the Commission should be open to solutions that take more time if they will more effectively and sustainably address the underlying problems.

### **The Draft Resolution Misinterprets D.19-07-009’s Language on the Penalty Structure Applicability.**

The Draft Resolution claims that the penalty structure created in D.19-07-009 should be applied at the Resource ID level rather than at the contract level.<sup>10</sup> This claim is based on language embedded within Table 5 of the decision which specifies that Resource-level Qualifying Capacity (“QC”) and Demonstrated Capacity (“DC”) values

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<sup>9</sup> Draft Resolution, at Ordering Paragraph 5.

<sup>10</sup> Draft Resolution, at p. 31.

are compared in the context of the penalty structure. However, the actual language in the decision does not support this interpretation. The following statements clearly state that the DC-to-QC comparisons are meant to be applied at the supply plan level and not at the Resource ID level:

- “For Step One, we adopt a penalty structure for a shortfall in Demonstrated Capacity for a delivery month in comparison to the Qualifying Capacity in the monthly resource adequacy plan for that month.”<sup>11</sup>
- “As discussed in Section 3.2, the Evaluation Report recommends establishing penalties for non-performance when the Qualifying Capacity indicated on Supply Plans falls significantly below contracted capacity and when Demonstrated Capacity falls significantly below the Qualifying Capacity for the delivery month.”<sup>12</sup>
- “[A]t this time we focus solely on adopting a penalty structure for shortfalls in Demonstrated Capacity (for a delivery month in comparison to the Qualifying Capacity on the monthly resource adequacy Supply Plan for that month).”<sup>13</sup>

None of these quotes references a Resource ID-level DC-to-QC comparison. In addition, the decision draws a comparison to the Capacity Bidding Program (“CBP”) penalty structure which is applied at the aggregate, not resource, level: “We consider it a hybrid approach because the interim payment/penalty structure begins with a structure parties are familiar with, the structure used in the Capacity Bidding Program, and modifies it to take into consideration findings of the Evaluation Report and concerns of parties.”<sup>14</sup>

Other than the one-time reference to Resource ID in Table 5 of D.19-07-009, the relevant dicta throughout the decision clearly indicates the Commission’s intent that the QC and DC values be compared at the contract level, not the Resource ID level.

### **III. CONCLUSION**

Based on the arguments presented above, the Council recommends that the Commission adopt the proposals and recommendations provided above.

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<sup>11</sup> D.19-07-009, at p. 55.

<sup>12</sup> *Id.*, at p. 56.

<sup>13</sup> *Id.*, at p. 59.

<sup>14</sup> *Id.*, at p. 59.

Respectfully submitted,

December 7, 2020

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