

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric
Company (U 39 E) for Approval of its
Demand Response Programs, Pilots and
Budgets for Program Years 2023-2027

Application 22-05-002
(Filed May 2, 2022)

And Related Matters.

Application 22-05-003
Application 22-05-004

**JOINT REPLY BRIEF OF THE CALIFORNIA EFFICIENCY + DEMAND
MANAGEMENT COUNCIL, CPOWER, LEAPFROG POWER, INC., AND VOLTUS, INC.**

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California Efficiency + Demand Management Council (“the Council”), CPower, Leapfrog Power, Inc. (“Leap”), and Voltus, Inc. (“Voltus”) (collectively referred to herein as “the Joint Parties”) respectfully submit this Reply Brief in Application (“A.”) 22-05-002, et al. (“Demand Response Programs”). Through these Applications, Pacific Gas and Electric Company (“PG&E”), San Diego Gas & Electric Company (“SDG&E”), and Southern California Edison Company (“SCE”) seek approval of their DR programs, pilots and budgets. The Joint Parties’ Reply Brief is timely filed and served pursuant to the Commission’s Rules of Practice and Procedure (Rule 13.11) and the Assigned Commissioner’s Scoping Memo and Ruling (“Scoping Memo”), dated July 5, 2022.

**I.
THE COMMISSION SHOULD DIRECT PG&E, SCE, AND SDG&E TO CONDUCT A
2023 DRAM AUCTION FOR 2024 DELIVERIES**

Numerous parties, in Opening Briefs, including the Joint Parties, California Energy Storage Alliance (“CESA”), and OhmConnect, Inc. (“OhmConnect”), urged the Commission to adopt the Demand Response Auction Mechanism (“DRAM”) for 2024 deliveries through a 2023 solicitation.¹ There are numerous benefits to continuing the DRAM. To begin with, as CPower argued in its Opening Brief, the DRAM pilot solicitations are needed in 2023 to maintain existing, and grow new, market-integrated demand response (“DR”) resources, particularly in

¹ The Council and Leap Opening Brief, at pp. 3-5; CPower Opening Brief, at pp. 6-7; CESA Opening Brief, at p. 2; OhmConnect Opening Brief, at p. 1; and Voltus Opening Brief, at p. 2.

light of the ongoing blackout threats and the failure of California to grow DR resources.² Furthermore, the Joint Parties agree with CESA that the DRAM can support near-term emergency reliability needs and that “DRAM is seeing positive trends in customer enrollment and performance.”³ Similarly, CPower and Voltus argued that eliminating DRAM contravenes the Commission’s stated policy goals which are to increase DR.⁴

Furthermore, contrary to arguments made by PG&E, SCE, and SDG&E (collectively the investor-owned utilities (“IOUs”)) and the Public Advocates Office (“Cal Advocates”),⁵ there are limited options available for DR providers outside of DRAM. The Joint Parties agree with CESA that while there are venues outside of DRAM where DR providers can participate, the “DRAM represents an important ready-made mechanism to procure resources quickly.”⁶ Similarly, the Joint Parties agree with OhmConnect that “[w]hile other alternatives do exist, they do not provide a sufficient basis for the Commission to foreclose conducting a DRAM auction in 2023 for 2024 deliveries.”⁷ As stated by Voltus, “DRAM captures resources that other market opportunities cannot” and eliminating DRAM will reduce the total amount of DR registered by California retail customers.⁸

Lastly, the Joint Parties argue that discontinuing the DRAM would likely have a chilling effect on DRAM participation, even if the Commission ultimately chooses to retain it.⁹ As demonstrated by CPower:

Discontinuing DRAM for one year will likely destroy demand among some current participants, even if the Commission ultimately adopts the DRAM for the long-term; creates a detrimental “gap” year that will “decrease DR participation and shrink California’s capacity offerings in 2024 while forestalling the possibility of efficient transition to an improved DRAM program for Planning Year 2024-2027 solicitations;” will be “highly disruptive to engaged customers, especially if the Commission opts to establish a more permanent and/or non-pilot future for the DRAM,” and will “significantly undermine regulatory certainty and potentially depress future participation.” [all citations omitted].¹⁰

² CPower Opening Brief, at pp. 6-7.

³ CESA Opening Brief, at p. 3.

⁴ CPower Opening Brief, at p. 7 and Voltus Opening Brief, at p. 7.

⁵ Cal Advocates Opening Brief, at pp. 4-5; PG&E Opening Brief, at p. 10; SCE Opening Brief, at pp. 16-17; and SDG&E Opening Brief, at p. 4.

⁶ CESA Opening Brief, at p. 4.

⁷ OhmConnect Opening Brief, at p. 4.

⁸ Voltus Opening Brief, at pp. 3-4.

⁹ The Council and Leap Opening Brief, at pp. 5-6

¹⁰ CPower Opening Brief, at pp. 9-10.

As such, the Commission should reject arguments made by parties, such as PG&E and SDG&E, that a gap year would not have negative impacts on DR.¹¹ They have provided no evidence to support this argument and therefore it has no merit.

DR providers such as CPower, Leap, OhmConnect, and Voltus, not the IOUs, are in the best position to know how their respective customers will respond to a DRAM gap year. The fact that these parties have all testified and argued for the continuation of DRAM should be given significant weight by the Commission.¹² As such, the Commission should authorize another DRAM pilot auction.

II. THE COMMISSION MUST REJECT ARGUMENTS MADE BY THE IOUS AND CAL ADVOCATES THAT THE NEXANT REPORT INDICATES THAT DRAM SHOULD BE DISCONTINUED

Multiple parties, including the Joint Parties, CESA and OhmConnect discussed the numerous flaws contained within the DRAM evaluation conducted by Nexant (“Nexant Report”).¹³ The Joint Parties also raised concerns about the status of the Nexant Report and the fact that parties were not permitted to see the consultants’ calculations or submit discovery requests.¹⁴ As such, ALJ Toy’s Ruling ordering that the Nexant Report not be admitted into evidentiary record was appropriate.

However, even if the Commission were to consider the Nexant Report in its evaluation of whether to continue DRAM for another year, the Joint Parties disagree with the IOUs and Cal Advocates that the Nexant Report supports denial of 2023 DRAM solicitations.¹⁵ The Joint Parties agree with OhmConnect that:

Witnesses for SDG&E, SCE, and Cal Advocates misrepresent the Nexant Report’s findings by dismissing all evidence of the success of DRAM as unimportant and any improvements as either insignificant or completely nonexistent. However, the Nexant Report provides sufficient evidence of improved performance in the DRAM

¹¹ Opening Brief of PG&E, at p. 10 and Opening Brief of SDG&E, at p.

¹² See, e.g., The Council and Leap Opening Brief, at pp. 3-5; CPower Opening Brief, at pp. 6-7; OhmConnect Opening Brief, at p. 1; and Voltus Opening Brief, at p. 2.

¹³ The Council and Leap Opening Brief, at pp. 2-3; CESA Opening Brief, at p. 2; CPower Opening Brief, at pp. 11-14; OhmConnect Opening Brief, at pp. 6-10; and Voltus Opening Brief, at p. 6.

¹⁴ The Council and Leap Opening Brief, at pp. 2-3;

¹⁵ Cal Advocates Opening Brief, at p. 2; PG&E Opening Brief, at p. 2; SCE Opening Brief, at p. 9; and SDG&E Opening Brief, at pp. 4-5.

to warrant the Commission approving an additional DRAM auction under the current design.¹⁶

As stated by CPower, “the Nexant Report’s ‘observations’ certainly do not provide any evidentiary basis for the Commission to decline to authorize a *pilot* 2023 DRAM solicitation for 2024 deliveries especially without the opportunity to revise any of its ‘technical requirements.’”¹⁷

III. SCE AND SDG&E MAKE SEVERAL FALSE STATEMENTS WHICH MUST BE DISREGARDED BY THE COMMISSION

The Commission should reject the misleading and false statements made by SCE and SDG&E. SCE, in particular, made numerous egregious and incorrect statements. The Joint Parties do not identify every single one of these misstatements, but address several of them here. For example, SCE claimed that the Nexant Report found that there was a comparative lack of market participants in DRAM 2019-2021 as opposed to 2016-2019.¹⁸ This statement is disingenuous because the number of new market participants will naturally decrease over time because there are only a finite number of market participants. It would be unreasonable to expect the DRAM to continually attract new DR providers when the budget has been fixed at its current modest amount.

In addition, SCE claims that the DR resources that DRAM provides, “are not reliable because [DR providers] cannot be trusted to actually perform.”¹⁹ This statement is patently untrue, completely unsupported, and an unfair characterization of how DR providers have conducted themselves while participating in the DRAM. Furthermore, SCE ignores the fact that some DRAM providers also participate in the IOUs’ Capacity Bidding Program (“CBP”) and Base Interruptible Program (“BIP”), and SCE has made no similar claims regarding reliability (or lack thereof) of its own DR programs. If DR providers cannot be trusted to perform, then it must be asked why SCE would recommend that they participate in other programs.

Lastly, SCE claims that “DRAM constitutes a small and unreliable component of an otherwise robust and reliable ecosystem of DR programs. [Citation omitted]. There is no

¹⁶ OhmConnect Opening Brief, at p. 2.

¹⁷ CPower Opening Brief, at p. 14.

¹⁸ SCE Opening Brief, at p. 10.

¹⁹ *Id.*, at p. 16.

evidence to suggest that ending DRAM will result in less DR participation.”²⁰ As discussed above, several DR providers have explained that they lose customers when customers are switched to different programs. DRAM has yet to be compared on an “apples to apples” basis to IOU DR program performance, so SCE’s statement in support of its own programs at the expense of DRAM is without basis.

SDG&E also makes several erroneous statements. SDG&E claims that “the Nexant Report highlights the ongoing (and likely incurable) challenges that DRAM face.”²¹ It is unclear what evidence SDG&E is using to support this statement, as it neglects to specifically identify anything in the Nexant Report that supports this statement. This question was not addressed in the Nexant Report, nor was it in Phase I of this proceeding, and as such, SDG&E’s statement is completely speculative.

These spurious arguments made by SCE and SDG&E are not supported by the evidence and must be disregarded by the Commission.

IV. THE COMMISSION SHOULD ADOPT A 2023 DRAM BUDGET OF \$28 MILLION

The Council, CPower, and Leap argued that the budget for a 2023 DRAM auction should be \$28 million and Voltus argued that the budget should at least match 2022 contract year payouts.²² The Joint Parties support CPower who argued that there should be an increase in the previous DRAM budget due to funding set forth in Assembly Bill (AB) 205 which increased funding to procure additional demand-side resources to meet the State’s reliability needs.²³

V. CONCLUSION

The Joint Parties respectfully recommend that the Commission adopt the Joint Parties’ proposals contained herein and in the Joint Parties’ individual Opening Briefs.

²⁰ SCE Opening Brief, at p. 17.

²¹ SDG&E Opening Brief, at p. 5.

²² The Council and Leap Opening Brief, at p.6 ; CPower Opening Brief, at pp. 7-11; and Voltus Opening Brief, at p. 11.

²³ CPower Opening Brief, at p. 11.

Respectfully submitted,

October 28, 2022

/s/ JOSEPH DESMOND
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