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

OPENING BRIEF OF THE CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT COUNCIL AND LEAPFROG POWER, INC.

Dated: October 7, 2022

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SUMMARY OF RECOMMENDATIONS

Rule 13.11 of the Commission's Rules of Practice and Procedure requires that a "summary of the briefing party's recommendations [follow] the table of authorities." In summary, the Council and Leap recommend and request that the Commission do the following:

- Base the Commission Decision on the Phase I – DRAM issues on the evidentiary record.
- Adopt a 2023 DRAM auction for 2024 delivery.
- Adopt a 2023 DRAM auction budget of $28 million.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Establish Policies, Processes, and Rules to Ensure Reliable Electric Service in California in the Event of an Extreme Weather Event in 2021.	Rulemaking 20-11-003 (Filed November 19, 2020)

OPENING BRIEF OF THE CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT COUNCIL AND LEAPFROG POWER, INC.

California Efficiency + Demand Management Council ("the Council") and Leapfrog Power, Inc. ("Leap") respectfully submit this Opening 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 Council's Opening 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.
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.[1] Our member companies employ many thousands of Californians throughout the state. They include energy efficiency ("EE"), demand response ("DR"), and distributed energy resources ("DER") service providers, implementation and evaluation experts, energy service companies, engineering and architecture firms, contractors, financing experts, workforce training entities, and energy efficient product manufacturers. The Council's mission is to support appropriate EE, DR, and DER policies, programs, and technologies to create sustainable jobs, long-term economic growth, stable and reasonably priced energy infrastructure, and environmental improvement.

[1] 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.

Leap is a DR Provider ("DRP") founded in 2017 and headquartered in San Francisco, California. The company provides DR services to residential, commercial, industrial, and agricultural customers throughout the state of California. Through its technology platform, Leap enables DER providers in California to provide grid flexibility, delivering revenue for their customers and integrating additional demand-side resources into California electricity system. Leap believes that demand-side resources integrated into California's wholesale electricity market will play an increasingly important role in helping California achieve a resilient and zero carbon future. Leap is a registered DRP, as well as a registered Scheduling Coordinator, with the California Independent System Operator Corporation ("CAISO"). Leap has been a participant in the recent Demand Response Auction Mechanism ("DRAM") procurements and has entered into contracts with PG&E, SCE, and SDG&E to deliver DRAM capacity. Leap has received net qualifying capacity (NQC) via the Load Impact Protocol (LIP) process in both 2020 and 2021 and has filed a Load Impact Analysis report in 2022. Since 2021, Leap has contracted with over a dozen Community Choice Aggregators ("CCAs") to deliver DR-based Resource Adequacy.

II.
SUMMARY OF THE COUNCIL AND LEAP'S POSITIONS

As discussed in more detail below, the Council and Leap recommend:

- The Commission Decision on the Phase I – DRAM issues must be based on the evidentiary record.
- The Commission should adopt another 2023 DRAM auction for 2024 delivery.
- Discontinuing the DRAM will have numerous negative impacts even if the Commission ultimately chooses to retain it.
- It remains unclear what level of performance would warrant DRAM not being extended.
- The budget for a 2023 auction should be $28 million.

III.
THE COMMISSION DECISION MUST BE BASED ON THE EVIDENTIARY RECORD

On September 29, 2022, Administrative Law Judge ("ALJ") Toy issued a Ruling on Joint Motion to Admit Evidence on Demand Response Auction Mechanism ("September 29 ALJ

Ruling"). This Ruling ordered that the Demand Response Auction Mechanism Evaluation conducted by Nexant ("Nexant Report") will not be admitted into the evidentiary record at this time.[2] The Council, Leap, CPower, Inc. ("CPower") and Voltus, Inc. ("Voltus") all opposed admission of the Nexant Report for numerous reasons. As such, the Council and Leap believe ALJ Toy's Ruling was appropriate.

The Council and Leap have long had concerns with the content and exact status of the Nexant Report in this proceeding. One of the issues was that the accuracy of the analysis in the Nexant Report cannot be known. Furthermore, parties had no way to rebut derogatory claims made in the Report because the DR Providers have not been allowed to see the consultants' calculations, even those pertaining to them specifically, or submit discovery requests.

The Commission Rules of Practice and Procedure state that "[a] proceeding shall stand submitted for decision by the Commission after the taking of evidence, the filing of briefs, and the presentation of oral argument as may have been prescribed."[3] Furthermore, factual statements in opening briefs "must be supported by identified evidence of record."[4]

IV.
THE COMMISSION SHOULD ADOPT A 2023 DRAM AUCTION FOR 2024 DELIVERY

Pursuant to the Scoping Memo, the sole question to be addressed in Phase 1 as it pertains to DRAM is whether "the Utilities be directed to conduct Auction Mechanism solicitations in 2023, for 2024 deliveries, as a continued pilot without further technical refinements, and if so, what budgets should be authorized."[5] As stated in the Council and Leap's Opening Testimony, "[t]he results of the DRAM Evaluation are sufficiently positive to justify a 2023 auction for 2024 delivery."[6] As such, the Commission should disregard any recommendations made by PG&E, SCE, SDG&E and the Public Advocates Office ("Cal Advocates") to terminate the DRAM.[7] In

[2] September 29 ALJ Ruling, at p. 4.
[3] Commission Rules of Practice and Procedure, Rule 13.15.
[4] Commission Rules of Practice and Procedure, Rule 13.12.
[5] Scoping Memo, at p. 4.
[6] Opening Testimony of the California Efficiency + Demand Management Council and Leapfrog Power, Inc., submitted on August 5, 2022 ("Exhibit ("Ex.") Council-Leap-02"), at p. 2, lines 17-18.
[7] Pacific Gas and Electric Company Demand Response Auction Mechanism Pursuant to the July 5, 2022 Scoping Memo in A.22-05-002 Supplemental Testimony, submitted on August 5, 2022 ("Ex. PG&E-4"), at p. 2, lines 2-5; Southern California Edison Company's (U 338-E) Testimony in Support of its Application or Approval of 2023-2027 Demand Response Programs, submitted on May 2, 2022 ("Ex. SCE-03"), at p. 53, line 17 through p. 54, line 3; Prepared Supplemental Testimony of E Bradford Mantz

spite of what they have claimed, the Nexant Report results are not sufficiently negative to warrant suspending the DRAM while the Commission considers its long-term disposition in Phase 2 of this proceeding. The fact is, no party that has opposed the extension of the DRAM has been clear about the degree to which DR Provider performance is lacking, only that they believe it is inadequate.

The Council and Leap, along with California Energy Storage Alliance ("CESA"), CPower, Inc. ("CPower"), OhmConnect, Inc. ("OhmConnect"), and Voltus, Inc. ("Voltus") support the adoption of a 2023 DRAM Auction for a 2024 delivery.[8] There are many benefits to continuing DRAM. To begin with, as demonstrated by OhmConnect, DRAM resources are increasingly active in the CAISO market, market performance is showing steady improvement, and DRAM is also continuing to engage new customers, including low-income customers, to DR.[9] Furthermore, CESA and Voltus both correctly testified that continuing DRAM will provide an additional year of data to inform further DRAM auctions.[10]

The Council and Leap agree with Voltus that discontinuing DRAM is contrary to critical goals for California.[11] CPower also stated that California is in need of additional clean supply-side resources and DRAM can assist with providing these resources.[12] Similarly, CESA testified that shortfalls in capacity resources needed to address near- and mid-term reliability shortfalls in extreme and contingency scenarios support the continuation of the DRAM in 2023 to close supply-side gaps.[13]

– Chapter 1C on behalf of San Diego Gas & Electric Company, submitted on August 5, 2022 ("Ex. SDGE-1C"), at p. EBM-1, line 13 through p. EMB-2, line 16; and Public Advocates Office Opening Testimony on Application of Pacific Gas and Electric Company (U39E) for Approval of its Demand Response Programs, Pilots and Budgets for Program Years 2023-2027, submitted on August 5, 2022 ("Ex. CalAdvocates-02"), at p. 3, lines 13-14.

[8] Supplemental Testimony of Jin Noh on behalf of the California Energy Storage Alliance, submitted on August 5, 2022 ("Ex. CESA-01"), at p. 2, lines 7-8; Phase 1 Supplemental Testimony of CPower, Inc., on 2023 Demand Response Auction Mechanism and Nexant Report, submitted on August 5, 2022 ("Ex. CPower-1"), at p. 2, lines 6-9; Supplemental Testimony of OhmConnect, Inc. on the Demand Response Auction Mechanism, submitted on August 5, 2022 ("Ex. OhmConnect-2"), at p. 1, line 25 through p. 2, line 27; Supplemental Prepared Testimony of Voltus, Inc. on the Demand Response Auction Mechanism and Nexant Report (Phase I, Bridge Year), submitted on August 5, 2022 ("Ex. Voltus-01"), at p.

[9] Ex. OhmConnect-2, at p. 2, lines 1-4.

[10] Ex. CESA-01, at p. 2, lines 11-13 and Ex. Voltus-01, at p. 2.

[11] Ex. Voltus-01, at p. 6.

[12] Ex. CPower-1, at p. 7, lines 11-19.

[13] Ex. CESA-01, at p. 8, lines 6-8.

Lastly, the Council and Leap highlight the narrow scope of the DRAM-related element in Phase 1 of this proceeding, and agree with OhmConnect that

> Per the July 5, 2022 *Assigned Commissioner's Scoping Memo and Ruling*, as well as the July 14, 2022 *Email Ruling Regarding the Scope of Party Comment Concerning the Nexant Report*, parties are to comment on the limited question of whether the DRAM pilot should be continued without technical refinements for one additional year and at what budget. Because the scoping memo did not ask parties to submit proposals for refinements in their testimony, and because the abridged schedule for this Phase 1 did not include workshops to present and discuss proposals, OhmConnect interprets the scoping questions as disallowing technical refinements.[14]

Therefore, the Commission should direct the IOUs to conduct a DRAM solicitation in 2023, for 2024 without further technical refinements.

V.
DISCONTINUING THE DRAM WILL HAVE NUMEROUS NEGATIVE IMPACTS EVEN IF THE COMMISSION ULTIMATELY CHOOSES TO RETAIN IT

In their Opening Testimony, the Council and Leap stated that not having a DRAM auction for 2024 delivery would likely have a chilling effect on DRAM participation.[15] In addition, even if the Commission adopts the DRAM as a permanent program, after a "gap year" some participating customers could become disenfranchised and choose not to return to DRAM.[16] As such, the Council and Leap agree with CESA, CPower, OhmConnect, and Voltus that taking a gap year in the DRAM program cycle would be detrimental to DR participation in the State.[17]

The Council and Leap concur with OhmConnect that "a scenario in which DRAM is paused for 2024 but adopted as a long-term procurement mechanism in 2025 and beyond would significantly undermine regulatory certainty and potentially depress future participation.[18] Similarly, Voltus correctly testified that "[s]udden DRAM discontinuation would undermine

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[14] Reply Testimony of OhmConnect, Inc. on the Demand Response Auction Mechanism Pilot, submitted on September 2, 2022 ("Ex. OhmConnect-3"), at p. 1, lines 19-22.
[15] Ex. Council/Leap-02, at p. 5, lines 10-11.
[16] Ex. Council/Leap-02, at p. 5, lines 18-21.
[17] Ex. CESA-01, at p. 2, lines 14-15; Ex. CPower-1, at p. 8, lines 10-14; Ex. OhmConnect-2, at p. 2, lines 16-22; and Ex. Voltus-01, at p. 6.
[18] Ex. OhmConnect-2, at p. 2, lines16-18.

confidence in California's innovative energy programs, current and future, threatening investment in renewable and distributed energy resources and dampening participation."[19]

Thus, despite Cal Advocates' and SCE's contention that terminating DRAM will not have a negative impact on DR, the evidentiary record reflects that this would not be the case.[20] For example, Voltus testified that its "experience has shown that only about two-thirds of commercial and industrial customers have sufficient operational flexibility and administrative resources to quickly shift DR load to a different program in response to regulatory changes."[21] In addition, CPower demonstrates that

> It is CPower's experience, as an entity that has had fluctuating levels of DRAM contracts behind the three IOUs between 2015 and 2023, that a significant percentage of customers who have been engaged in DRAM will not switch to a utility tariffed program, such as the Capacity Bidding Program (CBP), if DRAM is not available to them. Most of these customers who stopped participating in DR after not being able to secure a place in a DRAM portfolio have remained on the sidelines and not re-engaged in Demand Response.[22]

Discontinuing the DRAM for even one year would have catastrophic impacts on DR. As discussed above, there are limited other comparable options for DR without DRAM and now is not the time to endanger DR when it can help California with its climate and reliability goals.

VI.
THE BUDGET FOR A 2023 AUCTION SHOULD BE $28 MILLION

The Council and Leap previously testified that the budget for a 2023 DRAM auction should be $28 million.[23] This is supported by Voltus who urged the Commission to adopt a "modest budget increase for the Bridge Year."[24] The Council and Leap reiterate their recommendation that this higher budget be adopted to deliver additional needed capacity to maintain reliability, and that "multiple DRAM auctions held in 2019

[19] Ex. Voltus-01, at p. 6.
[20] Southern California Edison Company's (U338-E) Testimony in Support of its Application for Approval of its 2023-2027 Demand Response Programs: Exhibit 8 – Reply Testimony on Nexant Report and Auction Mechanism, submitted on September 2, 2022 ("Ex. SCE-08"), at p. 5, lines 1-16.
[21] Ex. Voltus-01, at p. 2.
[22] Ex. CPower-1, at p. 7, line 26 through p. 8, line 2.
[23] Ex. Council/Leap-02, at p. 7, line 22 through p. 8, line 4.
[24] Ex. Voltus-01, at p. 4.

have already demonstrated that there is enough DRAM capacity available to absorb a $28 million budget."[25]

VII.
CONCLUSION

The Council and Leap respectfully recommend that the Commission adopt their proposals.

Respectfully submitted,

October 7, 2022

/s/ JOSEPH DESMOND

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[25] Ex. Council/Leap-02, at p. 8, lines 3-4.