

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

Application of Pacific Gas and Electric
Company (U39E) for Approval of its Demand
Response Programs, Pilots and Budgets for
Program Years 2023-2027.

And Related Matters.

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

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

**REPLY COMMENTS OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR
CORPORATION ON THE ADMINISTRATIVE LAW JUDGE RULING SEEKING
PARTY COMMENT ON DEMAND RESPONSE AUCTION MECHANISM QUESTIONS**

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I. Introduction

Pursuant to Rule 14.3 of the California Public Utilities Commission’s (“Commission”) Rules of Practice and Procedure, the California Independent System Operator Corporation (CAISO) respectfully submits reply comments on the March 30, 2023 *Administrative Law Judge Ruling Seeking Party Comment on Demand Response Auction Mechanism Questions and Providing Updated Public Version of the Demand Response Auction Mechanism Evaluation Report* (Ruling). In the Ruling, the Commission asks parties questions related to sharing data used in the Demand Response Auction Mechanism (DRAM) Evaluation Report submitted by Resource Innovations (formerly known as Nexant), which was released publicly with a reduced number of redactions (Nexant Report) on March 3, 2023.

In these reply comments, the CAISO emphasizes that the Commission should establish appropriate data protections, including a protective order or non-disclosure agreement, between the Commission and any party who may receive confidential versions of the Nexant Report or confidential data used in the development of the report. The CAISO tariff requires it to protect the confidential information of its market participants.¹ The CAISO provided certain confidential data to the Commission under an annual subpoena that the Commission agreed to

¹ See, e.g., CAISO Tariff, Section 20.

keep confidential and that its consultants used in preparing the Nexant Report.² The Commission must protect this confidential data by a suitable confidentiality agreement between the Commission and parties. The Commission should not adopt Southern California Edison Company's (SCE) suggestion that the Commission release another version of the Nexant Report with any data at least three years old and not redacted. For data the CAISO provides the Commission under subpoena, the Commission should consult with the CAISO on the potential release of data on a case-by-case basis.

II. Discussion

A. The Commission Should Establish Appropriate Data Protections Between the Commission and Any Party Who Receives the Confidential Nexant Report or Confidential Data Used in the Report.

In opening comments, parties generally supported³ or did not oppose⁴ the Commission providing DRAM sellers an individualized version of the Nexant Report with their respective results unredacted, and data specific to each seller used in the evaluation.⁵ Parties also supported or did not oppose the Commission providing the confidential version of the Nexant Report to the Commission's Public Advocates Office and potentially other "non-market participants."⁶ SCE and San Diego Gas and Electric Company (SDG&E) suggest that if DRAM sellers use confidential data to inform a position, then the Commission should make such confidential data available to any party in the proceeding who signs a confidentiality agreement.⁷ Pacific Gas and Electric Company (PG&E) suggests the Commission provide the Nexant Report and associated data to DRAM buyers subject to execution of a confidentiality agreement.⁸

² See, e.g. March 30, 2023 Combined Subpoena for General RA Information (confirming that "confirms that all confidential information contained in any documents produced by the CAISO in response to the above-referenced subpoena will be treated in accordance with the terms of the Confidentiality Letter Agreement between the Commission and the CAISO, dated April 28, 2004."), available at: <http://www.caiso.com/Documents/Mar30-2023-CaliforniaISO-General-Resource-Adequacy-Subpoena.pdf>.

³ California Efficiency + Demand Management Council (CEDMC) Opening Comments, p. 2.

⁴ PG&E Opening Comments, p. 2, SCE Opening Comments, p. 4, SDG&E Opening Comments, p. 3.

⁵ Ruling, p. 4.

⁶ CEDMC Opening Comments, p. 3, PG&E Opening Comments, p. 2, SCE Opening Comments, p. 4., SDG&E Opening Comments, p. 4.

⁷ SDG&E Opening Comments, pp. 3-4.

⁸ PG&E Opening Comments, p. 3.

The Commission should ensure there is a suitable protective order or non-disclosure agreement between the Commission and *any* party who receives the confidential Nexant Report or any confidential data used in the Nexant Report.⁹ Before releasing confidential information, the Commission should establish a confidentiality agreement with DRAM sellers, Cal Advocates, and any other entity the Commission ultimately grants access to confidential data from the Nexant Report. The Commission should also coordinate with the CAISO in advance of any release of confidential data or versions of the Nexant Report so the CAISO can provide advanced notice to its affected market participants that data will be disclosed by the Commission.¹⁰

B. The Commission Should Not Adopt SCE’s Recommendation that the Commission Make All Data Used in the Nexant Report Public After Three Years.

SCE suggests the Commission release another version of the Nexant Report in which the Commission does not redact data (including confidential data) that is at least three years old. The Commission should not adopt SCE’s suggestion. The CAISO provided confidential data to the Commission under subpoena that the Commission and its consultants used in developing the Nexant Report and agreed to keep confidential. The question of whether certain confidential data loses its sensitivity after three years must be considered on a case-by-case basis, giving the CAISO the opportunity to analyze whether a particular data set is no longer confidential under its tariff provisions and thus may be produced publicly. For data the CAISO provides the Commission under subpoena, the Commission should consult with the CAISO on the potential release of data on a case-by-case basis.

⁹ See, e.g., CAISO Tariff, Section 6.5.10.2 (specifying the means by which market participants and non-market participants can request and access Protected Data).

¹⁰ See, e.g., CAISO Tariff, Section 20.4.

III. Conclusion

The CAISO appreciates the opportunity to provide reply comments.

Respectfully submitted

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