

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

Order Instituting Rulemaking Regarding Policies,
Procedures and Rules for Development of Distribution
Resources Plans Pursuant to Public Utilities Code
Section 769.

Rulemaking 14-08-013
(Filed August 14, 2014)

And Related Matters.

Application 15-07-002
Application 15-07-003
Application 15-07-005
Application 15-07-006
Application 15-07-007
Application 15-07-008

**RESPONSE OF THE INDEPENDENT ENERGY
PRODUCERS ASSOCIATION TO APPLICATIONS FOR
APPROVAL OF DISTRIBUTION RESOURCES PLANS**

**INDEPENDENT ENERGY PRODUCERS
ASSOCIATION**

Steven Kelly, Policy Director
1215 K Street, Suite 900
Sacramento, CA 95814
Telephone: (916) 448-9499
Facsimile: (916) 448-0182
Email: steven@iepa.com

**GOODIN, MACBRIDE,
SQUERI & DAY, LLP**
Brian T. Cragg
505 Sansome Street, Suite 900
San Francisco, California 94111
Telephone: (415) 392-7900
Facsimile: (415) 398-4321
Email: bcragg@goodinmacbride.com

Attorneys for the Independent Energy Producers
Association

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In compliance with Rule 2.6(c) of the Commission’s Rules of Practice and Procedure, the Independent Energy Producers Association (IEP) respectfully submits its response to the applications of Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E) for approval of their Distribution Resources Plans (DRPs).¹ IEP has no response at this time to the applications of PacifiCorp, Liberty Utilities, or Golden State Water Company (Bear Valley Electric Service).

President Picker’s *Assigned Commissioner’s Ruling on Guidance for Public Utilities Code Section 769—Distribution Resource Planning* (ACR) issued on February 6, 2015, articulated three goals for the utilities’ DRPs: to modernize the electric distribution system to

¹ The ruling of Administrative Law Judge David Gamson of July 27, 2015, extended the due date for protests and responses to the utilities’ applications to August 31, 2015.

accommodate two-way flows of energy and energy services throughout the utilities' networks; to enable customer choice of new technologies and services that reduce emissions and improve reliability in a cost-efficient manner; and to animate opportunities for distributed energy resources (DERs) to realize benefits through the provision of grid services.² Equally important, the ACR highlighted the importance of promoting DERs in locations that will provide the greatest net benefits to the grid. Moreover, the ACR state the principle that "California's distribution system planning, design and investments should move towards an open, flexible, and node-friendly network system (rather than a centralized, linear, closed one) that enables seamless DER integration."³

IEP agrees with the ACR's emphasis on openness, inclusiveness, and competitiveness while ensuring overall grid reliability. Moreover, IEP urges the Commission to keep these critical goals in sight when considering the utilities' applications. IEP recognizes that the details of the proposed DRPs will be considered later in this proceeding. However, IEP would like to call the Commission's attention to a few foundational matters.

I. ACCESS TO NEEDED DATA SHOULD BE MAXIMIZED, CONSISTENT WITH SECURITY, CUSTOMER PRIVACY, AND COMPETITIVE CONCERNS

President Picker's ACR and the attached Guidance document instructed the utilities to include a proposed policy and procedures on data sharing in their proposed DRPs. If data was deemed to be confidential for competitive or security reasons, the utilities were to provide "an explanation for why data cannot be shared and a proposed alternative to sharing data that still support goals of DRPs." If the release of data would infringe on customer privacy or violate Commission decisions or state or local statutes, the utilities were to present "a proposed method for aggregating of anonymizing data so that it may be shared with third parties."

² ACR, p. 3.

³ ACR, p. 7.

Of the three large electric utilities, PG&E alone seems to embrace the intent of the Guidance to maximize access to data related to distribution resources. PG&E’s proposed policy includes “maximizing the amount of data available from the utility, customers and DER developers . . . without violating customer privacy or utility or third party physical or cyber security.”⁴ If customer privacy or legal and regulatory requirements prevent a direct release of data, PG&E will “appropriately anonymize or aggregate customer-specific, security-sensitive and proprietary data to maximize the access of customer, DER developers and other stakeholders to the data”⁵ PG&E also proposes “publicly-available processes and methodologies that provide more granularity and insights into distribution planning data.”⁶

To be sure, PG&E’s DRP does not provide much detail about how PG&E intends to accomplish these goals. But at least at a policy level, PG&E appears to take the position, consistent with the Guidance, that information relevant to the development and integration of DERs should be made available unless good reason is shown to withhold the data from the public. At the same time, PG&E acknowledges that concerns about grid security, customer privacy, and fair competition may require the aggregation or anonymizing of certain data.

By contrast, the DRPs of SCE and SDG&E seem to focus on how to restrict the flow of information to interested members of the public. SDG&E, for example, begins its discussion of data access by stating that “some data is inappropriate for public consumption and reasonable safeguards and restrictions should be implemented when sharing any non-public data.”⁷ While the substance of this statement seems similar to PG&E’s position, the tone of SDG&E’s DRP focuses on restrictions on access to data. SDG&E also emphasizes its position

⁴ PG&E’s DRP, p. 160.

⁵ PG&E’s DRP, p. 160.

⁶ PG&E’s DRP, p. 161.

⁷ SDG&E’s DRP, p. 89.

that policies and procedures for sharing data should “not expand existing state-approved and utility industry-supported philosophies, policies, and procedures related to data sharing,”⁸ a statement that fails to recognize that the data requirements for the development and integration of DERs may be different from previous contexts in which access to data has been an issue.

SDG&E proposes a burdensome process for obtaining data—even public data—that requires parties to meet certain criteria and to complete and submit a request form. SDG&E then determines whether the requested information can be provided and whether the party is “authorized” to receive the requested information. If SDG&E deems the information to be “sensitive,” it requires the party to enter into a contract and nondisclosure agreement and will review the party’s security controls.⁹

SCE also fails to recognize that access to data needed to develop and integrate DERs may differ the contexts in which the Commission previously considered data access. SCE’s DRP includes a discussion of the treatment of “market-sensitive” information that seems to have been borrowed directly from the Commission’s rules on **procurement** of wholesale energy, a distinctively different context from the data access needs for DER planning. SCE’s DRP states:

SCE’s distribution planning and DER deployment analysis is likely to produce confidential, market-sensitive information. Releasing market-sensitive information to DER developers could severely harm SCE’s ability to acquire DERs performing grid functions at the lowest possible cost to its customers.¹⁰

The DRP goes on to propose the establishment of a Distribution Planning Review Group modeled on the existing Procurement Review Groups and populated by non-market participants

⁸ SDG&E’s DRP, p. 89.

⁹ SDG&E’s DRP, pp. 94, 96.

¹⁰ SCE’s DRP, p. 119.

that are willing to sign a nondisclosure agreement.¹¹ This passage immediately raises some questions:

- What sort of “DERs performing grid functions” does SCE intend to acquire? How can acquisition of DERs be reconciled with President Picker’s vision of the utilities as technology- and operationally neutral electric distribution system operators (DSOs)?¹² How can SCE function as a DSO and a “neutral marketplace coordinator” if it owns or is seeking to acquire some of the DERs?
- What sort of market-sensitive information does SCE think its distribution planning and analysis will produce? How does SCE think this information be used to manipulate the market? How does SCE define the market that is the focus of SCE’s concerns?
- In light of the fact that Public Utilities Code section 769 defines distributed resources to include “distributed renewable generation resources, energy efficiency, energy storage, electric vehicles, and demand response technologies,” and the Guidance defines DERs to include solar photovoltaic distributed generation, residential energy efficiency, residential charging of electric vehicles, and residential demand response,¹³ who are “non-market participants”? Under the definitions of section 769 and the Guidance, anyone who installs rooftop solar on his or her home, participates in an air conditioning cycling program, plugs in an

¹¹ SCE’s DRP, p. 120.

¹² ACR, pp. 7-8.

¹³ Guidance, p. 14.

electric vehicle at home, or buys an LED light bulb would be a participant in the distributed energy market.

- What exactly would be the function of the proposed Distribution Planning Review Group. For the reasons described above, if “market participants” are barred, who would actually be eligible to participate in the group?

IEP notes that SCE includes a summary of laws or decisions on data confidentiality and privacy as Appendix F to its DRP. That summary omits several critical legal provisions. The California Public Records Act, for example, begins with a legislative declaration that “access to information concerning the conduct of the people’s business is a fundamental and necessary right of every person in this state.”¹⁴ Similarly, the California Constitution states, “The people have the right of access to information concerning the conduct of the people’s business”¹⁵ The state Constitution further provides, “A statute, court rule, or other authority, including those in effect on the effective date of this subdivision, shall be broadly construed if it furthers the people’s right of access, and narrowly construed if it limits the right of access.”¹⁶

These constitutional and statutory provisions suggest that the Commission’s proper focus in this proceeding is to ensure the maximum access to relevant data. IEP acknowledges that the release of certain data could threaten the cybersecurity or physical security of the electric grid, compromise customers’ right to privacy, or undermine competition. But the focus of the DRPs should be to maximize access to data that is relevant to the development and integration of DERs and supportive of the Commission’s goal of increasing the

¹⁴ Gov’t Code § 6250.

¹⁵ Cal. Const. art. 1, § 3, subd. (b)(1).

¹⁶ Cal. Const. art. 1, § 3, subd. (b)(2).

contribution of DERs to California's energy needs. Rather than presuming that information should be protected unless parties can show a good reason for its release, the Commission should carefully examine every assertion of confidentiality to ensure (1) that the information is not available elsewhere, including on the internet or in public filings at the Federal Energy Regulatory Commission or other agency; and (2) that the information is truly sensitive, *e.g.*, withholding information about the location of a substation that is visible from a public street or highway does not enhance the security of the facility or the grid.

IEP respectfully urges the Commission to pursue an approach in this proceeding that maximizes access to data that is relevant to the development and integration of DERs and to other issues raised in this proceeding.

II. COMPLIANCE WITH RULE 2.6(d)

Category: IEP does not dispute PG&E's, SCE's, and SDG&E's proposed categorization of this proceeding as quasi-legislative.

Need for Hearings: IEP does not dispute PG&E's, SCE's, and SDG&E's belief that hearings are not necessary in this proceeding.

Issues to be Considered: In this response, IEP has identified additional issues that need to be considered in this proceeding.

Proposed Schedule: IEP has no objection to PG&E's, SCE's, and SDG&E's proposed schedule.

Respectfully submitted August 31, 2015 at San Francisco, California.

GOODIN, MACBRIDE,
SQUERI & DAY, LLP
Brian T. Cragg
505 Sansome Street, Suite 900
San Francisco, California 94111
Telephone: (415) 392-7900
Facsimile: (415) 398-4321
Email: bcragg@goodinmacbride.com

By /s/ Brian T. Cragg

Brian T. Cragg

Attorneys for the Independent Energy Producers
Association

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