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Subject: Docket #22-RENEW-01 – Tesla, Inc.'s comments regarding Draft DSGS Program Guidelines

To Whom it May Concern:

Tesla appreciates the opportunity to submit these comments addressing the Draft Demand Side Grid Support (DSGS) Program Guidelines issued on February 27, 2026, and discussed during the March 9, 2026, workshop, convened by the California Energy Commission (CEC). Tesla has a significant interest in the DSGS program for a variety of reasons, including our role as an aggregator that has enrolled and dispatched tens of thousands of systems in the program, as an installer of solar and battery systems, as well as a manufacturer of the battery systems that are integral to the capacity services that DSGS is intended to deliver.

Introduction

Before addressing the specific reforms that the CEC has proposed to the program, Tesla would like to express our ongoing appreciation for the CEC's efforts and success in standing up the DSGS program. In the wake of significant grid instability in 2020, the need for a more systematic and effective means of leveraging the thousands of customer-sited resources deployed across the state to help address grid emergencies became apparent. The CEC took up the mantle of addressing this pursuant to legislative direction and established the DSGS program. By any objective measure this program has been a tremendous success, enrolling tens of thousands of behind-the-meter systems and a demonstrated ability to deliver hundreds of megawatts of incremental capacity to support the grid during grid emergencies. Despite this success, Tesla recognizes that practical experience has offered learnings that merit some changes to improve the program. Additionally, the current fraught budget context within which the program exists also necessitates some changes to recognize the limited funding available to the program currently. With this background in mind, Tesla offers more detailed feedback on the Draft DSGS Guidelines below.

The language addressing dual compensation is problematic and should be substantially pared back.

In Section 2, "Eligible DSGS Participants" of the updated Draft Guidelines includes the following language:

"b. Dual-compensation prohibition: A participant is not eligible to receive incentives compensation if the participant's load-reduction resource with the DSGS provider is:

i. Is enrolled in the Emergency Load Reduction Program or the Base Interruptible Program or the Agricultural Pump Interruptible Program.

ii. Receives payment or accounting or compensation including, but not limited to, incentives, bill savings, bill credits, and other forms of compensation or credits, for the same reduction in use of electricity, including or energy export, through any other utility, CCA, or state program, including retail tariffs, except critical peak pricing rate plans."

During the workshop there was some discussion regarding the intent of this language with a number of stakeholders, including Tesla, expressing concerns that the language in b.ii could be interpreted to suggest that a customer that, for example, is taking service under time-of-use rates, or participating in a utility's NEM or NBT program would be ineligible to participate in DSGS. Tesla came away from that discussion with the understanding that the intent of this language is not to prohibit these customers from participating at all in DSGS, rather the intent is to underscore that if the customer's enrolled resource is dispatching in response to some other program (like NEM) and being compensated in some form for that dispatch, that same dispatch behavior will not be compensated again via payments from the DSGS program, i.e. only incremental dispatch from these resources will be recognized and compensated.

Notwithstanding the efforts by CEC staff to clarify the intent of this language during the workshop, Tesla believes the language in section b.ii cited above remains problematic. As an initial matter, the fact that this language is included under the overarching section entitled "Eligible DSGS Participants" plays into concerns that this language would or could be used to render NEM/NBT customers ineligible to participate in the DSGS program, despite the fact that the language itself does not address whether a prospective customer is eligible to participate, rather it speaks to what behavior will be recognized and compensated under the program recognizing concerns about incrementality. To address this potential confusion, Tesla recommends this language be removed from the Guidelines. Given the extensive amendments to the Guidelines to expand and strengthen safeguards to ensure only incremental dispatch is compensated, this language is not needed to the degree that its intent is realized through, for example, the replacement of the prescriptive baseline with a measured baseline for Option 3.

Tesla is similarly concerned with the inclusion of language in Section 2.c, which states, "Eligibility to participate in both the DSGS Program and other utility, CCA, or state programs will be reevaluated each year and guidance may be updated to ensure participation in the DSGS Program is consistent with the dual-compensation prohibition described above." As drafted, Tesla is concerned that this language could be used to justify retroactive determinations that certain customers were ineligible to participate in the program and, on that basis, reduce performance payments after the fact. Ex post changes to eligibility criteria impose undue and unmanageable risk on program participants and aggregators. This will have a chilling effect on participation and, should the CEC ultimately use this authority to remove certain customers and resources from performance calculations after the fact, will do significant damage to the credibility of the Commission and any future efforts to establish VPP programs. For this reason we recommend this language also be removed from the Draft Guidelines.

The proposed baseline methodology for Option 3 resources should be refined and simplified.

Tesla strongly supports introducing a measured baseline for purposes of assessing system performance under Option 3. From a policy standpoint, Tesla shares the concerns and understands the criticisms that have been leveled at the program that, as currently implemented, DSGS may overcompensate Option 3 resources by failing to adequately account for how these resources would have operated regardless of an event being called. In other words, the existing prescriptive baseline doesn't provide a particularly robust way of determining how much incremental capacity Option 3 resources deliver when events are triggered, relative to a measured baseline. That said, although Tesla supports introducing a measured baseline to assess Option 3 resource performance, we do have some concerns regarding the specific baselining methodology that the CEC has proposed, which is unduly complicated and appears designed in a way that errs on the side of limiting how much incremental capacity is attributed to Option 3 resources when events are called.

The goal of a baseline should not be to advantage or disadvantage participating resources in terms of their ascribed performance and associated compensation, rather the goal is to represent a realistic counterfactual that can be used to determine how resource behavior changed as a result of an event being called versus what would have otherwise occurred. The CEC's proposed approach strays from this by requiring aggregator performance in each hour of an event to be compared to a selected set of non-event days where those non-event days and associated hours are those that exhibit the highest discharge amounts without regard for confounding factors. For aggregators that elect to call their own test events, because the number of eligible baseline days selected (*m*) is the same as the number of hours that will be included in calculating the baseline (*n*) against which a given event hour will be compared, the process outlined in Step 2 doesn't impact the outcome since all of the hours across all of the eligible baseline days selected will be included in the average calculated pursuant to Step 3. However, for customers that do opt-in to having the CEC call their dispatch events, *m is greater than n,* which in turn means that Step 2 will result in some number of hours being discarded from the calculation of the baseline in Step 3. Rather than trying to model the most likely dispatch behavior of Option 3 resources on non-event days, Step 2 skews the baseline by focusing on those hours that exhibit the highest discharge as opposed to those days that are more representative of how one would expect these resources to perform on non-event days. This in turn drives the average discharge calculation in Step 3 higher and will result in aggregators being credited with delivering less incremental capacity than they would if a more representative set of baseline hours were utilized.

Tesla observes that this issue only emerges to the degree that the CEC provides the option for customers to select an alternative baseline (if they opt-into allowing the CEC to call their test events). If all aggregators were subject to the same baseline methodology, specifically a trailing 10-in-10 or a trailing 5-in-5, Step 2 could be dramatically simplified. To that end, Tesla supports applying the same simplified baselining methodology to all aggregators regardless of whether they opt into having the CEC call their test events.

Additionally, what days are considered "similar" for purposes of using in the baseline calculation does not appropriately account for confounding factors that could, if left unaddressed result in

unrepresentative baselines. Specifically, the CEC's criteria for what days qualify as an eligible baseline day is problematic and may unreasonably skew the baseline calculation such that it is no longer a reasonable counterfactual against which to compare performance on event days. For example, non-event days where a significant number of systems are subject to a grid outage are not explicitly excluded from eligible baseline days. This could result in aggregators being required to include days and hours in the measured baseline where the discharge from a system is high because a significant number of systems were providing backup power. Such days and hours are, almost by definition, outliers and should be excluded from any baseline calculation. Additionally, days where there are issues with data availability should also be excluded from the eligible baseline days.

Below Tesla provides our specific recommended edits to the relevant section detailing the baseline calculation for Option 3 resources to address the various concerns discussed above (underlined text indicates added language, strikethrough text indicated deletions).

"3. Measured Baseline

The Measured Baseline (*MBaseline*) will be established per a 10-in-10 (weekday) or 5-in-5 (weekend/holiday) day-matching non-event-day baseline.

The process for calculating the Measured Baseline for aggregation *a* in hour *h* is as follows:

- Step 1: For event *e* of aggregation *a,* identify the *m* <u>most recent</u> eligible baseline days, where *m* is 10 for a weekday non-holiday event and 5 for a weekend/holiday event. A day is eligible for baseline selection if all the following conditions are met:
  - It is a similar day type to the event day (either weekday non-holiday or weekend/holiday)
  - There was no Option 3 event of any kind for that aggregation on the day
  - <u>There was no grid outage experienced during the 4 p.m. – 9 p.m. hours of the day</u>
  - <u>Data is available for >= 90% of all sub-metered assets in the fleet for that day</u>
  - The day is no more than 30 calendar days before the event date
- Step 2: Calculate the total discharge for each hour, h. ~~Sort the *m* discharge hours in decreasing order. Out of the *m* eligible baseline days, Select the *n* days with the highest hourly discharge for the aggregation *a* during hour *h*, where *n* is 10 for a weekday non-holiday event and 5 for a weekend/holiday event. These are the *n* baseline days to be used in the next step.~~
- Step 3: For each event hour *h* of event *e,* calculate the average hourly *Discharge* across the *n* selected baseline days (*d*) for aggregation *a* to determine the hourly *MBaseline*:

$$MBaseline_{a,e,h} = \text{sum}(Discharge_{a,d,h})/n$$

Additional notes related to baseline determination:

1. There is no day-of adjustment applied to the baseline.

2. Submeter data is required for all participating resources for the months of their participation and the month immediately preceding a resource's first participation month.

3. CEC staff may audit the integrity of an aggregation's baseline by comparing the MBaseline computed in Step 3 above for an event in a given month with alternative MBaseline computed for other similar n days in the month. If the alternative MBaseline exceeds the Step 3 MBaseline by 10% or more, the aggregation will be excluded from receiving compensation in that month.

4. An aggregator could ~~1) switch to using an alternate shorter baseline, 5-in-10 (weekday) and 3-in-5 (weekend/holiday), and 2)~~ avoid the CEC baseline audit, by electing to have CEC call the test events for their aggregations. The election must be made prior to the start of the program season, and the election cannot be changed during the season.

5. For EVSE resources, the Measured Baseline is defined as zero kWh per hour."

The audit clause language in Option 3 is too broad and fails to account for system dispatch variability.

Tesla is sympathetic to the inclusion of the proposed audit clause as reflected in point 3 under "Additional notes related to baseline determination"[1] to the degree the intent is to prevent aggregators from gaming the baseline by intentionally changing behavior on baseline days in order to lower the Mbaseline outcome relative to typical behavior. This would undermine the incrementality of the program. Tesla is concerned, however, that the narrow margins proposed in the guidelines could be triggered by normal variations in MBaseline based on variability in weather and the other factors that baselines are meant to track. To ensure that this variability does not result in aggregators operating in good faith being inappropriately accused of manipulating the baseline and denied compensation, Tesla proposes additional language to this section with the goal of codifying the CEC's legitimate interest in policing potential gaming behavior while also recognizing the need to distinguish gaming behavior from otherwise normal changes in day-to-day customer behaviors and system operations. Tesla recommends the following amendments to the current language in this section:

"3. CEC staff may audit the integrity of an aggregation's baseline by comparing the MBaseline computed in Step 3 above for an event in a given month with alternative MBaseline computed for other similar n days in the month. If the alternative MBaseline exceeds the Step 3 MBaseline by 10% or more, the aggregation will be excluded from receiving compensation in that month.

- <u>Staff will control for changes in baselines attributed to hourly and monthly changes in tariff rates, as well as accounting for changes in weather and typical customer usage variations that are likely to result in changes to load profiles.</u>

[1] Draft Demand Side Grid Support Program Guidelines, Chapter 5, Section E.3, pg. 34.

- If CEC staff determine that an aggregation should be excluded from receiving compensation in a given month, staff will inform the aggregator in a timely manner, ensuring the aggregator the opportunity to appeal the decision. Upon appeal, staff must provide documentation of their methodology to isolate suspected aggregator-driven changes in fleet behavior compared to expected baseline changes from the above controlling factors."

Limiting eligibility to resources that received permission-to-operate (PTO) on or before December 31, 2025 is unnecessary and presents practical challenges.

The Draft Guidelines limit the eligibility of Option 3 resources to those that received PTO on or prior to December 31, 2025.[2] During the March 9, 2026 workshop staff indicated that this limitation was needed in light of trailer bill language, currently pending before the California Legislature, pursuant to which the DSGS program would sunset at the end of this year and the CEC and CPUC would work to transition IOU customers that participated in DSGS to the CPUC's ELRP program. This rationale is unsatisfying for a number of reasons. As an initial matter, the trailer bill has yet to pass and whether it will ultimately do so is a matter of speculation. Additionally, the language appears unnecessary regardless of whether the trailer bill passes or not. Allowing resources with a PTO date after December 31, 2025 to participate neither undermines nor is in conflict with the program or the trailer bill should it ultimately become law.

To the degree the concern is that allowing new resources to participate would allow the program to grow when its budget is lower than it was last year that concern seems misguided as budget constraints on the program will themselves act as the limit on program growth. Further, Tesla sees no practical reason to limit the ability of aggregators to enroll recently deployed and energized resources if they have headroom under their allocated budget amounts that would allow them to do so. We further note that this eligibility limitation will also serve as a de facto ban on enrolling vehicle-to-grid systems given the very small number of such systems that interconnected prior to 2026. In short, this limitation appears to needlessly constrain what resources aggregators may enroll in program with no discernible policy benefit.

Beyond the lack of a compelling justification for imposing this constraint, as an operational matter, aggregators may not have visibility into any given resource's PTO date. While this information exists (presumably the utilities have records regarding when they granted PTO) to the degree it is not a system characteristic that aggregators would themselves have on hand, validating that a resource meets this requirement will increase the administrative burden insofar as it may, in many instances, require soliciting this information from the utilities, adding unnecessary process and confounding customer participation. For all of these reasons, Tesla recommends this eligibility criterion be removed from the Guidelines.

Conclusion

Tesla reiterates our appreciation for the CEC's work in establishing the DSGS program and continued efforts to refine the program rules as reflected in the Draft DSGS Guidelines. Overall Tesla supports many of the proposed changes, including the approach to allocating limited funding that is available to the

[2] *Id.* Chapter 5, Section A.3, pg. 27.

program in a manner that prioritizes existing program participants and ensures greater continuity for customers that have enrolled in the program, as well as, at least conceptually, the decision to transition from a prescriptive baseline to a measured baseline. However, as reflected in these comments, Tesla does have some concerns with some of the proposed changes and related implementation details which we hope the Commission will resolve before it adopts updated program guidelines.

Regards,

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