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CA Efficiency + Demand Management Council Comments re CEC DSGS Updated Draft Guidelines_7102023

Additional submitted attachment is included below.

CALIFORNIA
Efficiency + Demand Management
COUNCIL

July 10, 2023

California Energy Commission
Docket No. 22-RENEW-01

Delivered via email

Re: Comments on Energy Commission's Demand Side Grid Support Program (DSGS) Guidelines, Modified Draft DSGS Guidelines, Second Edition

The California Efficiency + Demand Management Council ("Council") appreciates the opportunity to respond to the California Energy Commission's ("Energy Commission") June 30, 2023 Demand Side Grid Support Program ("DSGS") Guidelines, Second Edition ("Draft Guidelines"). The Council has noticed some pagination and citation inconsistencies between the June 30 and July 3 ADA Strikethrough & Underline Version. Where the Council references specific sections or pages of the Draft Guidelines, the Council is referencing the ADA Strikethrough & Underline Version.[1]

The Council is a statewide trade association of non-utility businesses that provide energy efficiency ("EE"), demand response ("DR"), and data analytics services and products in California. Our Member companies include EE, 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 EE product manufacturers.

The Council appreciates the Energy Commission's continued and significant efforts in improving the DSGS in preparation for Summer 2023 reliability needs and for potential, long-term program operations. The Council would like to acknowledge our concern that the DSGS Guidelines will be finalized and formalized no earlier than July 26 without explicit and alternative intervention (such as a special meeting of the Energy Commission Commissioners). We are concerned that this late process risks implementing program guidelines too late to assist in mitigating grid stress in summer 2023. This risk underscores the importance of our previous recommendations that:

- "DSGS guidelines must be updated in time to be operational this summer in order to mitigate anticipated grid stresses,"
- "...to the extent that the program start is delayed until later this summer… participants [should] still receive compensation at levels representative of a full season of participation," and
- "...DSGS will continue to benefit from further assessment and improvement following summer 2023."[2]

The Council appreciates many of the proposed modifications to the Draft Guidelines, including the clarification and characterization of Options 2 and 3 as pilots. The Council intends for the updated guidelines to allow for the flexibility to develop pilots and alternative approaches that can be implemented beyond the end of summer, 2023 - if they prove to be successful/beneficial. The Council urges the Energy

[1] https://www.energy.ca.gov/publications/2023/demand-side-grid-support-dsgs-program-guidelines-second-edition
[2] CA Efficiency + Demand Management Council Comments on CEC DSGS Proposed Draft Program Guidelines located at: https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=22-RENEW-01

Commission to leverage this opportunity to continue fostering demand-side resource innovations to expand and deliver grid and customer benefits. The DSGS must be accompanied by accountability in order to balance innovation with wisely investing taxpayer dollars. The Draft Guidelines generally provide accountability and the Council applauds the Energy Commission's efforts, such as through the proposed Energy Commission reporting requirements on Option 2 and Option 3 cost-effectiveness and performance.[3]

The Council continues to urge the Energy Commission to revisit and revise DSGS Guidelines soon after summer 2023. These revisions should focus on operational and incentive improvements that continue to expand access to the DSGS relative to the plain language of AB 209.[4] The Council also hopes to see substantial simplifications regarding program guidance and operations in order to continue expanding program accessibility and furthering the effectiveness and benefits provided under the DSGS.

Sincerely

Joseph Desmond; Executive Director

Clark McIsaac; Director, Policy & Strategy

California Efficiency + Demand Management Council

[3] Draft Guidelines, Chapter 2, Sec. B: "DSGS Incentive Options"

[4] AB 209 at Sec. 15. Section 25792(b)

Assess, Improve DSGS Performance and Structure Early

The Council believes the DSGS will continue to benefit from further assessment and improvement following summer 2023, and urges the Energy Commission to review the DSGS's structure and performance as soon as is reasonable following this period. That process should reflect, if not incorporate, the Draft Guidelines' requirement for the Energy Commission to "prepare a report assessing the performance and cost-effectiveness of [Option 2 and Option 3]."[5] A program review reasonably soon after this summer will allow fresh lessons learned to be applied toward the next iteration of the program with sufficient time to build the next guidelines before summer 2024.

Include "Justification" When Collecting Additional Info

Chapter 3: Incentive Option 1: Standby and Energy Payment requires eligible participants to submit to the DSGS provider, among other information, "**any other information necessary** to verify participant eligibility with the load-serving entity, as appropriate"[6] [emphasis added]. The Council strongly supports program and participant accountability from program operations through program evaluation or measurement and verification. However, "any other information" is vague and vulnerable to different interpretations.

To preserve accountability and ensure this requirement does not incidentally impact program participation, the Council suggests the Energy Commission require the load-serving entity to submit a brief justification of how the requested "other information necessary" is necessary and relevant to verifying participant eligibility. The Council offers the following redline:

(bbu)**A. Participant Enrollment**

Eligible participants must enroll to participate under Incentive Option 1 by submitting to the DSGS provider, or to the CEC if directly enrolling, the following information in a format provided by the DSGS provider or the CEC:

- **Legal name of the participant.**
- **Participant contact's name, title, email address, and phone number.**
- **If enrolling with an aggregator or the CEC, load-serving entity and customer identification number, phone number on file with the load-serving entity, or any other information necessary to verify participant eligibility with the load-serving entity, as appropriate.** <u>**At the time of requesting the information, the load-serving entity or the CEC must also submit a justification explaining why the information is deemed necessary and how it is relevant to verifying participant eligibility.**</u>
- **Information on the load-reduction resources the participant will use during a DSGS Program event, including:**

...

[5] Draft Guidelines, Chapter 2, Sec. B: "DSGS Incentive Options"

[6] Draft Guidelines, Chapter 3, Sec. A: "Participant Enrollment"

Bonus Incentives Benefit, Accelerate Early Pilots

The Council believes the DSGS is an important tool in relieving stresses on California's grid, particularly in the face of a rapidly changing climate. We also acknowledge the potential the DSGS has to offer in advancing demand side resources and demonstrating their value to Californians and the grid. The Draft Guidelines provide an additional 30 percent bonus incentive to Option 2 and Option 3 participants, presumably to accelerate the benefits of these two products.[7] The Council supports these bonuses for early participation in the program, subject to good performance.

The Council interprets the full text of the bonus incentive,[8]---particularly the use of "in program year 2023 or 2024 **or both**" [emphasis added]---to mean resources that participate in either, or in both program years will be awarded a 30% bonus **in each program year they have participated**. However, the text is somewhat vague and would benefit from the redline shared below. The Council also suggests that resources receive the bonus incentive at the end of each program year. This suggestion is also incorporated in our redlines below:

> Resources participating in program year 2023, ~~or~~ 2024, or both shall be awarded an additional 30 percent bonus for early participation in the program **for each program year in which the resource participated. Participating resources shall be awarded the bonus at the end of each applicable program year in which the resource participated.** Additional bonuses in future years may be provided at CEC discretion.

SIMPLIFY THE ENROLLMENT PROCESS FOR OPTION 2 RESIDENTIAL AND NON-RESIDENTIAL CUSTOMERS

The Council continues to advocate for participant and program accountability. Part of that accountability includes the need to provide accurate and current enrollment information, including at the time of establishing program eligibility. For all three program options, the Draft Guidelines require individual participants to provide various information and "attest under penalty of perjury" that 1) the participant is eligible to participate in the DSGS, 2) the participant will allow the CEC access to allow documentation to verify program compliance, 3) the information is accurate and complete, and 4) the participant agrees to the terms and conditions of the program. The penalty of perjury is an undue burden for both aggregators and individual customers, this is particularly true when individual residential customers are not eligible to enroll in the DSGS directly.

The Council interprets this language to mean that were there an individual or business applicant to intentionally provide inaccurate or out-of-date information, they could face up to four years in

[7] Chapter 4: Incentive Option 2: Incremental Market-Integrated Demand Response Capacity Pilot Section C.: Incentives; and Chapter 5: Incentive Option 3: Market-Aware Behind-the-Meter Battery Storage Pilot, Section C.: Incentives

[8] "Resources participating in program year 2023 or 2024 or both shall be awarded an additional 30 percent bonus for early participation in the program. Additional bonuses in future years may be provided at CEC discretion."

prison. This is an inappropriate and excessive punishment that is not consistent with virtually any other California ratepayer-funded demand-side management incentive and rebate program.

Individual participants, including those ineligible to enroll in the DSGS directly, should be held to a more reasonable and practical attestation standard, while still upholding important accountability and transparency principles and practices. For example, Customer Implementation Agreements for virtually all ratepayer-funded Investor-Owned Utility ("IOU") energy efficiency programs and demand response programs require that an applicant or an agent of the applicant return to the Program Administrator ("PA") any incentive dollars received based upon inaccurate or incorrect program enrollment data. In some cases the inability for the customer (or its agent) and the PA to agree upon enrollment information or attestations results in the customer being disqualified from the program.[9] The Council supports this standard for accountability as it better aligns with other demand-side management programs, provides a sufficient accountability mechanism, integrates needed flexibility for unique circumstances into the program, and does not risk casting a chilling effect over the entire DSGS.

This provision should be simplified to encourage participation by placing the responsibility on DSGS providers, when applicable, rather than the participants, to ensure each participant meets the program requirements. To facilitate greater participation by customers, we recommend that attestation requirements be eliminated for each Incentive Option. At the very least, the attestation provision should be eliminated for all residential customers; for non-residential customers, it should be subject to removal from the DSGS.

The Energy Commission should consider this concern in light of the absence of any such requirement for participation in the Emergency Load Reduction Program ("ELRP"), in which residential customers are not required to attest to anything. In fact, all low-to-moderate income residential customers are automatically enrolled in the ELRP program by their IOU, under sub-Group A.6. Though the Council has opposed this "opt-out" approach, it nevertheless illustrates the excessive nature of the proposed attestation provision in the Draft Guidelines when compared to the requirements that residential participants of a similar program are subject to. In another relevant instance, in enforcing its DR Prohibited Resources policy, the

[9] For example: Willdan Energy Solutions is the Program Implementer for many of the energy efficiency programs administered by Southern California Edison. Under Section 7, Payment Disqualification, of The Customer-Implementer Agreement (https://pages.willdan.com/hubfs/Industrial_Customer-Implementer%20Agreement.pdf?hsLang=en) for the Willdan Energy Solutions Energy Efficient Programs, the Terms and Conditions of this agreement provide multiple provisions for the applicant providing relevant and accurate project information. The stated penalty or disqualification where inaccurate information is provided is the requirement for incentive payments distributed to the customer to be returned to the Program Implementer. Similarly, PG&E's Calculated Incentives for Energy Efficiency and Automated Demand Response Program Project Application (https://www.pge.com/pge_global/common/pdfs/save-energy-money/business-solutions-and-rebates/product-rebates/CustomApplication.pdf) sets forth project disqualification and termination as the penalty for customer misrepresentation (Terms and Conditions, Section 24). Under SDG&E's Base Interruptible Program Contract (https://www.sdge.com/sites/default/files/BIP%20Contract%203750E_0.pdf) (a DR program for business customers), the agreement provides a mechanism for updating attestations via documentation being submitted and approved by SDG&E. Should the customer and SDG&E not be able to reach agreement regarding attestations the customer is removed from the program.

Virtually all other California IOU Demand Side Management ratepayer funded incentive programs are similar, using program disqualification as the primary mechanism for enforcing accurate customer attestation—-rather than specific criminal legal remedies.

Public Utilities Commission opted not to subject residential DR participants to an attestation requirement.[10] Instead, the requirement is simply included in the applicable tariff or contract. Non-residential DR participants must attest to whether they possess a Prohibited Resource but even those found to be untruthful are simply removed from their DR program.[11]

The Council recommends the following changes to the Guidelines specific to this issue. Please note, the following redlines do not incorporate our recommendation in the "Include "Justification" When Collecting Additional Info" Section above:

B. Participant Enrollment

~~Eligible participants must enroll to participate under Incentive Option 2 by submitting to the~~The DSGS provider must provide the following information for each residential and non-residential participant to the CEC: ~~in a format provided by the DSGS provider:~~

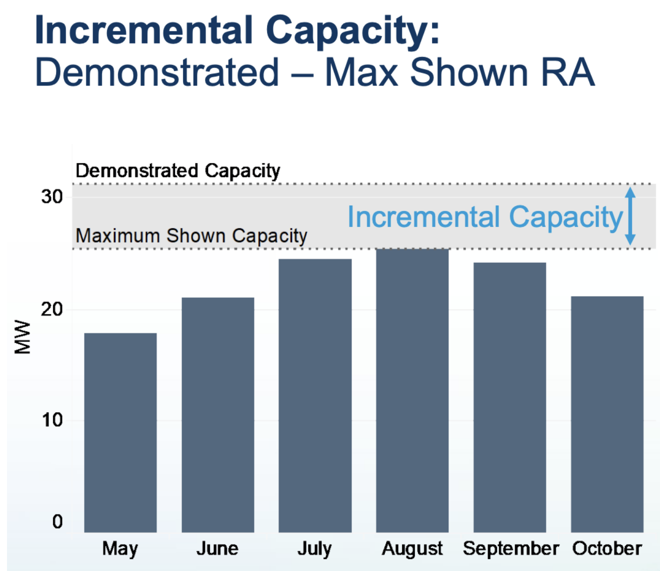
- **Legal name of the participant.**
- **~~Participant contact's name, title, email address, and phone number.~~**
- **Service account address.**
- **~~If enrolling with an aggregator, l~~Load-serving entity and customer identification number, phone number and/or email on file with the load-serving entity, and any other information necessary to verify participant eligibility with the load-serving entity, as appropriate.**
- **~~Attestations, submitted under penalty of perjury, that:~~**
  - **~~The participant meets the eligibility requirements of the DSGS Guidelines to the best of their knowledge.~~**
  - **~~The participant will allow the CEC access to all documentation to verify compliance with the program.~~**
  - **~~The information is accurate and complete.~~**
  - **~~The participant agrees to the terms and conditions of the program.~~**
- **~~Any other information the DSGS provider deems necessary.~~**

CLARIFY THAT INCENTIVE OPTION 2 "DEMONSTRATED CAPACITY" SHOULD BE CALCULATED ONCE FOR THE SUMMER SEASON

The Council acknowledges Chapter 4, Section E4 of the Draft Guidelines could be interpreted as though Demonstrated Capacity ("DC") for each resource is calculated on a month-by-month basis. However, DC should be calculated only **once** for **each** resource for the **entire** summer

[10] D.16-09-056, at p. 37
[11] For example, see PG&E E-CBP, Sheet 16, found here: https://www.pge.com/tariffs/assets/pdf/tariffbook/ELEC_SCHEDS_E-CBP.pdf

season. This is evident from Energy Commission's Staff's April 26, 2023 DSGS workshop presentation[12] – see figure copied below. It also follows logically from Section E5 of the Draft Guidelines, which makes clear that each resource has a single Resource Adequacy ("RA") MW reference quantity applicable to all summer months: "The month with the highest total capacity obligation is considered the reference RA obligation." It would not make sense for the RA reference quantity to be fixed for all months (at the single highest monthly quantity) while the DC quantity varies from month to month.



Source: CEC Staff Presentation – April 26, 2023 DSGS Program Workshop

The Council therefore recommends the following modifications to the wording in Section E4 of the Draft Guidelines:

> For weather-sensitive resources, the seasonal demonstrated capacity is defined as the value of the regression profile at the maximum temperature **(average of daily high and low temperature) for which the resource had a dispatch event during the summer period**~~for that month~~. ~~For capability profiles applied to multiple months, the monthly capacity values are derived from the peak temperatures associated with each month.~~ Figure 3 illustrates **the demonstrated** capacity value~~s~~ for **a hypothetical resource** ~~each month~~ derived from the highest temperature **(87.4°F – average of daily high and low temperature) for which the resource had a dispatch event during the summer period** ~~of each~~.

[12] Energy Commission Staff Presentation – April 26, 2023 DSGS Program Workshop, slide 17, found here: https://www.energy.ca.gov/event/workshop/2023-04/staff-workshop-demand-side-grid-support-program

OPTION 3 SHOULD BE EXPANDED TO BEHIND-THE -METER STORAGE

The Council appreciates the Energy Commission's attention to the benefits behind-the-meter storage can deliver to Californians and the grid. However, the Draft Guidelines' Option 3 is limited in scope to battery storage resources only. Though battery storage is an important and growing resource in improving grid reliability and reducing emissions, the Council urges the Commission to consider behind-the-meter storage resources in addition to and beyond battery storage only. This technology neutral approach could leverage the "pilot" characteristics of Option 3 in the Draft Guidelines and help accelerate the adoption and delivery of benefits by behind-the-meter storage resources generally.

The Council urges the Energy Commission to consider expanding Option 3 resource eligibility to behind-the-meter storage resources generally, rather than limiting option eligibility as currently proposed. If the Energy Commission is unable to incorporate this suggestion into the updated Guidelines, the Council recommends the Energy Commission incorporate our recommendation into the initial discussions intended to improve the DSGS following this season.

Provide Clarity On What Constitutes "Authorization"

Chapter 5: Incentive Option 3: Market-Aware Behind-the Meter Battery Storage Pilot states that DSGS providers must " Receive authorization to participate in the DSGS Program from each participating customer." Although the Council appreciates the Energy Commission's revision of this section (which previously required signed Customer Agreement Forms), the Council is still concerned that this language is overly vague and may create confusion around what constitutes "authorization." Specifically, the Council recommends the Energy Commission clarify that "authorization" can be provided by customers providing aggregators with general authorization to enroll them in DR or grid services programs via their standard customer contract. If DSGS providers were required to seek explicit authorization from customers to enroll them in DSGS, it would significantly reduce both the speed at which customers can be enrolled and the number that would ultimately enroll. The Council incorporates this suggestion into the redlines below. Notably this utilizes the same language the CEC already proposed for authorization of customer load data for the purposes of program participation.

(bst) ~~At a minimum~~ (est) (bbu) **To be eligible to serve as a DSGS provider of Incentive Option 3** (ebu), VPP aggregators must (bst) ~~have the following capabilities and meet the following obligations~~ (est):

- Send dispatch signals or directly control individual batteries.
- Collect and provide hourly or subhourly charge/discharge interval data from a battery inverter or submeter to the CEC.
- (bst) ~~Sign a Customer Agreement Form with~~ (est) (bbu) ~~Receive authorization to participate in the DSGS Program from (ebu) each participating customer.~~ **Receive**

authorization from the participant allowing for the use of their device for the purposes of program participation.

Strike Requirement for DSGS Provider to "Provide" Interconnection Agreement to Participants

Chapter 5: Incentive Option 3: Market-Aware Behind-the Meter Battery Storage Pilot of the Draft Guidelines states that DSGS providers must "verify, provide, and comply with the participants' interconnection agreements if the participant plans to export under the DSGS Program." While it is appropriate for the DSGS provider to "verify" and "comply" with these agreements, asking them to also "provide" these agreements would create an undue administrative burden on DSGS providers and the program administrators. This would in turn create an impediment to processing enrollments, which would hinder the ability for program enrollment to scale quickly. The Council recommends incorporating the section in the redline below to avoid this potential obstacle to the program's success:

(bst) ~~At a minimum~~ (est) (bbu) **To be eligible to serve as a DSGS provider of Incentive Option 3** (ebu), VPP aggregators must (bst) ~~have the following capabilities and meet the following obligations~~ (est):

- Send dispatch signals or directly control individual batteries.
- Collect and provide hourly or subhourly charge/discharge interval data from a battery inverter or submeter to the CEC.
- (bst) ~~Sign a Customer Agreement Form with~~ (est) (bbu) **Receive authorization to participate in the DSGS Program from** (ebu) each participating customer.
- Verify~~, provide,~~ and comply with the participants' (bst) Rule 21 (est) interconnection agreements (bbu) **(for example, a Rule 21 tariff) if the participant plans to export under the DSGS Program** (ebu). The CEC reserves the right to withhold incentive payments for resources found to be in violation of the interconnection agreement.

  …