

**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 No. 14-08-013 (Filed August 14, 2014)
And Related Matters.	Application No. 15-07-002 Application No. 15-07-003 Application No. 15-07-006
(NOT CONSOLIDATED)	
In the Matter of the Application of PacifiCorp (U901E) Setting Forth its Distribution Resource Plan Pursuant to Public Utilities Code Section 769.	Application 15-07-005 (Filed July 1, 2015)
And Related Matters.	Application No. 15-07-007 Application No. 15-07-008

JOINT PARTIES' THIRD STATUS REPORT

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JOINT PARTIES’ THIRD STATUS REPORT

In accord with the November 9, 2018, Administrative Law Judge’s Ruling Ordering Parties to File and Serve Status Reports Regarding their Effort to Resolve Confidentiality Claims Raised by Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas & Electric Company (collectively referred to herein as the “ Joint IOUs”) as to Distribution Planning Data Ordered by Decisions (D.) 17-09-26 and 18-02-004 (“Ruling”), the Interstate Renewable Energy Council, Inc., the Solar Energy Industries Association, the California Energy Storage Alliance, Clean Coalition, the California Solar & Storage Association, Tesla, Inc., Vote Solar, Stem, and the Public Advocates Office at the California Public Utilities

Commission¹ (collectively, the “Joint Parties”)² provide this joint status report regarding (1) confidentiality of the data the Commission required to be shared in the Distribution Resource Plan (“DRP”) portal, including the Integration Capacity Analysis (“ICA”) and Locational Net Benefits Analysis (“LBNA”) maps; and (2) the need for a Non-Disclosure Agreement (“NDA”) or any other security measures with respect to that data.

I. INTRODUCTION

Since the submission of the Joint Parties Second Status Report³ they have continued their efforts to engage the Joint IOUs in negotiations regarding an appropriate NDA for distribution system planning data. Those efforts to date have not produced a successful resolution, but rather have reinforced the fact that an impasse has been reached in such negotiations. Accordingly, the Joint Parties renew the request set forth in their Second Status Report that the Assigned Administrative Law Judge (“ALJ”) act to resolve this impasse by issuing a ruling that directs the IOUs to comply with his July 24, 2018 Ruling that addressed the IOUs’ claims for confidential treatment and redaction of distribution system planning data.⁴

II. STATUS OF NEGOTIATIONS BETWEEN PARTIES

A description of the negotiations between the Joint Parties and Joint IOUs regarding an appropriate NDA for distribution system planning data that occurred between October 5, 2018 and November 30, 2018 is set forth in the Joint Parties’ initial and second Status Reports and is incorporated by reference herein.

¹ The Office of Ratepayer Advocates was renamed the Public Advocates Office of the Public Utilities Commission pursuant to Senate Bill No. 854, which was signed by the Governor on June 27, 2018 (Chapter 51, Statutes of 2018).

² In addition Sunrun Inc. and the Coalition for Community Access endorse this Status Report. Sunrun is not an individual party to this proceeding but has been actively participating as part of the Solar Energy Industries Association. The Coalition for Community Access has filed for party status.

³ See Joint Parties Second Status Report, Rulemaking (R.) 14-08-013 (November 30, 2018).

⁴ *Id.*, pp. 5-7.

As relayed in the Joint Parties' Second Status Report, by way of a November 19 email to the Joint IOUs, the Joint Parties posed the idea of convening a call to discuss the potential for narrowing the scope of the information subject to the NDA. The Joint IOUs did not definitively respond to that email until December 7, 2018, when the Joint IOUs contacted the Joint Parties to schedule such a conference call. The call was held on December 11, 2018.

While the stakeholders engaged in a robust conversation, no progress was made toward resolving the core issue of dispute between the Joint Parties and the Joint IOUs -- *i.e.*, what information should be covered by the NDA. In addition, there is disagreement among the stakeholders as to the IOUs' obligations under the July 24, 2018 ALJ Ruling that addressed the IOUs' claims for confidential treatment and redaction of distribution system planning data. -- *i.e.*, the Joint Parties interpret the ruling as making it incumbent on each IOU that desires to redact any data point from the DRP maps to demonstrate that such data point actually is Critical Energy Infrastructure Information ("CEII"), as defined by the Ruling, while the Joint IOUs believe that they have already made such a showing. The parties also continue to disagree about the content of the NDA. Provisions regarding publicly available information, security conditions, and ability to share and discuss information with customers and the Commission continue to be just some of the areas of dispute. Both the Joint Parties and the Joint IOUs did agree that additional guidance from the Commission about what data should be covered by the NDA is necessary.

III. NEED FOR COMMISSION ACTION

Given the continued impasse between the Joint Parties and Joint IOUs regarding the scope of the NDA, the Joint Parties renew the request made in their Second Status Report that the Assigned ALJ issue a ruling that directs the IOUs to comply with his July 24, 2018 Ruling --

i.e., absent (1) a demonstration by an IOU that certain data points are in fact CEII and the best protection is to shield information about their location from the public, and (2) a ruling has been made by the Commission to that end, then each IOU must publish all DRP information, other than confidential customer usage information, by the end of December.⁵

In making this request, the Joint Parties highlight the fact that the purpose of making the information in the DRP portal, as outlined in Decisions 17-09-26 and 18-02-004, publically available is to provide critical system, pricing, and locational transparency. The Commission's orders in the DRP proceeding have emphasized the importance of transparency as an end in itself.⁶ Increased transparency into the planning process is intended to allow stakeholders to hold the IOUs' accountable as they identify cost-effective investments and deferral opportunities. This accountability is not a direct benefit to stakeholders' businesses, but a benefit to the public as a whole, as recognized by the Commission.⁷ Setting up a system, as the IOUs have requested, that requires effectively all information accessed through the DRP portal to be subject to an NDA does not allow for such accountability.

⁵ In addition the Joint Parties requested the Assigned ALJ modify his July 24, 2018 Ruling to remove the requirement that a stakeholder seeking access to data that had been demonstrated to be CEII to file a motion with the Commission and instead allow the stakeholder to execute a properly crafted NDA.

⁶ For example, the Commission stated that the public release of the Grid Needs Analysis data is intended "to provide transparency into the assumptions and results of the distribution planning process" that generates the IOUs' deferral solicitations, grid modernization investments, and hosting capacity upgrades. D.18-02-004, p. 33.

⁷ The Commission noted that such transparency is necessary to allow the "Commission and stakeholders to ensure that the candidate deferral shortlist meets the objective of maximizing ratepayer benefits of distributed energy resources ("DERs") per Pub. Util. Code §769(b)(3)." D.18-02-004, p. 33.

