Notes / Action Items from May 16 Prohibited Resources workshop

Energy Division staff (May 17, 2017)

IOU Action Items

ED Action Items

Other Party Action Items:

Resolution E-4838 Inadvertently Left Out Customer Attesting to “No resource” but using resource to curtail load as a “Type Two” infraction

* No objection to IOUs filing Supplemental (or Substitute Sheets) to clarify this for DRAM contracts
* Action: IOUs to investigate timeline /form to refile
* Action: ED to investigate handling of any protest period (no protests filed to AL-3466-E-B)
* No objection to IOU Type One/Two language in AL-3466-B
* Status (as of 5/23) – complete

Identifying Entity to Conduct Verification / Validation activities for DRAM non-res customers.

* Likely best approach would be to build in an NDA agreement into the contract of any third party contractor that IOUs engage to implement Verification Plan. Such an NDA would require that the verifier would not disclose customer-specific information on customer compliance with the Verification Plan, or Type One violations to utility personnel that are not subject to the Rule 24 firewall requirement.
* Since Type 2 violations require customers to be prohibited from participating in any DR program, the verifier can share Type 2 violations with utility personnel, irrespective of the firewall, because the utility would have to implement the prohibition for its programs, as well as third-party DR programs.
* Action Item: IOUs to investigate if any concerns about or precedent for including an NDA as part of contract in which a competitively-selected third-party contractor is prohibited from disclosing confidential customer account information to IOUs, except in the case of a Type Two violation.

Removal of Customers from All DR programs for one year (Type Two violation)

* IOUs are interested in setting up a “dummy DR program” that would trigger dual participation rules and preclude customer enrollment in all programs for a year.
* To implement, would probably need to change the CISR form, and possibly Rule 24 / 32, which is already underway to be completed in May / June 2017 timeframe
* Action Item: IOUs to explore as part of ongoing CISR form update discussions

Dispute Resolution:

* Concern about disputes that may arise in determining “intentional” misrepresentation of nameplate value or if customer disputes a finding that s/he used a prohibited resource to curtail load.
* Existing DRAM dispute resolution approach needs further review by legal staffs, but appears to not allow for sufficient time to resolve a dispute prior to conclusion of a 30-Day Event of Default. Also, a consistent approach across all affected DR programs is needed.
* Action Items:
  + IOUs/ ED /all requested to review DRAM dispute resolution / event of default language to determine if invoking dispute resolution system prior to triggering an event of default is feasible.
  + IOUs requested to include a discussion of dispute resolution issues in Verification Plan (VP) filed 6/1, and VP workshop (around 6/7).
  + IOUs requested to flesh out possible options for parties to consider in VP and at workshop, including building on the following ideas discussed at workshop:
    - Modeling additional language on the dispute resolution system agreed to in Rule 24/32, which refers disputes to the CPUC Expedited Dispute Resolution (EDR) procedure, under Rules of Practice and Procedure 4.5, prior to invocation of “Event of Default.” (but it appears that the CPUC EDR only allows 30 days to conclude a dispute, insufficient time)
    - Set up a “Council of Experts” or similar selected from DR Community to hear complaints
    - Ways to “suspend” capacity payments / BIP bill credits? (but would have RAAIM implications); require customer disputant to place funds in an escrow account? / require DRP to return payments if customer found in violation after a dispute resolved?
    - As necessary, a Subgroup could continue discussions after VP workshop
  + IOUs will request Delay of the May 26 AL filing date for non-DRAM AL (required in Resolution E-4838), to June 15. This will allow that filing to reflect tariff changes needed to non-DRAM programs as a result of Verification Plan workshop feedback. But, note that this planned filing may not include all changes resulting from CPUC approval of final VP, in which case additional changes will be filed as needed in the optional AL due September 15, 2017, as indicated in Resolution E-4838.

PG&E proposes to not require attestations for CBP program until March 1, 2018. Rationale is that 2018-2022 program will only be approved in late December 2017, so technically all existing customers will be removed from the current program and re-enrolled in the newly approved program. Also, delivery months for program are limited to May – Oct, so DRP enrollment occurs mainly in Spring for that year.

* Action Item: ED to consult and determine if any concerns
* Status (as of 5/23)- seems OK.

Customers without attestations by December 2017 (Type One) will have a cure period of 30 days prior to being placed at bottom of wait list for program (if relevant). Customers with verified Type Two infractions will be placed at end of wait list.

“Time of enrollment” = when customer registered with CAISO DRRS

IOUs looking into how attestations will be provided; probably as part of an online portal, with an “add form,” APX

Follow up to Workshop: Additional Requests from ED staffs on Verification Plan, to the IOUs, to:

* Include dispute resolution item in draft Plan and as a workshop agenda item
* Include estimated sampling size and budget needed to include DRAM verification activities in Plan (include with this / without this [i.e., Plan only verifies non-DRAM compliance] options).
* Include discussion of proposal that for DRAM verification activities, an NDA would be required so that contracted third party consultancy could not reveal customer-specific account information to IOUs, except with verified Type Two, or uncured Type One violations
* Include summary of any IOU concerns about the above proposals and, in this case, any alternate proposals in draft VP.