



RULE 30

CAPACITY BIDDING PROGRAM

This Rule shall apply to Aggregators (referred to herein as "Aggregator" or "Aggregators"), who contract with the Utility to perform functions on behalf of customers related to participation in the Utility's Capacity Bidding Program ("Program"). Aggregators shall manage Program enrollment for customers and ensure customer compliance with applicable tariff and contract requirements. Aggregators are required to sign an Aggregator Agreement for Capacity Bidding Program (Form 142-05301) (the "Aggregator Contract") with the Utility and, as part of such agreement, shall act on behalf of customers with respect to the receipt of incentive payments from and the payment of charges to the Utility under the Program. This Rule shall also apply to the Utility's customers participating in the Utility who have designated an Aggregator to act on their behalf.

Aggregators are appointed by individual customers participating in the Program pursuant to the "Notice to Add, Change or Terminate Aggregator for Capacity Bidding Program" (Form 142-05302) submitted by such customers to the Utility.

The specific requirements of individual customers participating in the Program are further described in Schedule CBP and each such customer's Capacity Bidding Program Customer Contract (Form 142-05300) ("Customer Contract"). A customer's participation in the Program through the use of an Aggregator is subject to the terms and conditions of Schedule CBP and this Rule.

A. GENERAL

1. Eligibility and Application for Aggregator Status

- a. Aggregators are required to complete an Aggregator Contract with the Utility and to furnish all financial information required by the Utility to ensure that the Aggregator is able to perform its obligations under the Aggregator Contract and this Rule.
- b. Aggregators approved by the Utility may market the Program to customers eligible to participate in the Program. Aggregators must enter into and maintain signed contracts with each eligible customer electing to participate in the Program through Aggregator ("Aggregator/Customer Contracts"), whereby such customer authorizes Aggregator, as its representative, to receive incentive payments and to pay penalty charges on behalf of such customer in accordance with Schedule CBP. Each Aggregator/Customer Contract must contain the following:
 - (i) provisions reasonably satisfactory to the Utility allowing the Utility to test load control and meters and to audit meter data;
 - (ii) an acknowledgement to the Utility by the customer party thereto that (A) the Utility shall not be liable under any circumstances for the failure by their Aggregator, or by any other party, to pay to such customer any amounts that their Aggregator under the Program, and (B) in accordance with Schedule CBP, such customer may be liable for amounts due and owing by such Aggregator in the event Aggregator fails to make payment of such amounts to the Utility pursuant to the Aggregator Contract with the Utility; and

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A. GENERAL (Continued)

1. Eligibility and Application for Aggregator Status (Continued)

b. (Continued)

(iii) a waiver of any and all claims by the customer party thereto as against the Utility with respect thereto.

Further, each Aggregator/Customer Contract must contain a provision whereby the customer party thereto acknowledges and agrees that the Utility has the right to terminate its Aggregator Contract with the Aggregator if the Aggregator fails to pay customer in accordance with the terms of such Aggregator/Customer Contract. Any Aggregator/Customer Contract that fails to include the provisions above will be considered void, and any such Aggregator/Customer Contract will be deemed a material breach of the Aggregator Contract to which such Aggregator is a party.

c. Utility shall have the right to, and Aggregators shall permit Utility to, audit and review each Aggregator/Customer Contracts to which such Aggregators are a party. Notwithstanding the foregoing, the Utility shall not be responsible for monitoring, auditing, reviewing or enforcing such Aggregator/Customer Contracts.

d. Once an Aggregator has entered into an Aggregator/Customer Contract with an eligible customer, Aggregator shall deliver a "Notice by Aggregator to Add or Delete Customers" (Form 142-05303) adding such customer. Aggregator must notify Utility of any removal of customers from its representation by delivering to Utility the same "Notice by Aggregator to Add or Delete Customers" (Form 142-05303), removing such customer. Aggregator's delivery of such notice is a condition precedent to both Aggregator's representation of such customer and Aggregator's termination of its representation of such customer, as the case may be. Aggregator acknowledges that each customer it represents is subject to the terms and conditions of Schedule CBP.

e. Aggregators must ensure that each customer whom it represents in the Program (i) has entered or enters into a Customer Contract with Utility, (ii) has completed a "Notice to Add, Change or Terminate an Aggregator for Capacity Bidding Program" (Form 142-05302) designating such Aggregator, and (iii) has completed, executed and delivered all such documents, instruments, consents and agreements as may be required for such customer's participation in the Program and for the designation of such Aggregator (including, without limitation, an "Authorization To: Receive Customer Information or Act on a Customer's Behalf" .

f. Each Aggregator must provide a certification satisfactory to the Utility that none of the customers it represents will receive duplicative benefit from participating in multiple demand reduction programs. The certification must include names, locations and meter numbers of all such customers so that the Utility can confirm or verify with the Commission or other appropriate entity that no customer listed by such Aggregator is receiving any such duplicative benefit.

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A. GENERAL (Continued)

1. Eligibility and Application for Aggregator Status (Continued)

g. Aggregators shall also meet and comply with all of the requirements and obligations for "Aggregators" as set forth in Schedule CBP and in their Aggregator Contracts with the Utility.

2. Rates

a. Load Reduction Incentive Payments and Energy Usage Reduction Incentive Payments (each as defined in Schedule CBP) and any other charges or fees due to each Aggregator on account of the customers such Aggregator represents shall be paid by Utility in accordance with the rates and amounts therefore as set forth in Schedule CBP.

b. To the extent the calculation of Load Reduction Incentive Payments and/or Energy Usage Reduction Incentive Payments results in a penalty payment to the Utility from an Aggregator, then the payment of such penalty, and any other charges or fees to Utility from such Aggregator, shall be paid by such Aggregator in accordance with the rates and amounts therefore set forth in Schedule CBP.

3. Fees, Surcharges and Taxes

Applicable taxes will be added to all billings, including any other fees, surcharges and taxes applicable within the city of political subdivision where the electricity is actually used.

4. Release of Customer Information

The Utility must receive a signed "Authorization To: Receive Customer Information or Act on a Customer's Behalf" from a customer participating in the Program via an Aggregator prior to the release of such customer's usage data to such Aggregator. Subject to customer authorization, for each request to release customer usage data, the Utility will provide a maximum of the then most recent twelve (12) months of the customer's electric usage data (or all data available if the customer has less than twelve (12)-months' usage history) to the customer or to the Aggregator. If a customer, or the Aggregator, requests this historic usage data more than two (2) times per year for a specific customer account, the Utility shall have the ability to assess a processing charge if approved by the Commission.

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Decision No. _____

Issued by
Lee Schavrien
Vice President
Regulatory Affairs

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Resolution No. _____

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B. ESTABLISHMENT OF AGGREGATOR'S ABILITY TO PERFORM

1. Participation in the Program

Prior to, and as a condition to, the Aggregator's execution of an Aggregator Contract, the Aggregator shall be required to furnish the Utility with financial information satisfactory to the Utility, as requested by the Utility, in order for the Utility to determine whether the Aggregator is able to perform its obligations under the Aggregator Contract and the Program. Based on the Utility's valuation of such information, Utility may require security in an amount to be determined by the Utility. In the event the Utility determines that a financial change has or could adversely affect the creditworthiness of the Aggregator, or if the Aggregator does not provide the requested financial information or required security deposit, the Utility may terminate the Aggregator Contract to which such Aggregator is a party and such Aggregator's participation in the Program immediately or require the Aggregator to provide additional security.

All information provided by the Aggregator to the Utility will remain strictly confidential.

2. Security

The Utility may require, on a case by case basis, that the Aggregator provide adequate security in order to participate, or continue to participate, in the Program. Such security may be in one of the following forms, in the amounts to be determined by the Utility:

- a. Cash Deposit – Deposits will earn interest at the 3-month commercial paper rate.
- b. Letters of Credit – Irrevocable and renewable standby Letters of Credit issued by a major U.S. financial institution acceptable to the Utility.
- c. Surety Bonds – Renewable surety bonds in a form acceptable to the Utility, which are issued by a major insurance company acceptable to the Utility.
- d. Guarantees – Guarantors must furnish financial information as requested by the Utility and have credit standards acceptable to the Utility. Guarantees must be accompanied by other forms of security equal to at least 20% of the credit requested. "Other forms of security deposit" shall include those items outlined above and any other form and amount of collateral to which the Utility, in its sole discretion, agrees in writing.

If the Utility determines that security is required, it is due and payable upon demand prior to the commencement of the Aggregator's participation in the Program. All forms of security shall be retained as long as the Aggregator is participating in the Program.

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C. BILLING AND PAYMENT TERMS

1. Billing and Payment Terms for Aggregator Payments

Subject to Paragraph C.2, the Utility shall pay the Aggregator any Load Reduction Incentive Payments and/or Energy Usage Reduction Incentive Payments due to the Aggregator under the Program within 30 days after the end of the Event operating month but no later than 60 days after the end of the Event operating month.

2. Billing and Payment Terms for Charges Payable by Aggregator

Any and all amounts and penalties due to the Utility from an Aggregator shall offset any payments due to such Aggregator in respect of such month. In the event that any portion of such amounts or penalties due to the Utility in a particular month exceeds the payments payable to the Aggregator for such month, the Utility shall bill the Aggregator for such excess amount. The bill shall be due and payable by the Aggregator upon receipt.

3. Method of Payment

All payments will be submitted electronically or by wire transfer unless otherwise agreed to by the Utility.

4. Late Payment

The Utility's bill to an Aggregator will be considered past due if it is not paid within 15 calendar days after transmittal. Such Aggregator will be unable to add eligible customers until late payments are cured.

If an Aggregator pays late 3 or more times by 7 days or less, or pays late one or more times by greater than 7 days in any contiguous 12-month period, then, in addition to all other rights of the Utility resulting from such late payments (or any non-payments), the Utility may require full collateral in the form of cash, irrevocable standby letter of credit, security bond or any other security instrument deemed appropriate by the Utility. If such collateral is requested and not provided by the Aggregator to the Utility, the Aggregator's Aggregator Contract and its participation will be subject to termination by the Utility.

D. TERMINATION OF AGGREGATOR CONTRACT

Upon termination of the Aggregator Contract between the Utility and the Aggregator:

1. Termination notices will be sent to the Aggregator and to each of the customers whom the Aggregator represents under such Aggregator Contract;
2. All fees, charges and other obligations of the Aggregator to Utility shall be immediately due and payable without further notice of demand; and
3. At the time of termination, if the Aggregator has not paid Utility billings, any security provided by Aggregator shall be applied to recoup unpaid bills.

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E. ARBITRATION OF DISPUTES

The terms and conditions of the Aggregator/Customer Contract between the Aggregator and a customer are independent of the Utility. Any disputes arising between Aggregator and such customer shall be handled between those parties.

If a customer disputes a Utility bill, the disputed amount will be deposited with the California Public Utilities Commission (hereinafter referred to as "Commission") pending resolution of the dispute under the existing Commission procedures for resolving such disputes with the Utility. If a customer has a billing dispute with its Aggregator, the customer will remain obligated to pay Utility charges in a timely manner. The Aggregator shall not withhold payment of any such Utility charges pending resolution of any such disputes. If an Aggregator disputes a Utility bill, the disputed amount will be deposited with the Commission pending resolution of the dispute under existing Commission procedures. No termination of participation in the Program will occur for this dispute while the Commission is hearing the matter, provided that the Aggregator has deposited the full amount in dispute with the Commission or with the Utility.

F. UTILITY SERVICES

The Utility shall continue to read customer meters and provide customers with all other regular utility services.

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