STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on April 20, 2017

COMMISSIONERS PRESENT:

Gregg C. Sayre, Interim Chairman
Diane X. Burman

CASE 14-E-0423 - Proceeding on the Motion of the Commission to Develop Dynamic Load Management Programs.

CASE 15-E-0186 - Petition by Central Hudson Gas & Electric Corporation to Effectuate Dynamic Load Management.

CASE 15-E-0189 - Petition by Niagara Mohawk Power Corporation to Effectuate Dynamic Load Management Programs.

CASE 15-E-0191 - Petition by Orange and Rockland Utilities, Inc. to Effectuate Dynamic Load Management Programs.

ORDER MODIFYING DYNAMIC LOAD MANAGEMENT FILINGS AND MAKING OTHER FINDINGS

(Issued and Effective April 21, 2017)

BY THE COMMISSION:

INTRODUCTION

The electric utilities[1] in New York offer Dynamic Load Management (DLM) programs, consisting of a peak load-shaving Commercial System Relief Program (CSRP), a local reliability

[1] Central Hudson Gas & Electric Corporation (Central Hudson); Consolidated Edison Company of New York Inc. (Con Edison); New York State Electric & Gas Corporation (NYSEG); Niagara Mohawk Power Corporation d/b/a National Grid (Niagara Mohawk); Orange and Rockland Utilities, Inc. (O&R); and Rochester Gas and Electric Corporation (RG&E) (collectively, the Utilities).

supporting Distribution Load Relief Program (DLRP), and a residential and small commercial-focused Direct Load Control (DLC) Program. Incentive payments are provided to customers to compensate them for their participation in the DLM programs. The DLM programs were instituted by the Commission's 2014 DLM Order,[2] and subsequently adopted as modified by the Commission's 2015 DLM Order,[3] and adopted as modified by the Commission's 2016 DLM Order.[4]

The CSRP is called 21 hours in advance of when load relief is required when the day-ahead load forecast reaches or exceeds a set percentage of the forecast summer peak load. The DLRP is called two hours in advance of when load relief is required during contingencies and system emergencies. The DLC program is generally activated on a more flexible basis to respond to peak load or reliability events as needed, by directly cycling customers' air conditioning equipment and other controllable load. The features of these programs, including call availability hours, participant incentive payment rates, and other criteria are designed to pass a Benefit Cost Analysis (BCA) test as described in each utility's BCA Handbook.[5] Among the most important inputs to the BCA Handbooks are Utilities'

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[2] Case 14-E-0423, Proceeding On Motion of the Commission to Develop Dynamic Load Management Programs, Order Instituting Proceeding Regarding Dynamic Load Management and Directing Tarff Filings (issued December 15, 2014)(2014 DLM Order).

[3] Case 14-E-0423, et al., supra, Order Adopting Dynamic Load Management Filings with Modifications (issued June 18, 2015) (2015 DLM Order).

[4] Case 14-E-0423, et al., supra, Order Adopting Dynamic Load Management Program Changes with Modifications (issued May 23, 2016) (2016 DLM Order).

[5] Case 14-M-0101, Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision, Order Establishing the Benefit Cost Analysis Framework (issued January 21, 2016).

Marginal Cost of Service (MCOS) studies which designate the cost of avoidable transmission and distribution (T&D) infrastructure spending.

In this Order, the Commission addresses the Utilities' proposals to modify incentive payments and other program features contained in their December 1, 2016, annual reports.[6] This Order maintains the current incentive payments for each of the Utilities' DLM programs for the summer 2017 Capability Period since Staff and other stakeholders are currently reviewing the Utilities' MCOS studies methodologies and results. Specifically, this Order rejects: Central Hudson's proposals to significantly lower CSRP incentive payment rates, to remove the month of May from the CSRP summer Capability Period, and to eliminate its DLC program; Niagara Mohawk's proposal to modify CSRP, DLRP, and DLC program incentive payment rates; and, O&R's proposed modification to its DLRP incentive payment rates.

While this Order maintains current incentive payment rates, several other proposed program changes not related to incentive payment rates are adopted, including: Central Hudson's proposal to increase its CSRP Planned Event Threshold to 97% of the summer peak forecast load; O&R's proposed CSRP day-ahead Advisory Notice with an intra-day Event confirmation notice, and other non-incentive payment rate proposals; and, Niagara Mohawk's proposed expansion of the DLRP to additional areas of its service territory, provided that Niagara Mohawk offer the current DLRP incentive payment rates to customers in such additional areas. These changes are designed to ease DLM program enrollment and participation.

[6] Changes to Con Edison's DLM programs are generally considered in separate proceedings. Modifications to Con Edison's DLM programs for the 2017 Capability Period were recently effectuated in Case 16-E-0543.

This Order also: rejects proposals to require RG&E to increase its CSRP Planned Event trigger from 92% of the forecast summer peak load; requires the Utilities to implement processes to accept batch customer enrollment in DLM programs for the 2018 summer Capability Period; and requires both NYSEG and RG&E to submit a tariff filing extending eligibility for their CSRPs and DLRPs to customers taking service under negotiated rate contracts for the 2018 summer Capability period.

BACKGROUND

On November 1, 2016, the Secretary to the Commission issued a Notice convening a meeting and seeking comments to provide stakeholder input to inform the Utilities' then-upcoming filings.[7] The Notice specifically requested party input regarding how best to ease enrollment in DLM programs, how to make administering the DLM programs easier for customers, and what modifications parties would request to further facilitate participation in DLM programs. Subsequently, on December 1, 2016, Central Hudson, Niagara Mohawk, and O&R submitted annual reports detailing DLM program performance during the summer 2016 Capability Period[8], and petitions requesting certain program changes for the summer 2017 Capability Period in compliance with the May 2016 Order in this proceeding.[9] NYSEG and RG&E also jointly submitted an annual report, but neither utility proposed any modifications to their respective DLM programs.

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[7] The Utilities' annual reports were filed on December 1, 2016, as required by the 2015 DLM Order.

[8] The DLM Program Capability Period is May 1 through September 30 of each year.

[9] Case 14-E-0423, et al., supra, 2016 DLM Order.

Concurrent with this proceeding, Department of Public Service Staff (Staff) and other stakeholder are examining the Utilities' most recent MCOS studies, which the Utilities were directed to file with the Secretary to the Commission in compliance with the Value of Distributed Energy Resources (DER) Order.[10] While many of the Utilities employ similar MCOS study methodologies, with minor unique aspects of each, Central Hudson's MCOS departs the most from the more traditional MCOS study methodology. As a result of Staff and others' review, the Utilities may be required to make modifications to their respective MCOS study methodologies.

Central Hudson

Central Hudson proposes a number of changes to its CSRP. First, Central Hudson proposes to raise the Planned Event threshold from when the day-ahead load forecast is 92% or more of the forecast summer peak load to 97% instead. Central Hudson believes that the large number of events called in its service territory using the previous 92% threshold led to less than optimal participant performance during the 2016 summer Capability Period. Central Hudson states that its proposed 97% threshold was designed to ensure demand reductions during the top ten load hours during the summer period, and would result in approximately three CSRP Planned Events each summer.

Second, Central Hudson proposes to eliminate the month of May from the Capability Period. Central Hudson states that it anticipates that curtailment events are unlikely to occur during the month of May, and that the maximum demand experienced

[10] Case 15-E-0751, In the Matter of the Value of Distributed Energy Resources, Order on Net Energy Metering Transition, Phase One of Value of Distributed Energy Resources, and Related Matters (issued March 9, 2016) (Value of DER Order).

during May has not exceeded 88% of the annual peak demand during the last ten years.

Third, Central Hudson proposes to reduce the Reservation and Performance Payments it pays to CSRP participants in order to design the CSRP result in a BCA of greater than 1.00. Central Hudson would reduce the Reservation Payment for months during which there have been four or fewer events since the beginning of the Capability Period, from $4/kW/month to $2/kW/month. Central Hudson also proposes to reduce the Reservation Payment for months during which there have been five or more events since the beginning of the Capability Period from $5/kW/month to $2.5/kW/month. Additionally, Central Hudson proposes to reduce the Performance Payment during a Planned Event from $0.25/kWh to $0.15/kWh, and to reduce the Performance Payment during an Unplanned Event from $0.50/kWh to $0.30/kWh.

Fourth, Central Hudson proposes to eliminate the Voluntary Participation Option. Central Hudson states that the Voluntary Participation Option is no longer necessary, and that elimination of the Voluntary Participation Option will simply direct customers into the most advantageous participation option. Central Hudson notes that it had no customers enrolled in the Voluntary Participation Option during the 2016 Capability Period.

Fifth, Central Hudson proposes to make a single annual settlement payment for both Reservation Payments and Performance Payments applicable to the CSRP. Central Hudson proposes to make its payment after the end of the applicable Capability Period, with Reservation Payments based on the average Performance Factor of all load relief hours within the Capability Period. Central Hudson proposes to send monthly performance reports to its enrolled Aggregators and Direct

Participants detailing performance during each event within that month. Central Hudson states that this change will simplify the settlement process, eliminate the need to make partial Reservation Payments subject to later true-up for newly enrolled Aggregators and Direct Participants, and that the stakeholder feedback it solicited on this topic was generally favorable.

Sixth, Central Hudson proposes to allow for a customer to aggregate multiple accounts and enroll such directly through Central Hudson. Central Hudson states that since the number of customers is relatively small and its enrollment and settlement processes are largely manual, Central Hudson can support aggregating these customers with a limited increase in administrative work. Central Hudson further proposes to maintain a 50 kW minimum load relief pledge per account in order to maintain a manageable number of accounts, and that Central Hudson does not plan to offer any other value-added services to CSRP participants that are already available to customers through Aggregators, such as enrollment in the demand response programs offered by the New York Independent System Operator (NYISO) or facility energy management services.

Finally, in addition to the above changes to its CSRP, Central Hudson proposes to eliminate its DLC program entirely. Central Hudson states that it has no current participants in the DLC program, and that the increased incentives or other marketing required to make the DLC program successful would not be cost-justified by the marginal benefits. Central Hudson states that it would honor any applicable one-time sign-up payments if customers were to enroll in the program prior to its cancellation.

Niagara Mohawk

Niagara Mohawk proposed several incentive payment rate modifications to its CSRP, DLRP, and DLC programs, as well as to expand DLRP eligibility to up to an additional eight constrained areas of its service territory. Regarding incentive payment rate modifications, Niagara Mohawk proposed to: (1) increase the CSRP Reservation Payment during months in which there have been four or fewer events since the beginning of the Capability Period from $2.75/kW/month to $2.80/kW/month; (2) decrease the CSRP Performance Payment under the Reservation Payment Option during Unplanned Events from $0.21/kWh to $0.19/kWh; (3) decrease the CSRP Performance Payment under the Voluntary Option during an Unplanned Event from $0.19/kWh to $0.18/kWh; (4) increase the DLRP Reservation Payment from $4.69/kW/month to $5.00/kW/month; (5) increase the DLRP Performance Payment under the Reservation Payment Option from $1.02/kWh to $1.22/kWh; (6) increase the DLRP Performance Payment under the Voluntary Option from $1.20/kWh to $1.36/kWh; (7) increase the DLC program one-time Enrollment Incentive in Designated Areas from $30.00 per device to $35.00 per device; and, (8) increase the DLC program performance-based Annual Incentive in Designated Areas from $20.00 per device to $30.00 per device.

Regarding expansion of DLRP eligibility, Niagara Mohawk proposes to focus the DLRP in areas of electrical stress, particularly in the eight areas identified in Appendix 2 of its Initial Distributed System Implementation Plan (DSIP).[11] Niagara Mohawk states that it plans to study these areas, and will likely expand eligibility to participate in the DLRP in all or some of these areas. Niagara Mohawk states that it will inform

[11] Case 16-M-0411, In the Matter of Distributed System Implementation Plans, Niagara Mohawk Power Corporation d/b/a National Grid Initial Distributed System Implementation Plan (DSIP) Errata Filing (filed July 1, 2016). As of the July 26, 2016, Notice of New Case Number in the DSIP Proceeding, DSIP filings shall be under the new case, while prior filings may also be found under the REV docket, 14-M-0101.

the Commission, aggregators, and customers when new designated areas are declared, and will file revised incentive payment rates when new designated areas are offered.

O&R

O&R proposes several tariff changes related to its CSRP and DLRP. First, for both the CSRP and DLRP, O&R proposes to allow existing Aggregators and Direct Participants to increase the amount of load relief they contract to provide in a network for the upcoming program year, independent of past performance, subject to a true-up for performance. Under the existing Direct Participants or Aggregators may only increase the kW pledge amount for the upcoming Capability Period if such Direct Participant or Aggregator's Performance Factor is 1. O&R states that this modification will make administration of the DR programs easier, and provide flexibility for participants that add resources from year to year.

Second, for both the CSRP and DLRP, O&R proposes to expand the definition of Direct Participant to allow customers to aggregate multiple accounts within the utility's service territory and directly enroll through O&R. O&R would require such customers to pledge at least a collective 50 kW of load relief, and that each account must meet the applicable terms of service. O&R proposes to measure performance of the customer's collective load reduction on a portfolio basis, consistent with how Aggregators are currently measured. O&R believes that this modification will result in increased customer enrollment and will increase the amount of load relief customers are willing to commit.

Third, O&R proposes the addition of a 21-hour advance Advisory Notice, with intra-day two-hour minimum advance notification of confirmation or cancellation of a Planned Event, applicable to the CSRP only. O&R proposes issuing an Advisory

Notice when the its day-ahead forecasted load is 92 percent or more of the forecasted summer system-wide peak, and that a Planned Event may be confirmed on not less than two hours' advance notice for load relief if an Advisory Notice was issued, and O&R's same-day forecasted load level is at least 92 percent of the forecasted summer system-wide peak. O&R states that under the current notification regime and definition of Planned Event, it is unable to cancel a Planned Event once called, even if conditions on the system change such that load relief is no longer necessary. O&R states that this modification will allow CSRP participants to avoid having to provide load relief when it is not needed.

Fourth, O&R proposes to revise the definition of a CSRP Unplanned Event to allow it to call an Unplanned Event in situations when the O&R determines that a targeted area requires load relief. O&R explains that it may wish to call an Unplanned Event when an individual targeted area, but not the system as a whole, is expected to peak.

Fifth, O&R proposes a number of clarifying revisions applicable to CSRP and DLRP program participants that use generators. O&R clarified that it will accept participation in the CSRP by diesel-fired generation older than model year 2000 if a professional engineer certifies that the Nitrous Oxide (NO_X) emission rate is no greater than 2.96 pounds per megawatt-hour (lbs/MWh). O&R proposes to eliminate the requirement that the serial number for generators be provided during enrollment because customers indicate that it can be difficult for them to obtain the serial numbers, and O&R does not use this information. O&R proposes to clarify that a New York State Department of Environmental Conservation (DEC) permit or registration is required, whereas the current tariff refers to permits only. To satisfy this requirement, O&R proposes to allow customers to include a copy of the generator’s DEC permit or registration either with the CSRP application, or within seven days of applying for CSRP, and allow a copy of the application to the DEC to be submitted to O&R if the permit or registration has not been yet been issued by the DEC, provided that the actual DEC permit or registration is submitted to the O&R before commencing service under CSRP.

Sixth, O&R proposes to increase DLRP Reservation Payments to customers in Tier 2 areas of O&R’s service territory. O&R proposes to increase the DLRP Tier 2 Area Reservation Payment during months in which there have been four or fewer cumulative events since the beginning of the Capability Period from $5.00/kW/month to $10.00/kW/month, and increase such Reservation Payment during months in which there have been five or more cumulative events since the beginning of the capability period from $6.00/kW/month to $11.00/kW/month. O&R states that its BCA analysis indicates that customers providing load relief in Tier 2 Areas provide a greater benefit to the Company, and that its proposed increased Reservation Payment would encourage more enrollment in those areas.

Seventh, O&R proposes a number of housekeeping and clarifying modifications, for example, eliminating language that applied only to the 2016 summer Capability Period, clarifying that certain applications are specific to enrolling in the CSRP and DLRP, and language describing Test Events.

Finally, O&R proposes to rename a participation option of the DLC program from Direct Install Option, to Company Provided Thermostat Option, to allow for flexibility in the program design which may or may not include the direct installation of a Control Device at the customer’s premises.

NOTICE OF PROPOSED RULE MAKING

Pursuant to the State Administrative Procedure Act (SAPA) §202(1), a Notice of Proposed Rulemaking for each Utilities' proposal was published in the State Register. Central Hudson [SAPA No. 15-E-0186SP4], Niagara Mohawk [SAPA No. 15-E-0189SP3} and O&R [SAPA No. 15-E-0191SP4] Notices were published in the State Register on January 25, 2017. The time for submission of comments pursuant to the Notice expired on March 13, 2017. Moreover, in a Notice of Stakeholder Meeting and Seeking Comments, comments were solicited, due November 14, 2017. The comments received are addressed below.

COMMENTS

Comments in response to the Secretary's Notice of Stakeholder Meeting and Soliciting Comments were submitted by the Advanced Energy Management Association (AEMA); Energy Technology Savings, Inc. (ETS); and Direct Energy Services, Inc. (Direct). Comments in response to the SAPA Notices were submitted by AEMA; NTG Energy, Inc. (NRG); and Nucor Steel Auburn, PC (Nucor). Parties generally submitted comments related to several topics: settlement and enrollment; CSRP dispatch thresholds; incentive payment rates; and various other program changes.

Regarding DLM program settlement and enrollment, AEMA, Direct, and NRG each propose that the billing and enrollment processes used by each utility should be standardized, and that each utility should allow for batch customer enrollments, for example on a spreadsheet instead of requiring individual electronic documents specific to each customer. Nucor requested that the Commission require NYSEG to expand eligibility of its CSRP to Service Classification (SC) 13 and SC 14 customers that are served under a negotiated rate schedule. AEMA proposed that the requirement for Aggregators to provide customer utility account number should be eliminated, instead requiring only the customer’s name and address, in order to make enrolling customers in the DLC program easier. NRG and AEMA support Niagara Mohawk’s proposal to expand the DLRP, and suggest that the DLRP be expanded across its entire service territory for 2018.

Parties generally supported higher utility CSRP dispatch thresholds. NRG states that it supports Central Hudson’s modification to the CSRP Planned Event threshold as a stand-alone basis. AEMA requests that the Commission direct RG&E to increase its CSRP Planned Event threshold above 92%, stating that each utility’s dispatch trigger should be designed to result in no more than 3 Planned Events per season, and that RG&E’s dispatch threshold would unfairly require CSRP participants to perform for more than 25 hours for the same value that customers served under the Value of DER Tariff would receive for just the 10 hours.[12] AEMA further states that the Utilities’ CSRPs should neither be dispatched, nor should Advisory Notices similar to that in place at Con Edison[13] and proposed by O&R be sent, if the intra-day load forecast is less than 92% of the forecast summer peak load.

Addressing the Utilities’ proposed incentive payment rate modifications, parties were generally opposed to decreases in incentive payment rates and supported proposed increases to

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[12] AEMA refers to the Demand Reduction Value described in the Value of DER Order which would compensate DER enrolled in the Phase One Value of DER Tariff based on the value of demand reductions in the top 10 load hours of a given summer.

[13] Case 16-E-0543, Tariff filing by Consolidated Edison Company of New York, Inc. to modify Rider T Commercial Demand Response Programs contained in its schedule for electric service, P.S.C. No. 10., Order Approving Tariff Amendments with Modification (issued December 15, 2016).

such rates. Both NRG and AEMA oppose Central Hudson's proposed modifications, stating that Central Hudson neglected to include a number of DLM program benefits in its BCA, and that reducing the incentive payment rates would result in a substantial loss of participation in its programs. AEMA notes that Central Hudson's reported administrative costs are high relative to other utilities, and suggests that the Utilities should consider jointly contracting with a single vendor to administer the various DLM programs in order to reduce total administrative costs. AEMA suggested that Niagara Mohawk consider increasing its CSRP Reservation Payments. AEMA also noted that it supports O&R's proposed program changes, including its proposed increase of DLRP reservation payments. AEMA proposes that DLC program participants should be paid a flat fee per season for participation instead of paying participants for performance during events.

Regarding other DLM program modifications, the parties were generally opposed to Central Hudson's proposals, supportive of those proposed by O&R, and also independently proposed several modifications. Both AEMA and NRG oppose Central Hudson's proposal to eliminate the month of May from the summer Capability Period, and state that a lack of historic events during May does not preclude the possibility of future heat waves during May. NRG notes that such a major program change should require further stakeholder input, and would adversely impact standardization of DLM programs across utilities. AEMA requests that utilities should eliminate the one-hour Test Events each year, or otherwise should, at minimum, coordinate Test Events to coincide with test events scheduled by the New York Independent System Operator (NYISO) for its demand response programs. ETS requests that Performance Factors should not be calculated on an area-by-area portfolio for Aggregators, but instead Performance Factors should be assigned based on individual customer performance within an Aggregator's portfolio.

DISCUSSION

The Utilities' DLM programs have experienced program growth in the several years since their inception. The Commission anticipates that these programs will continue to grow and become an integral part of the Utilities' core business model, especially as Earnings Adjustment Mechanisms, which encourage utilities to manage their peak load and operate their systems efficiently, are developed and implemented. The recent Value of DER Order also provides context to the future of DLM programs in New York State. The Value of DER Order established the Value Stack, including valuation of avoided transmission and distribution system infrastructure costs though the system-average Demand Reduction Value, and the geographically-discrete Locational System Relief Value. While the Value of DER Order did not make findings specific to the DLM programs, it did begin Phase Two of the Value of DER proceeding, which will consider application of the Value Stack methodology to an expanded range of DER, including the demand response assets procured through the DLM programs.

This Order requires certain utilities to make conforming changes to maintain consistency among utility DLM programs. In order to maintain program continuity and meet participant expectations, these conforming changes will not be required to go into effect until the summer 2018 Capability Period. As discussed in greater detail below, certain aspects of the DLM programs will be held constant from the 2016 summer Capability Period while the Utilities' respective MCOS studies are considered as part of the Value of DER proceeding.

CSRP Dispatch Thresholds

Although the Commission established a consistent 92% CSRP dispatch threshold for all of the Utilities in the 2016 DLM Order, experience during the 2016 summer Capability Period suggests that a standard statewide threshold may not result in optimal program performance. This is evidenced by the fact that, despite each Utility having the same 92% threshold, CSRP Planned Events were called many more times in utilities with smaller service territories compared to those with a larger footprint. For example, there were 13 CSRP Planned Events called by RG&E, and 9 by Central Hudson, but only 4, 2, and 1 event called by Niagara Mohawk, NYSEG, and O&R, respectively.

Instead of maintaining a consistent 92% threshold across all Utilities, the Utilities should design CSRP thresholds that both recognize the unique features of their service territories and seek to balance the interests of CSRP participants and of other customers. Therefore, Central Hudson’s proposal to increase its CSRP Planned Event threshold from 92% to 97% is adopted.

Although AEMA requests that RG&E be required to increase its CSRP threshold above 92%, the Commission will not require RG&E to do so at this time. The Commission finds RG&E’s reasoning that the many CSRP events called in its service territory were a result of the unusually hot, humid, and dry conditions experienced during 2016, to be persuasive. Further, although RG&E reported that it achieved less than half of the load reductions enrolled in the CSRP on average, it is clear that this was the result of having over half of its enrolled kW from a single direct customer which decided to only participate in two Planned Events.[14] This is in stark contrast to other participants at RG&E whom, on average, achieved a Performance Factor of 0.90 for the 2016 Capability Period despite the high frequency of events. The Commission is sensitive to AEMA's concern, therefore, RG&E should include an analysis in its 2017 Annual Report considering as much available data as possible, including 2016 and 2017 summer weather data and a historical weather trend analysis, to determine if the current threshold would result in an optimal number of calls for the next several Capability Periods beyond 2017.

Incentive Payment Rates

Avoided T&D infrastructure costs constitute the majority of the benefits applicable to DLM programs. DLM program incentive payment rates are directly influenced by the BCA relying on those benefits, and the MCOS studies used by the Utilities to determine the per-kW cost of avoided T&D for use in the BCA. Therefore, the MCOS studies are critical to determining if the DLM programs are being administered in a cost effective manner, and if changes to such program incentive payment rates are justified. As the Utilities' MCOS studies are currently being examined and may be modified as part of the Value of DER proceeding, it is reasonable at this time to freeze the incentive payment rates applicable to all of the Utilities' DLM programs at the levels previously approved in the 2016 DLM Order. This will include payments applicable to each participation option of the CSRP, DLRP, and DLC programs. Therefore, Central Hudson's proposals to reduce its CSRP incentive payment rates, to eliminate the CSRP Voluntary

[14] This customer only achieved a Performance Factor greater than 0.15 in two events, with non-zero Performance Factors less than 0.15 in three events, and Performance Factors of zero in the remaining eight events.

Participation Option, and to cancel its DLC program entirely are rejected. Similarly, Niagara Mohawk and O&R's proposals to modify the incentive payment rates applicable to their DLM programs are rejected. Each utility shall reflect the developments in the Value of DER proceeding by proposing applicable changes as necessary to the DLM incentive payment rates to be effective for the 2018 summer Capability Period.

The Commission will not replace the annual participation payment applicable to the utilities DLC programs with a flat fee per season as proposed by AEMA. Although the relative magnitude of the incentive is relatively small, ranging from $20 to $25 per year,[15] the Commission finds that providing a price signal to incentivize customer participation in events is an important feature of the DLC program. Although AEMA is correct that DLC program participants often provide value to the grid even if such participants override utility control of their Control Devices prior to the end of the Event, it is important to continue to provide an incentive to encourage customers to participation in the full duration of a DLC program Event.

Other Program Modifications

Central Hudson's proposed elimination of the month of May from its Capability Period has previously been considered and rejected by the Commission in the 2016 DLM Order. Central Hudson's proposal to eliminate May from the Capability Period is similarly rejected herein for the same reasons; namely, as NRG and AEMA point out, that a lack of historic peak load conditions does not preclude future heat waves in May, and that a

[15] NYSEG and RG&E pay DLC program participants a $5 participation incentive for each event during which the participant did not override utility control of the Control Device, therefore annual performance payments at NYSEG and RG&E will vary from year to year depending upon the number of events called.

modification of such magnitude would significantly detract from tariff uniformity.

O&R's proposal to provide a 21-hour Advisory Notice when the day-ahead forecast is at or above 92% of the forecast summer peak load, with an event confirmation or cancellation notice no less than 2 hours in advance of the beginning of a Planned Event based on the intra-day forecast peak load is adopted. An identical modification to Con Edison's CSRP was recently adopted by the Commission in the Con Edison DR Order,[16] and O&R's proposal is adopted for the same reasons, specifically that the Advisory Notice and subsequent confirmation or cancellation will ensure that CSRP participants are only called upon to perform when actual conditions warrant. This modification will also satisfy AEMA's request that the CSRP not be activated unless peak load conditions materialize.

The Commission will require Central Hudson, Niagara Mohawk, NYSEG, and RG&E to propose conforming modifications in their December 1, 2017, annual filing in preparation for the 2018 summer Capability Period. While both Con Edison and O&R send Advisory Notices at their respective 92% CSRP Planned Event thresholds, the Advisory Notice and subsequent confirmation or cancellation should be based on the specific CSRP Planned Event threshold applicable to each utility. Therefore, Central Hudson, Niagara Mohawk, NYSEG, and RG&E are directed to file draft tariff amendments to effectuate this modification simultaneously with their respective Annual Reports on December 1, 2017.

The Commission declines AEMA's request to eliminate the one-hour Test Events applicable to the utilities' CSRP and

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[16] Case 16-E-0543, Con Edison Commercial Demand Response Programs, Order Approving Tariff Amendments with Modification (issued December 15, 2016) (Con Edison DR Order).

DLRP. Test Events are an important feature of the CSRP and DLRP, especially during mild summers where such programs may not have any called Events. However, as AEMA points out, it may be valuable to customers, and harmless to the utilities, to coordinate simultaneous test events between the utilities' and NYISO demand response programs, since there is often a significant proportion of customers enrolled in both the DLM programs and the NYISO programs. Therefore, to the extent practicable, the utilities should coordinate DLM program Test Events with the NYISO to limit the total number of Test Events that customers must respond to each Capability Period.

The Commission declines to act on ETS' proposal that Aggregators' Performance Factors should not be calculated an on an area-by-area portfolio for Aggregators, but instead Performance Factors should be assigned based on individual customer performance within an Aggregator's portfolio. ETS' proposal is contrary to the purpose of aggregation, that the combined performance of a portfolio of participants be the basis for payment instead of considering the performance of a portfolio on a participant-by-participant basis. Instead, Aggregators are responsible for managing the performance of the participants in their respective portfolios, as well as the payments made to such participants. While the Commission will not direct the utilities to make the modification requested by ETS, it is important that Aggregators receive granular enough participant performance information to allow such Aggregators to manage their portfolio. Therefore, utilities should ensure that both the performance of an Aggregator's entire portfolio, as well as the performance of the component participants within that portfolio, are communicated to Aggregators in a timely fashion.

Eligibility

Niagara Mohawk's proposal to expand eligibility for its DLRP to up to an additional eight designated areas in its service territory is adopted, however, as the Incentive Payment rates will be maintained at their current levels, Niagara Mohawk may only offer the existing DLRP payment rates to the additional eligible areas it designates. In only offering the DLRP in certain areas where there are specific T&D infrastructure projects can be avoided, Niagara Mohawk is using the DLRP as a Non-Wire Alternative (NWA) demand response program instead of as a generalized program to support distribution system reliability.

While Niagara Mohawk will be allowed to continue to operate its DLRP in this manner for the 2017 summer Capability Period, the Commission expects Niagara Mohawk to expand the DLRP to its entire service territory for 2018. Instead of limiting the DLRP only to specific NWA areas, Niagara Mohawk should offer different values in NWA areas for both the CSRP and the DLRP, depending upon whether the need for the NWA is based on load growth, reliability issues, or both.

Niagara Mohawk also reports that of the 140 megawatts (MWs) of load reduction enrolled in its CSRP, approximately 126 MWs are from customers interconnected at transmission or sub-transmission voltage levels, and that only 14 MWs are enrolled at distribution-level voltages. In the 2016 DLM Order directing Niagara Mohawk to allow high voltage customers to participate in the DLM programs, the Commission noted that there may be diminished value in the load reductions such customers provide to the distribution system relative to customers interconnected at primary and secondary voltage levels. Since Niagara Mohawk's enrollment in the CSRP has been shown to be made up of predominantly high voltage customers, it is reasonable to begin the process of identifying the correct value that such customers provide. Therefore, Niagara Mohawk is directed to work with Department of Public Service Staff (Staff) to develop and file a plan as part of its 2017 Annual Report to: (1) expand the DLRP to its entire service territory; (2) provide appropriate CSRP and DLRP Incentive Payment rates to encourage participation in designated areas for the peak shaving and reliability purposes, respectively; and (3) provide appropriate Incentive Payment rates to better reflect the distribution system value provided by high voltage customers.

The Commission finds Nucor's proposal to allow NYSEG SC 13 and SC 14 customers to participate in the DLM programs is reasonable. The 2015 DLM Order establishes that all customers willing to meet metering and other eligibility requirements should be allowed to participate in utility DLM programs. Customers taking service under other negotiated rate contracts are eligible to participate in DLM programs at each of the other utilities, and even NYSEG itself allows customers in other service classifications taking service under negotiated rate contracts to participate. Therefore, it is reasonable to extend DLM program eligibility to NYSEG SC 13 and SC 14 customers. NYSEG, is directed to file draft tariff amendments to allow for SC 13 and SC 14 customer participation in its DLM programs for the 2018 Capability Period simultaneously with its respective Annual Reports on December 1, 2017.

Settlement and Enrollment

The Commission is persuaded by AEMA, NRG, and Direct that enrollment and settlement processes in the utilities' DLM programs should be standardized, and that utilities should allow for batch enrollments in their respective programs. The Utilities should work together and strive to achieve batch enrollment capability and billing standardization for the 2017

Capability Period. In their respective Annual Reports, Central Hudson, Niagara Mohawk, NYSEG, RG&E, and O&R are directed to demonstrate that each is capable of batch enrollments for the 2018 Capability Period, and shall identify process improvements, software, or other systems which would ease program administration, automate enrollment and settlement processes, and facilitate greater participation.

Conversely, Central Hudson's proposal to make a single CSRP settlement payment after the end of the Capability Period based on the average Performance Factor throughout the Capability Period would represent a significant departure from the current practices of each of the other utilities. Other utilities generally make monthly Reservation Payment settlements based on the Performance Factor applicable during that month, and a single Performance Payment settlement after the end of the Capability Period. The Commission is also concerned that settling all Reservation Payments based on the Capability Period-average Performance Factor could potentially dilute participants' incentive to continue providing load relief later in the Capability Period if a customer has established a high Performance Factor in the early months, or may discourage a customer with a poor Performance Factor in the early months from attempting to improve their performance during the later months of the Capability Period. The Commission is aware that many Aggregators make monthly payments to their participants, which if Aggregators must finance those monthly payments to participants themselves, may create a barrier to entry for smaller or newer Aggregators. For these reasons, Central Hudson's proposal to make a single CSRP settlement payment after the end of the CSRP Capability Period is rejected.

Both Central Hudson and O&R propose to allow customers to aggregate multiple accounts within the same service territory and directly enroll in the DLM programs, however, while Central Hudson would require that each account pledge at least 50 kW, O&R would require only that the total aggregate load from the customer total 50 kW. Central Hudson states that its enrollment and settlement process is primarily manual, and that its 50 kW minimum pledge was proposed in order to maintain a manageable number of customers and accounts. Recognizing that each utility's automation and modernization efforts are proceeding at different speeds, the Commission will adopt each proposal at the respective utility. Central Hudson and O&R are directed to document in their respective Annual Reports the number of customers and accounts aggregated by the utility in this manner, the effectiveness of the aggregation, and suggest process improvements if necessary. Niagara Mohawk, NYSEG, and RG&E are directed to file draft tariff amendments to effectuate this modification for the 2018 summer Capability Period simultaneously with their respective Annual Reports on December 1, 2017, and should consult with both Central Hudson and O&R to determine which method would be most appropriate for their service territory.

O&R's proposal to allow Direct Participants and Aggregators to increase their kW pledge between Capability Periods by assigning the previous year's Performance Factor with subsequent true-up following the first called Event or Test Event of the year, and its proposals to ease the generator emissions and permitting process, are adopted. Identical modifications were previously adopted by the Commission for Con Edison in the Con Edison DR Order, and are adopted herein for the same reasons stated in that Order. As these modifications will increase ease of enrollment in the DLM programs and will help support DLM tariff standardization across utilities, Central Hudson, Niagara Mohawk, NYSEG, and RG&E are directed to file draft tariff amendments to effectuate these modifications for the 2018 Capability Period simultaneously with their respective Annual Reports on December 1, 2017.

Regarding AEMA's proposal that the requirement that Aggregators provide customer utility account number in order to enroll customers in the DLC program be eliminated, while reducing friction in the enrollment process is a laudable goal, it is imperative that customers be protected from unscrupulous marketing and enrollment practices. The requirement for Aggregators to provide customer account numbers demonstrates, in part, that a customer has consented to participating in the DLM programs. For these reasons, AEMA's proposal is rejected.

CONCLUSION

It is anticipated that the Utilities' DLM programs will continue to evolve and improve in the coming years, delivering longer term benefits to New Yorkers. Furthermore, as envisioned in the REV Proceeding and the Value of DER Proceeding, DLM programs are becoming commonplace features of the utility business model in New York.

The Commission orders:

1. Central Hudson Gas & Electric Corporation, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, Rochester Gas and Electric Corporation, and Orange and Rockland Utilities Inc. are directed to file, with an effective date of May 1, 2017, and on not less than one day's notice, their draft tariffs as tariff amendments, with the changes required in the body of this Order.

2. Central Hudson Gas & Electric Corporation, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, Rochester Gas and Electric

Corporation, and Orange and Rockland Utilities Inc. shall each file draft tariff amendments with the Secretary to the Commission on or before December 1, 2017, as described in the body of this Order.

3. Central Hudson Gas & Electric Corporation, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, Rochester Gas and Electric Corporation, and Orange and Rockland Utilities Inc. shall each file an annual report with the Secretary to the Commission on or before December 1 of each year, as described in the body of this Order.

4. The requirements of Public Service §66(12)(b) and 16 NYCRR §720-8.1 as to newspaper publication for the tariff amendments directed in Ordering Clause No. 1 are waived.

5. In the Secretary's sole discretion, the deadlines set forth in this order may be extended. Any request for an extension must be in writing, must include a justification for the extension, and must be filed at least one day prior to the affected deadline.

6. This proceeding is continued.

By the Commission,

(SIGNED) KATHLEEN H. BURGESS
Secretary