STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on March 14, 2019

COMMISSIONERS PRESENT:

John B. Rhodes, Chair
Gregg C. Sayre
Diane X. Burman, concurring
James S. Alesi

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

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

CASE 15-E-0188 - Tariff Filing by New York State Electric & Gas Corporation to Effectuate Dynamic Load Management Programs.

CASE 15-E-0189 - Tariff Filing by Niagara Mohawk Power Corporation d/b/a National Grid to Effectuate Dynamic Load Management Programs.

CASE 15-E-0190 - Tariff Filing by Rochester Gas & Electric Corporation to Effectuate Dynamic Load Management Programs.

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

ORDER ADOPTING PROGRAM CHANGES WITH MODIFICATIONS AND MAKING OTHER FINDINGS

(Issued and Effective March 18, 2019)

BY THE COMMISSION:

INTRODUCTION

On November 15, 2018, Central Hudson Gas & Electric Corporation (Central Hudson), New York State Electric & Gas

Corporation (NYSEG), Niagara Mohawk Power Corporation d/b/a National Grid (National Grid), Rochester Gas & Electric Corporation (RG&E) and Orange and Rockland Utilities, Inc. (O&R) (collectively, the Utilities) individually submitted annual reports detailing the performance of their respective Dynamic Load Management (DLM) Programs.[1] The annual reports propose program changes and tariff modifications to improve the operations and cost-effectiveness of the DLM Programs, in compliance with the Public Service Commission's (Commission) directives.[2] The Utilities' annual reports were presented at a stakeholder session convened by the Department of Public Service Staff (Staff) on January 11, 2019, where stakeholders provided verbal feedback.[3]

The Utilities' DLM Programs are divided by customer segment and application type (i.e., peak shaving or contingency). The Commercial System Relief Program (CSRP) peak-shaving demand response (DR) program is designed for larger commercial and industrial customers who achieve a pledged reduction through demand reduction strategies. The Distribution Load Relief Program (DLRP) contingency program is designed for larger commercial and industrial customers who may be called on to address local reliability issues in specifically defined electrical or geographic areas. The Direct Load Control Program (DLC Program)

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[1] National Grid submitted an erratum filing on January 24, 2019, providing a correction to page 2 of the November 15, 2018 Annual Report.

[2] See Case 14-E-0423, et al., Proceeding on Motion of the Commission to Develop Dynamic Load Management Programs, Order Adopting Program Changes with Modification and Making Other Findings (issued April 23, 2018) (2018 DLM Order).

[3] In compliance with the Commission's 2018 DLM Order, Staff must convene annual stakeholder feedback sessions regarding the contents of the Utilities' annual reports and proposed modifications between December 1 and January 15 of each year.

targets residential and smaller business customers and can be used to support both peak-shaving and local reliability.

By this order, the Commission seeks to strike an appropriate balance between stakeholder and utility interests, and to ensure consistent and orderly operation of these programs moving forward. Specifically, the Commission rejects, as too aggressive, NYSEG and RG&E’s proposed changes to their respective CSRPs to set a 50 percent minimum performance factor and base participants’ performance during events on the minimum kilowatt (kW) load relief provided. This order adopts O&R’s proposal to eliminate the performance factor true-up provision such that it is only applicable to new participants for both the CSRP and DLRP.

The Commission also directs the Utilities to continue to offer DLM Programs where current and anticipated market conditions suggest that such programs may be cost-effective, and accepts the proposed cancellation of program components where such programs are not likely to become cost-effective in the near future. In order to accommodate present conditions, while remaining prepared for future market conditions, this order adopts National Grid’s proposal to set DLRP pricing incentives to $0.00 within the Kenmore area, which will act as a placeholder preserving the program for future use. Similarly, this order rejects NYSEG and RG&E’s proposal to eliminate their respective DLRPs, and instead requires those companies to set incentives for those programs to $0.00 so that such programs are reserved for future use. This order also rejects Central Hudson’s proposal to eliminate its CSRP, and instead requires it to continue offering the program with an abbreviated Capability Period and reduced incentive payment levels. Furthermore, this order adopts National Grid’s, NYSEG’s, and RG&E’s proposed DLC Program changes, eliminating those Companies’ room air conditioner-based DLC Program components, and accepts NYSEG and RG&E’s proposals to reduce the upfront incentive payment rate applicable to their respective Bring Your Own Thermostat (BYOT) component.

UTILITY FILINGS

National Grid Program Changes

National Grid reports on several issues it was directed to study by the Commission in the 2018 DLM Order, and one additional program change related to the DLRP. Following instruction from the Commission to re-evaluate the need and intended use of the DLRP, National Grid proposes to set pricing incentives within the Kenmore area to zero. National Grid states that while the DLRP does not currently provide additional system value, setting pricing incentives to zero as opposed to eliminating the program outright preserves future DLRP opportunities.

The Commission also directed National Grid to report on whether a 25 percent minimum performance factor threshold is warranted, and was directed to implement Customer Baseline Load (CBL) flexibility. In their annual report, National Grid reported that a 25 percent performance factor will result in more conservative customer curtailment commitments, thus providing more reliability in customer participation. The utility proposes to make this modification for the 2019 Capability Period.[4]

While National Grid’s current CBL procedures cover many of the potential enrolled customer curtailment methods, it recognizes that there may be future opportunities to use Distributed Energy Resources (DERs) to alter the CBL methodology for DR participation. National Grid states that any customers who intend to use alternate

[4] The Capability Period is defined as May 1 through September 30 of each year for National Grid, NYSEG, RG&E, and O&R. By this Order, the Capability Period for Central Hudson shall be June 1 through September 30 of each year, as discussed herein.

CBL methodologies would be required to notify the company by December 1 of each year. National Grid would advise aggregators and Staff of any potential changes to the methodology and will hold a meeting with involved parties to obtain feedback.

National Grid proposes to discontinue the coolControl Program, which is the Room Air-Conditioner (RAC) program in the Kenmore area, from the 2019 DLC Program offerings. The 2018 DLM Order provided the Utilities greater flexibility regarding their DLC Programs, helping them act more quickly to evaluate program effectiveness and provide optimal outcomes. National Grid re-evaluated the needs associated with the Kenmore area and has determined that the most suitable opportunity for this area to address the system need is with an Energy Storage System (ESS) installation.

As directed by the 2018 DLM Order, National Grid also reported on the reasonableness of implementing a four-hour DLC Program test event. There were no test events called during the summer of 2018, as high temperatures resulted in nine actual events being called, which each lasted four hours.[5] The company determined that, as there was no evidence of customer participation fatigue, it is reasonable to justify the use of four-hour test events for future Capability Periods.

Central Hudson Program Changes

Central Hudson's DLM program is comprised solely of the CSRP, which the company proposes to eliminate. In its 2018 Annual Report, Central Hudson states that its latest Marginal Cost of Service (MCOS) study suggests a significantly lower avoided

[5] Utilities generally call test events during the early portion of the Capability Period to determine participant response. If an actual event is called prior to a test event, the need for utilities to call test events to determine customer response is diminished or eliminated.

utility transmission and distribution (T&D) cost. Central Hudson performed their Benefit Cost Analysis (BCA) analysis using protocols that included updated marginal avoided T&D infrastructure costs based on its Avoided T&D Study.[6] This study indicated lower marginal avoided costs than had been used in previous BCAs, resulting in a CSRP that is not cost-effective. Central Hudson notes that it performed the same benefit cost analysis using the previous MCOS study avoided T&D costs, and determined that Societal Cost Test (SCT) result was 0.97, suggesting further incentive decreases are necessary to ensure cost-effectiveness even operating under the previous MCOS study.

NYSEG and RG&E Program Changes

Following the directive from the Commission to report on the effectiveness of their DLRPs, NYSEG and RG&E each proposed to eliminate their respective DLRPs because there has not been any participation since the program commenced in 2015. As well as re-evaluating the need and intended use of the DLRP, the 2018 DLM Order directed the Utilities to determine whether a 25 percent minimum performance factor threshold for reservation payments was warranted. In their Annual Report, NYSEG and RG&E stated that a 50 percent threshold would strengthen the tie between curtailed and enrolled load and discourage large swings in performance. Therefore, NYSEG and RG&E propose to implement a minimum performance factor of 50 percent for eligibility to receive reservation payments.

Further, NYSEG and RG&E propose to modify the way that performance is measured during events, to be based on the minimum kilowatt (kW) load relief supplied instead of the quotient of average hourly kW of load relief. NYSEG and RG&E state this

[6] Case 15-E-0751, Value of Distributed Energy Resources, Central Hudson 2018 Location Specific Avoided T&D Costs (filed July 31, 2018).

modification would encourage performance in all hours, discouraging participants from underperforming during certain hours and over-performing in other hours during an event. NYSEG and RG&E also propose to only accept applications to participate in the CSRP on or before April 1 of each year for participation in the curtailment season starting May 1, thereby modifying the period for customers to enroll by May 1 for a June 1 start.

Regarding the Companies’ DLC Program offerings, NYSEG and RG&E propose to discontinue their RAC component. Based on the current program design, high acquisition and operational expenses, low kW load relief per device, and lower projected Avoided Generation Capacity costs for the service territory, NYSEG and RG&E state that the programs are not likely to be cost-effective. Similarly, NYSEG and RG&E propose to reduce the one-time sign-up incentive for the BYOT whole-home air conditioner program to reduce program costs and improve program cost-effectiveness.

O&R Program Changes

As directed by the 2018 DLM Order, O&R reported on the impacts of increasing DLRP test events from one-hour to two-hours. During the 2017 Capability Period, there was a one-hour test event for DLRP, resulting in a 99 percent performance factor. For 2018, the two-hour test event resulted in a 68 percent performance factor. O&R suggests that the one-hour test event did not reveal the actual performance of the program, and therefore continuing the two-hour test events is appropriate for its DLRP.

O&R proposes to eliminate the true-up provision to the performance factor of both new and retuning participants such that it is only applicable to new participants for the CSRP and DLRP who entered the Capability Period with the default 50 percent performance factor. O&R states this modification will improve participation in CSRP and DLRP events in 2019. Finally, O&R is not proposing any modifications to its DLC Program offerings.

NOTICE OF PROPOSED RULE MAKING

Pursuant to the State Administrative Procedure Act (SAPA) §202(1), Notices of Proposed Rulemaking (Notices) were published in the State Register on January 2, 2019 [SAPA Nos. 15-E-0186SP6, 15-E-0188SP5, 15-E-0189SP7, 15-E-0190SP5, 15-E-0191SP6]. The time for submission of comments pursuant to the Notices expired on March 4, 2019. The comments received are addressed below.

LEGAL AUTHORITY

Public Service Law (PSL) §5 grants the Commission broad powers and jurisdiction over electric corporations, including the power to “encourage electric corporations to formulate and carry out long-range programs . . . for . . . the preservation of environmental values and the conservation of natural resources.”[7] The Utilities’ DLM Programs and the demand response procured through these programs preserve environmental values and conserve natural resources through peak load shaving and operational efficiency gains. PSL §65 grants the Commission power to establish service classifications and authorize rates and charges for such classifications, such as those charges approved by this order.[8] PSL §66 authorizes the Commission to examine, investigate, and prescribe changes in rates and charges. By this order, the Commission directs tariff amendments consistent with the statutory authority granted by the PSL.

[7] PSL §5(2).

[8] PSL §65(5).

COMMENTS

Comments were received from NRG Energy, Inc. (NRG) and Advanced Energy Management Alliance (AEMA) on March 4, 2019. Both parties submitted similar comments opposing the CSRP modifications recommended by NYSEG and RG&E, the various Utilities' plans for their respective DLRPs, and several other comments addressed below.

NYSEG and RG&E's CSRP Modifications

Both AEMA and NRG oppose NYSEG and RG&E's proposed Performance Factor modifications to their CSRP. AEMA states that NYSEG and RG&E's recommendation to implement a minimum Performance Factor for eligibility to receive Reservation Payments of 50 percent excessive and would create inconsistency and confusion for customers. NRG finds the proposed 50 percent minimum performance threshold is unproven and may lead, without justification supported by evidence, to the attrition of program participants. AEMA states that consistency in program rules across the various utilities is key to reducing confusion when educating customers, as such, AEMA instead supports the 25 percent minimum Performance Factor adopted for Consolidated Edison Company of New York, Inc. (Con Edison)[9] and Orange & Rockland[10] and recommended for adoption in 2019 by National Grid and Central Hudson (if the latter's CSRP program remains intact).

Both AEMA and NRG also oppose NYSEG and RG&E's proposed modification to the way that performance is measured during events, to be based on the minimum kW load relief

[9] Case 17-E-0741, Con Edison DLM Programs, Order Approving Changes to Commercial Demand Response Programs with Modifications (issued April 20, 2018).

[10] Case 14-E-0423, et al., Upstate DLM Programs, Order Adopting Program Changes with Modification and Making Other Findings (issued April 23, 2018).

supplied, instead of the current average kW load relief basis. AEMA alleges that NYSEG and RG&E misunderstand how aggregators and customers approach DR. AEMA states that it believes that customers will perform in every hour of program dispatch, unless conditions at the customer’s business do not allow for curtailment during that hour, but could very well allow for it in another hour of the dispatch. AEMA argues that basing the performance during an event on the minimum load relief provided could remove incentive for customers to perform in the final three hours of an event if they underperformed in the first. NRG states that adopting a minimum hourly performance as an event Performance Factor would deter customers who view these changes as too punitive. NRG argues that customers will have reduced incentives to participate if they are not fairly compensated for their delivered load reduction. Both AEMA and NRG argue that the Companies’ proposal would result in a reduction of the program’s effectiveness, could significantly discourage participation, and request that the Commission reject NYSEG and RG&E’s proposal. NRG further argues that NYSEG and RG&E have not provided sufficient evidence to support a change of this magnitude.

AEMA also submitted comments opposing NYSEG and RG&E’s proposed tariff revision to only accept applications for CSRP with the Reservation Payment option by April 1 for participation on May 1. According to AEMA, disallowing a June 1 start date would prevent customers that were not able to meet the May 1 participation enrollment deadline from being able to participate under the Reservation Payment program participation option. AEMA states that allowing later enrollment still provides load relief in the remaining months of the program period. AEMA argues that not allowing such participation would discourage customers from participating in the CSRP, and could result in the loss of benefits gained from the additional load relief.

DLRP Cancellations

AEMA submitted comments in support of National Grid’s proposal to set DLRP pricing incentives within the Kenmore area to zero. Although disappointed in National Grid’s decision, AEMA finds it prudent to reduce the costs associated with a program that has yet to see any customers enroll since inception in the Kenmore network. AEMA is encouraged that National Grid is exploring ways to provide opportunities for DR and DER to provide more localized benefits through Non-Wire Alternatives (NWA), and by keeping the DLRP tariff intact, National Grid would have the ability to rapidly address contingencies on the distribution system across National Grid’s territory as they are identified.

AEMA opposes NYSEG and RG&E’s proposal to eliminate their respective DLRP’s. AEMA recommends NYSEG and RG&E take the approach that National Grid has proposed to reduce the incentive rate for the program to $0.00 and to keep the tariff intact.

Central Hudson’s CSRP Cancellation

Both AEMA and NRG submitted comments in response to Central Hudson’s proposal to eliminate its CSRP. NRG states that Central Hudson did not provide adequate evidence to support the hypothesis that the CSRP would not be able to yield a passing BCA test result unless the system-wide marginal avoided T&D costs were to exceed $10/kW-yr. Furthermore, NRG states that Central Hudson omitted the environmental, social, and reliability benefits of the CSRP that impact the BCA test, possible resulting in a higher BCA test result. NRG finds that Central Hudson has not demonstrated or justified termination of its CSRP program.

AEMA submitted comments that were neither opposed to or supportive of Central Hudson’s proposal. AEMA states that it understands Central Hudson’s recommendation to cancel the program if ratepayers are not receiving the benefits the program seeks to provide. AEMA further suggests that if the Commission adopts Central Hudson’s recommendation to cancel the CSRP, Central Hudson should work with stakeholders to develop opportunities for future demand-side resources to cost-effectively provide DR services.

O&R CSRP and DLRP

AEMA filed comments in support of O&R’s recommendation to remove the true-up provisions for Reservation Payments for returning aggregators and customers. AEMA finds the proposal to be consistent with the other Utilities’ programs and would send the correct message incenting performance and its impact on future Reservation Payments.

AEMA does, however, object to O&R’s conclusion regarding the effectiveness of the two-hour DLRP test event. AEMA states that no conclusions can be drawn from the data presented by O&R due to small sample size of one event and significant program growth between 2017 and 2018.

AEMA Comments Regarding CSRP

AEMA filed general comments recommending that the Commission modify how performance is measured in the CSRP. AEMA states that ratepayers receive greater benefits during the top 5-10 peak hours than during the top 25-30 peak hours, but as Performance Factor is weighted equally across every hour of dispatch this leads to adverse outcomes for ratepayers by dispatching the CSRP during lower-value hours. AEMA’s raises concern that participant fatigue from multiple dispatches could create a scenario where participants choose not to participate when needed most. AEMA recommends that performance only be measured across the top three dispatches of a given year based the twelve hours associated with those dispatches. AEMA states that such an approach would appropriately prioritize the hours that are of highest value to ratepayers and prevent unnecessary attrition. AEMA further argues that a similar approach is currently in place under the Value Stack tariff, whereby customers are compensated based on their energy injections during the top 10 hours of a given year. AEMA asks that, at the very least, the Commission should direct the Utilities to study such an approach for the 2020 season and facilitate a meeting on the topic no later than September 2019.

DISCUSSION

The Utilities have completed their third full Capability Period by running their respective DLM Programs in 2018.[11] Overall, the Commission finds that the Utilities' proposed program changes are responsive to Commission directives and will improve upon the 2018 Capability Period performance. Therefore, each of the Utilities' proposed tariff modifications are adopted, except as otherwise specified herein.

By this order, the Commission makes specific findings related to: (1) Central Hudson's proposed elimination of its CSRP; (2) NYSEG and RG&E's proposed elimination of their DLRP and National Grid's proposal to set DLRP pricing incentives to zero; (3) NYSEG and RG&E's proposed changes to their respective CSRP performance factor calculations, basis for calculating performance during events, and enrollment deadline; (4) O&R's CSRP and DLRP proposal to eliminate the true-up provision for

[11] The DLM Programs were initially implemented during 2015, however, each of the commercial-focused programs had an abbreviated Capability Period, and several of the DLC Programs were not operational until the following summer.

performance factor; (5) O&R's findings related to two-hour DLRP test events; (6) AEMA's proposal to modify CSRP event performance measurements; and, (7) DLC Program changes proposed by National Grid, NYSEG and RG&E.

Central Hudson's CSRP Modifications

Central Hudson's proposal to eliminate its CSRP is denied. Central Hudson states that its latest MCOS study uses a different methodology than several other utility MCOS methodologies, and results in a significantly lower avoided utility T&D cost. MCOS studies, their methodologies, and how such results are used in various utility programs are of the utmost importance and must be well understood by all stakeholders. These DLM Programs in particular are especially sensitive to changes in the MCOS study results, since such results form the basis for the majority of program benefits of the CSRP, DLRP, and DLC Programs. As the Utilities have spent significant time, effort, and expense to bring these programs to scale, it is not reasonable to drastically diminish program offerings based on MCOS study results before such results, and the methodologies behind them, have been fully vetted. The Commission expects to open a new proceeding to examine statewide MCOS methodologies in the near future. In the meantime, the Utilities shall continue using the existing MCOS results for designing these programs until and unless new MCOS results are adopted by the Commission. Therefore, instead of cancelling its CSRP entirely, Central Hudson is directed to retain program availability at a cost-effective level.

As noted by Central Hudson, additional program and incentive payment rate changes are necessary to maintain CSRP cost-effectiveness, even using the previous MCOS study results. The Commission finds that several of Central Hudson's proposals from prior years, along with modest reductions in incentive payment rates by 30 percent, would likely result in a cost-effective CSRP during the 2019 Capability Period. Therefore, the Commission directs Central Hudson to modify their incentive payment rates and eliminate the month of May from the Capability Period. Central Hudson is directed to file tariff amendments specifying updated CSRP incentive payment levels in compliance with this order to be effective on May 1, 2019, on not less than one day's notice.

DLRP Cancellations

As directed by the 2018 DLM Order, National Grid, NYSEG, and RG&E evaluated the efficacy of their respective DLRPs. National Grid notes that evaluative efforts are ongoing to reduce electrical system load in identified areas of need, and that its previous need for load relief in the Kenmore area of its service territory is expected to be satisfied with a battery-based energy storage system. NYSEG and RG&E state that they view the DLRP as a "cookie-cutter" program that does not take into consideration unique commercial operations and local curtailment needs. NYSEG and RG&E further state that tailored demand response programs as part of an NWA solution are preferred to meet location curtailment needs.

Since the DLRP has not had any significant participation since its inception in 2015, National Grid, NYSEG, and RG&E present a compelling argument. However, the Commission agrees with AEMA and National Grid that these utilities should reserve their DLRP tariffs for future activity as an alternative to canceling these programs outright. Setting pricing incentives to zero, as opposed to eliminating the program, will allow the tariff to remain available for future DLRP activity, and would simplify possible future tariff filings in the event that National Grid, NYSEG, and RG&E are able to find areas in their service territories which would benefit from DLRP availability.

Therefore, National Grid’s proposal to set DLRP pricing incentives within the Kenmore area to zero is adopted, and NYSEG and RG&E’s proposal to eliminate their respective DLRPs is denied. Further, the Commission directs NYSEG and RG&E to reserve the DLRP for future use by setting applicable incentive payment rates to zero. National Grid, NYSEG, and RG&E are directed to file tariff amendments implementing these modifications in compliance with this order on not less than one day’s notice to be effective on May 1, 2019.

NYSEG and RG&E’s CSRP Modifications

NYSEG and RG&E’s proposal to implement a minimum performance factor for eligibility to receive reservation payments of 50 percent is denied. Each of the other utilities, including Con Edison, have either implemented or are requesting to implement a minimum performance factor of 25 percent. The Commission agrees with AEMA and NRG that a 50 percent minimum performance factor is excessive, that NYSEG and RG&E have not provided compelling evidence that such a modification is necessary, and that such a change would likely result in lower participation in the CSRP in general. Therefore, to provide program uniformity and balance the requirements of the utilities and participants, the Commission directs NYSEG and RG&E to implement a minimum performance factor of 25 percent.

NYSEG and RG&E’s proposal to modify the way that performance is measured during events, to be based on the minimum kilowatt (kW) load relief supplied, instead of the current average kW load relief basis, is denied. NYSEG and RG&E state that this modification is necessary to discourage participants from underperforming during certain hours and attempting to over-perform in other hours during an event. The Commission recognizes that load relief is most useful for integration into utilities’ planning processes when such load relief is stable and predictable. Further, participants being awarded at the same rate for a stable amount of load relief as a fluctuating one is not optimal. While the Commission recognizes these potential issues, this behavior is not widespread, and NYSEG and RG&E's proposed solution is more severe than the issue warrants at the current time.

Therefore, while the Commission rejects this proposal at this time, NYSEG and RG&E are directed to study performance during the 2019 Capability Period and report on the severity of the issue including anonymous data regarding: participant kW enrollments, hourly load relief amounts during events, and performance factors. To help determine a more optimal solution, the Commission directs NYSEG and RG&E to perform analyses on this issue under three different scenarios: (1) the current method using the average hourly kW of load relief during the event hours; (2) the proposed method using the lowest hourly kW of load relief during the event hours; and (3) a third method as discussed during the January 11, 2019 stakeholder session, whereby the average hourly kW of load relief during the event hours shall be calculated based on the participant's actual hourly load relief, but no greater than the kW amount enrolled.

NYSEG and RG&E's proposal to limit the application deadline for participation in the CSRP to only accept applications on or before April 1 of each year for participation beginning May 1, and eliminating the May 1 deadline for June 1 participation, is denied. The Commission finds AEMA's argument persuasive regarding the need to keep the enrollment period open through May 1. NYSEG and RG&E have not provided compelling evidence to support the proposed change and shortening the deadline for participation may prevent achieving additional load relief by losing potential customers.

O&R’s CSRP and DLRP Modifications

O&R’s proposal to eliminate the true-up provision for the performance factor so that it is only applicable to new participants is adopted. The Commission agrees with AEMA and O&R’s reasoning that eliminating the true-up provision for existing participants and aggregators sends the appropriate signal to customers in the absence of a penalty provision. O&R’s proposal is consistent with the other utilities’ current default performance factors for new customers and provides an appropriate incentive for returning customers to continue participating at maximum levels through the end of each Capability Period.

The Commission finds AEMA’s objection to O&R’s conclusions regarding the two-hour DLRP test event persuasive. While the Commission agrees that O&R’s data is inconclusive given the low sample size, there were a considerable amount of new enrollments during 2018. Further, the two-hour test event was initially approved on the basis of testing O&R’s concern that DLRP participants would respond only during test events, and would not be available during actual events due to previous poor performance factors observed during events at Con Edison.[12] However, O&R’s annual report demonstrates that the performance factor achieved during the system-wide contingency event was actually greater than the performance factor observed during the previous test event.

Therefore, the Commission does not agree with O&R’s conclusion that the DLRP participants’ performance during these events “prov[es] that the one hour test event did not reveal the actual performance of the program,”[13] because it is not conclusive

[12] Case 14-E-0423, et al., supra.

[13] Case 14-E-0423, et al., supra., Orange & Rockland Utilities, Inc. Annual Report on Program Performance and Cost Effectiveness of Dynamic Load Management Programs- 2018 (filed November 15, 2018), p. 17.

whether the difference from the performance factors experienced during the 2017 test event of 99 percent and the events during the 2018 Capability Period were a result of the two-hour Test Event, a result of 45 percent year-over-year program enrollment growth with potentially unexperienced participants, or a combination of the two. Therefore, O&R is directed to continue to study the use of the two-hour DLRP test event during the upcoming Capability Period and report its findings as part of its 2019 Annual Report.

AEMA's Proposed CSRP Modifications

The Commission appreciates AEMA's concerns as to how performance is measured in the CSRP. However, AEMA's proposal to base annual CSRP performance on only the top three events in a given year is unpersuasive. The Commission is sensitive to participant fatigue, which can occur during a Capability Period that experiences unusually high temperatures resulting in multiple call events. Such fatigue is evident at RG&E in particular, where enrollments during 2017 dropped significantly after a very hot 2016 Capability Period, and have only slowly begun to rebound toward their 2016 levels. However, it is also possible for a Capability Period to experience temperatures that fall below the 92 percent threshold. In 2017, no CSRP events were called other than in RG&E's service territory where one event was called on September 26, 2017.

Participation in these DLM Programs should not be viewed or marketed as a windfall to participants in the event that it is a cool summer with few events. Instead, these programs represent an agreement between participants, utilities, and customers (whom ultimately pay the costs of these programs) that these programs will be designed to be called, on average, three-to-five times per year and that participants will be compensated for the value they provide. Although the eight CSRP events called during 2018 by National Grid and RG&E, and seven events called by NYSEG, are high, conditions were unusually hot during the 2018 Summer Capability Period. Based on the data presented to date in the Utilities' annual reports, the average number of events over time is generally in the right range. At this time, the Commission sees no need to direct the Utilities to modify their CSRP event trigger criteria. However, the Utilities should consider proposing modifications to such criteria if the number of annual events continues to be higher than the three-to-five event per year design criterion.

The Commission finds AEMA's proposed performance adjustment, whereby annual performance in the CSRP would be determined after the fact based on participant performance in only the top three events, to be unreasonable. Since it cannot be known which event will be the top event, or even if any events are necessary at all, until after the Capability Period is over, it is unreasonable to provide different performance incentives after the fact. During the Capability Period, each event has a roughly equal probability of being the top event, and an even greater probability of being one of the top three events. As previously discussed, the value of these programs to the utility infrastructure planning process, and thus to customers generally, is related to the stability and reliability of the load relief participants provide. As such, the Commission does not find it feasible to implement a differential pricing structure that would essentially allow participants to pick and choose when to respond to events without recourse.

DLC Program Modifications

NYSEG, RG&E, and National Grid each report that their respective RAC programs have little DR capability for such high costs. Upstate, these RAC programs are only potentially feasible in specific high-value areas due to their high per-device costs and low per-device load relief. Simultaneously, administration costs for these programs are largely fixed in nature, and thus require higher participation to overcome. Due to this combination of limited opportunity for participation and high fixed costs, which cannot be overcome but for greater participation, the Commission accepts National Grid, NYSEG, and RG&E's proposals to eliminate their RAC programs, since it is unlikely that these components will become cost-effective in the near future.

The 2018 DLM Order also provided the Utilities with greater flexibility regarding their DLC Programs, since these programs are generally marketed to customers through a variety of channels and vendors and are frequently used to test engagement strategies to maximize program performance. NYSEG and RG&E's proposal to reduce the one-time sign up incentive related to their respective BYOT whole-home air conditioner program, which should result in reduced program costs and improve program effectiveness, is therefore adopted.

Compliance Filings

Central Hudson, National Grid, NYSEG, RG&E, and O&R are directed to file tariff amendments in compliance with this order, to become effective on May 1, 2019, on not less than one day's notice. Since these tariff amendments are being made in compliance with Commission directives in this order, the newspaper publication requirements of Public Service Law §66(12)(b) and 16 NYCRR §720-8.1 shall be waived.

CONCLUSION

The Commission expects the Utilities to continue to work with Staff and stakeholders to review proposed modifications as DLM Programs continue to evolve. As these programs become commonplace features of the utility business model in New York, the annual stakeholder sessions convened by Staff will provide utilities an opportunity to capture and maximize participant feedback and deliver long term benefits to New Yorkers.

The Commission orders:

1. Central Hudson Gas & Electric Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, New York State Electric & Gas Corporation, Rochester Gas & Electric Corporation, and Orange and Rockland Utilities, Inc. are directed to file tariff amendments, as discussed in the body of this Order, to become effective on not less than one day’s notice, by May 1, 2019.

2. Orange and Rockland Utilities, Inc. shall report on the efficacy of the two-hour Distribution Load Relief Program Test Event as part of its November 15, 2019 Annual Report, as discussed in the body of this Order.

3. New York State Electric & Gas Corporation, and Rochester Gas & Electric Corporation shall report on the performance of Commercial System Relief Program participants during event hours as part of their 2019 Annual Report, as discussed in the body of this Order.

4. The requirements of Public Service Law §66(12)(b) and 16 NYCRR §720-8.1, as to newspaper publication with respect to the tariff filings 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. These proceedings are continued.

By the Commission,

(SIGNED)

KATHLEEN H. BURGESS
Secretary