

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Oversee the
Resource Adequacy Program, Consider
Program Refinements, and Establish Forward
Resource Adequacy Procurement Obligations.

Rulemaking 19-11-009
(Filed November 7, 2019)

**JOINT OPENING COMMENTS OF
CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT COUNCIL, CPOWER,
ENEL X NORTH AMERICA, INC., LEAPFROG POWER, INC., AND OHMCONNECT,
INC. ON TRACK 2 PROPOSALS, WORKING GROUP REPORTS AND MARCH 5,
2020 WORKSHOP**

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The California Efficiency + Demand Management Council, CPower, Enel X North America, Inc., Leapfrog Power, Inc., and OhmConnect, Inc. (hereinafter “the Joint Parties”) respectfully submit these Opening Comments on the Track 2 Proposals, submitted in Rulemaking (“R.”) 19-11-009 (Resource Adequacy (“RA”)) on February 21, 2020; the Working Group Reports, submitted in the same proceeding on March 11, 2020; and the Workshop held in the same proceeding on March 5, 2020. These Comments are timely filed and served pursuant to the Commission’s Rules of Practice and Procedure, the Assigned Commissioner’s Scoping Memo and Ruling, issued on January 22, 2020 (“Scoping Memo”) and the Administrative Law Judge’s Ruling Modifying Track 2 Schedule, issued on February 28, 2020 (“February 28 ALJ Ruling”).

**I.
SUMMARY**

The Joint Parties put forth a revised third-party demand response (“DR”) Counting proposal in response to parties’ February 21 proposals and feedback received during DR Counting Working Group meetings. The revised proposal adopts components of Pacific Gas and Electric (“PG&E”) and Energy Division, including enhanced testing and rigorous penalties, to address Energy Division and investor-owned utility (“IOU”) concerns about the viability of third-party DR resources. This revised Proposal is discussed in more detail below.

In addition, the Joint Parties’ Comments discuss the following Track 2 Proposals:

Energy Division DR Minimum Testing and Dispatch Requirements Proposal: The Energy Division has provided no rationale or evidence for testing requirements that go beyond

the national standard; its 12-hour minimum dispatch requirement is arbitrary and would preempt Track 3 of the RA proceeding. The CAISO's Q3 2019 Department of Market Monitoring ("DMM") Report does not support this proposal and the CAISO should exercise its enforcement authority to address its concerns about market behavior.

Energy Division Qualifying Capacity ("QC") of DR Resources Proposal: The Commission should seek to approve a comprehensive set of third-party DR rules in its June decision.

Energy Division Transparency of Load Impact Protocols ("LIPs") Proposal: The Joint Parties do not object to publicly posting LIP results while protecting customer privacy and market-sensitive information; however, added protections are needed because Decision ("D.") 06-06-066 is not sufficient.

PG&E DR Counting Proposal: The Joint Parties support a two-tiered testing structure but four-hour tests go beyond any DR testing standard in other wholesale capacity markets.

OhmConnect DR Counting Proposal: OhmConnect's proposed revisions to the RA template should be approved to better enable load-serving entities ("LSEs") to contract with third-party DR Providers ("DRPs").

California Independent System Operator ("CAISO") DR Counting Proposal: As to the Slow Response DR Technical Solution, the Commission should require IOUs to include their DR programs in their supply plans to enable the CAISO to exceptionally dispatch Slow DR resources. As to the Variable Output Energy-Limited DR QC Methodology: The CAISO provides no evidence that a to-be-determined Effective Load Carrying Capability ("ELCC") methodology is more accurate than the LIPs or any other methodology for QC valuation; the Commission should consider a specific ELCC methodology rather than adopting an ELCC methodology requirement.

II. JOINT PARTIES' REVISED DR COUNTING PROPOSAL

The Joint Parties are concerned by the notion that the Commission may approve a general third-party DR RA framework in the June decision while leaving the remaining details to be defined at a later time. It is imperative that the Commission approve a comprehensive set of third-party DR rules in its June decision so that third-party DRPs can more easily sell their much-needed capacity to LSEs beginning with the 2021 RA compliance year.

To this end, on February 21, the Joint Parties submitted a detailed proposal for DRPs to provide DR in the RA market. In response to other parties' February 21 proposals, feedback provided during workshops, and calls held on February 13, 20, and 24, the Joint Parties have revised their proposal to adopt components of other parties' proposals in an effort to provide greater assurance of the viability of third-party DR resources. The Joint Parties' revised proposal attempts to address several key concerns expressed by other parties including:

- A heavy administrative burden on Energy Division associated with assessing DRPs' load impact analyses or other supporting data in order to approve a set of QC values for each DRP;
- The absence of a standardized and transparent penalty structure for under-performing DR resources; and
- Increased testing for new and under-performing DR resources.

The Joint Parties' revised proposal is as follows:

- ***QC Valuation:*** In the Joint Parties' original proposal, it was proposed that the QC valuation process be identical to that currently applicable to the Demand Response Auction Mechanism ("DRAM") in an attempt to maintain consistency and avoid a patchwork of QC valuation rules for third-party DR. However, some parties have expressed concern over this approach due to the purported absence of evidence that this approach would be effective.¹ In addition, it seems reasonable to anticipate that several of the challenges expressed by the Energy Division in its February 21 "Qualifying Capacity of Demand Response Resources" proposal regarding the use of the LIPs would also apply to the use of QC data proposed by the Joint Parties.² Specifically, it may initially be challenging for the Energy Division to assess the reasonableness of forecasted customer enrollments and QC values; in addition, the Energy Division will not be able to rely on IOU assistance in assessing DRPs' QC data. The Energy Division's QC data assessments will have a direct impact on the commercial interests of each DRP, a role the Joint Parties feel the Energy Division should not be required to have. A DRP's commercial prospects should rest on their performance and ability to deliver on their

¹ The Joint Parties note that this approach is used for DR in the PJM, NYISO, and ISO-New England capacity markets, so there is little reason to expect it cannot be effective in California.

² Energy Division Proposal, at p. 6.

obligations. Therefore, consistent with the Energy Division’s proposal, the Joint Parties propose that the QC value of a DRP’s portfolio be equal to the capacity sold in their contract.³ In other words, it will be initially assumed that a DRP will deliver the capacity for which it is contracted. As shown below, this would be balanced by a highly robust set of testing requirements and penalties for under-performance. This approach would also have the benefit of not tying a DRP’s resources to any specific QC valuation cycle, thus allowing a DRP to respond to a solicitation at any time.

- **Testing:** The Joint Parties initially proposed that all third-party DR resources under RA contract be subject to two 2-hour test events or market dispatches per year, with one occurring within the first two months of the contract and the second during August. The Joint Parties have borrowed some elements from PG&E’s DR Counting Working Group testing proposal to require more frequent testing for new and under-performing resources.⁴ In addition, details that were lacking in the initial proposal have been added.

The Joint Parties’ revised proposal is:

- Two-tier testing structure
 - Tier 1: For incumbent DRPs with well-performing resources; one 2-hour test or market dispatch per season (August and winter).
 - Tier 2: For all resources from new entrants⁵, incumbent DRPs with underperforming (<75% of QC) resources or year-on-year capacity expansion of 50+%; quarterly 2-hour test or market dispatches; once resource performance is $\geq 75\%$ for two consecutive quarters, resource moves into Tier 1.
- Testing/dispatch is at DR resource level (defined as having a CAISO Resource ID).
- Test/dispatch event performance is based on average load reduction over the two hours; if multiple dispatches in a month, the best performance is used.

³ February 21, 2020 Energy Division Proposals for Proceeding R.19-11-009, Proposal C, at pp. 6-8.

⁴ “Demand Response Working Group Report Submitted by Pacific Gas and Electric Company, The Public Advocates Offices, and CPower”, March 11, 2020, R.19-11-009, at p. 10.

⁵ The Joint Parties propose a similar definition of new entrant as that approved in D.19-07-009, p. 44: New market entrant as a Provider who has not integrated any demand response resources into the CAISO market during the three prior years involving any form of market-integrated demand response.

- If a test is warranted (i.e., if the Seller is unable to get a market dispatch), the Seller determines the test time and date.
- Demonstrated Capacity (DC) will be aggregated test performance of resources to contract level; penalties apply at the contract level.
- **Customer Movement:** No change from the Joint Parties' February 21 proposal.
- **Double-Counting:** No change from the Joint Parties' February 21 proposal.
- **Baselines:** No change from the Joint Parties' February 21 proposal.
- **Data-Related Communication Protocols:** No change from the Joint Parties' February 21 proposal.
- **Penalties:** The Joint Parties want to be clear that they are supportive of rigorous penalties in order to ensure that DRPs are delivering on their contracts. Based on the repercussions from poor performance by some DRAM resources, it is clear that there is a trust gap among the Energy Division, Public Advocates Office ("PAO"), CAISO, and the IOUs regarding the ability and intention of DRPs to deliver on their commitments. The Joint Parties recognize this and are fully committed to rectifying this situation. The initial proposal of no standardized penalty structures for DR resources was meant to provide the flexibility to each LSE to decide on its own what would be an appropriate penalty structure based on their specific risk management needs. However, in response to concerns expressed by the IOUs, PAO, and the Energy Division during workshops that unspecified penalties could translate into weak or no penalties for underperformance in some instances, the Joint Parties propose a two-tiered penalty structure to ensure that DRPs' supply plans are consistent with contract capacity and that they actually deliver on their supply plans. The proposed penalty structure is:
 - **Qualifying Capacity:** Establishes two "gates" at which penalties can be assessed at the contract level.
 - Gate 1 – compares year-ahead supply plan vs. contract capacity; if year-ahead supply plan quantity is:
 - 100% - 90% of contracted capacity: no penalty
 - <90% to >=75% of contracted capacity: 5% penalty modifier
 - <75% to >=50% of contracted capacity: 10% penalty modifier
 - <50% of contracted capacity: 20% penalty modifier

- Gate 2 – compares month-ahead supply plan vs. year-ahead supply plan; if month-ahead supply plan quantity is:
 - 100% - 90% year-ahead supply plan: no penalty
 - <90% to >=75% year-ahead supply plan: 10% penalty modifier
 - <75% to >=50% year-ahead supply plan: 15% penalty modifier
 - <50% performance: 20% penalty modifier

The final capacity for which the DRP could be paid would be defined as follows:

$$\text{Delivered Capacity Payment Cap} = \text{Price} * [\text{Contract Quantity} - \text{Gate 1 Shortfall (MW)} * \text{Gate 1 Modifier} - \text{Gate 2 Shortfall (MW)} * \text{Gate 2 Modifier}]$$

As an example, take a DRP that receives a 10 MW RA contract but indicates 8 MW, 80% of its contracted capacity, in its year-ahead supply plan. This results in a 5% penalty multiplier on the 2 MW shortfall, for a total of 2.1 MW (2 x 1.05 = 2.1 MW).

The same DRP then submits a month-ahead supply plan of 6 MW, 75% of its year-ahead supply plan. This results in a 10% penalty multiplier on the 2 MW shortfall, for a total of 2.2 MW (2 x 1.1 = 2.2 MW).

The maximum capacity for which the DRP would be able to claim payment at this point would be 5.7 MW (10 MW – 2.1 MW – 2.2 MW = 5.7MW), which includes 0.3 MW in penalties.

In months where the DRP performs a dispatch/test, the Demonstrated Capacity performance percentage would be calculated based on the amount listed on the month-ahead supply plan (6 MW) and not the derated amount (5.7 MW). This is further discussed below.

- **Demonstrated Capacity:** Compares actual performance vs. month-ahead supply plan. The proposed approach is identical to what was approved in D.19-07-009 for the DRAM.⁶ This would impose no penalties if the DRP delivered at least 90% of the month-ahead supply plan capacity. Performance between 70%-90% would result in prorated payments, performance between 50%-70% would result in a 25% penalty on top of prorated payments, and performance less than 50%

⁶ D.19-07-009, Ordering Paragraph 10.

would result in no payment for that month. Demonstrated Capacity would be determined based on the test event, as described above, or market dispatch performance (average of performance at the contract level); if there was no dispatch in a given month, the DRP’s DC would be assessed based on the DRP’s Must Offer Obligation bids. As stated above, in the case of multiple test or market dispatches in a month, the best performance would determine the Demonstrated Capacity.

- 100% - 90% performance: Payment = Capacity Price (\$/kW)*QC (kW)
- >90% to >=70% performance: Payment = Capacity Price (\$/kW)*DC (kW)
- <70% to >=50% performance: Payment = Capacity Price (\$/kW)*DC (kW)*75%
- <50% performance: Payment = 0

Using the example above, say a DRP indicates 6 MW on the month-ahead supply plan. If the DRP delivers 5 MW, its calculated performance would be 83% (5 MW / 6 MW = 83%) of the month-ahead supply plan. This equates to a prorated capacity payment.

The DRP’s final payment is therefore equal to the capacity price multiplied by 4.7 MW (10 MW – 2.1 MW – 2.2 MW – 1 MW = 4.7 MW).

Table: Penalty Structure Example Calculation

	Contracted (MW)	Year-Ahead (MW)	Month-Ahead (MW)	Delivered (MW)	Paid (MW)
MW	10	8	6	5	
Shortfall		-2	-2	-1	
Penalty		-0.1	-0.2	0	
Paid Capacity					4.7

The Joint Parties believe that its proposed enhanced testing regime, which ensures poor performers and new entrants are tested regularly but does not penalize good performers, combined with very strong performance penalties, would provide the necessary motivation for DRPs to only execute contracts on which they can deliver. The Joint Parties respectfully remind the Commission that future modifications to these rules if the Commission feels that DRP performance is inadequate.

If the Commission retains the LIPs as the primary method to set QC for DR resources, changes to the existing testing regime are not warranted and would be overly burdensome given the initial resource outlay of performing a load impact study. In this scenario, the Commission should also adopt the simplifications to the LIPs proposed by the Joint Parties to minimize the initial resource outlay.

Importantly, the Joint Parties recommend that behind-the-meter (“BTM”) resources that are sub-metered and using the metered generator output (“MGO”) option should not be subject to LIPs. Demand response measurement is dependent upon building a counter-factual baseline to establish what would the customer or resource demand have been, but for a DR dispatch. However, with certain BTM resources that have associated metering that meets the specifications for the CAISO’s MGO designation, it is not productive to use LIPs when the meter is collecting information about how the resource is being dispatched. As such, the Joint Parties recommend that an exemption to the LIPs be provided for BTM resources that employ the MGO and have metered data for the output of the resource.

The Joint Parties also note that the operational data of a customer-sited resource is extremely sensitive and proprietary in that it can convey information, not only about the operation of an on-site resource, but may also convey other information about other energy consumption or management at the site that could provide a competitive advantage if revealed publicly or if not provided confidential treatment.

III. ENERGY DIVISION DR COUNTING PROPOSALS

A. DR Minimum Testing and Dispatch Requirements.

The Energy Division proposes that in order to improve the accuracy of LIP evaluation and ensure that DR resources can reliably provide RA capacity, all non-emergency and non-DRAM DR resources should be required to dispatch for a four-hour period during the RA

measurement hours for each of July, August, and September.⁷ In addition, all third-party DR resources should be required to dispatch at least 12 hours per month, or consistent with the dispatch assumptions associated with the DR Maximum Cumulative Capacity (“MCC”) bucket.⁸

The Energy Division has not provided a rationale for why a 4-hour test should be required when 2-hour tests have been the norm for many years, especially when no other wholesale capacity market in the U.S. has a similar 4-hour testing requirement. Nor is there a rationale for why the test has to occur in all three primary summer months. It seems reasonable to have a test in August, when the annual peak generally occurs. Plus, DRPs do not receive energy payments when they test a resource because they have to take the resource out of the CAISO market and submit an outage card, in order to conduct the test and getting a 4-hour award in the CAISO market can be very difficult, as discussed further below. Testing customers for 12 hours without providing energy payments (if a DRP is not able to receive 12 hours of dispatch) would also not be compensatory for the customers.

Lastly, several parties have suggested during workshops that test events should not be administered by the DRP, but rather be done randomly by the CAISO or the LSE. The Joint Parties strongly oppose this. DR is a customer-provided resource and the DRPs work very hard to develop and maintain a good relationship with their customers in exchange for the customer providing DR services. It is not in the interest of the resource to take away the relationship and the management of the resource from the DRP for the purpose of testing.

i. The Energy Division 12-Hour Energy Dispatch Proposal Would Preempt Track 3 of the RA Proceeding.

In the Scoping Memo, the Commission determined that Track 3 issues will include, “examination of the broader RA capacity structure to address energy attributes and hourly capacity requirements...”⁹ The issue of minimum energy requirements for DR should be considered in the context of all use-limited resources in Track 3, as determined by the Commission. The Commission should fully develop the record with regard to the need for minimum energy requirements for use-limited resources before approving such a mandate solely for DR.

⁷ Energy Division Proposal, at p. 5

⁸ Ibid.

⁹ Scoping Memo, at p. 7.

ii. The Energy Division Testing/Dispatch Proposal Would Likely Require Many Out-of-Market Tests.

It is impossible to guarantee that a proxy DR (“PDR”) will receive a four-hour contiguous dispatch once, much less three times in a season. Similarly, because market awards are known only a day in advance, but tests must be scheduled ten days ahead, it is unlikely that a DRP will be able to successfully pair a dispatch with a test to make up the full four-hour requirement. The most likely outcome of the imposition of this requirement is that it will necessitate DRPs to schedule four-hour tests out-of-market, for up to 12 hours per year. Not only has the CAISO expressed concerns regarding this possible outcome¹⁰, it also goes against one of the principles for DR adopted in D. 16-09-056, which states: “Demand response shall be market-driven ... and dispatched pursuant to wholesale or distribution market instructions, superseded only for emergency grid conditions.”¹¹

A similar argument can be made for the requirement that each PDR be dispatched for 12 hours in every month that it is providing RA capacity. A flat hourly dispatch requirement that is divorced from grid need may likewise require out-of-market tests, particularly in the non-summer months. Together with the three 4-hour test requirement, the Energy Division’s proposal could result in substantial out-of-market activity for DR, an outcome that would represent lost revenues for the DRP and negatively influence customers’ opportunity costs to participate while providing no additional benefit to the grid.

iii. The CAISO DMM Does Not Support the Energy Division Testing/Dispatch Proposal.

The Joint Parties are highly concerned about the lack of evidentiary support for this proposal. The Energy Division cites only a finding in the CAISO DMM’s *Q3 [2019] Report on Market Issues and Performance* (“DMM Report”) to support its entire proposal.¹² The Joint Parties contend that the DMM Report makes conclusions based on incomplete data and

¹⁰ March 11, 2020, Report of the Track 2 Demand Response Counting Working Group (R.19-11-009), at p. 13.

¹¹ September 29, 2016, D.16-09-056, Decision Adopting Guidance for Future Demand Response Portfolios and Modifying Decision 14-12-024, at p. 46.

¹² *Q3 Report on Market Issues and Performance*, California Independent System Operator, December 5, 2019, at pp. 90-92.

presumptions. First, the DR resources studied are limited to those included in RA supply plans.¹³ The DR resources covered in the DMM's analysis are likely comprised primarily of DRAM resources due to the aggregate amount of RA capacity shown in Figure 3.10 of the DMM Report which shows a maximum of approximately 300 MW in July 2019. There were two DRAM auctions held for 2019 delivery, which totaled approximately 372 MW of RA capacity.¹⁴ Assuming the DMM's conclusions focused solely on DRAM resources, the performance of these resources in the first half of 2019 likely reflects the fact that DRAM is a pilot program that, until recently, did not penalize DRPs for, what the Joint Parties acknowledge, was poor performance by some DRPs.

However, it should be noted that the Commission has taken significant steps toward addressing underperformance of DRAM resources and questions about their viability in two separate decisions in 2019.¹⁵ Among the new DRAM rules approved was a requirement that 1) DRAM Bidders provide supporting documentation to demonstrate that they can deliver the capacity they bid in the DRAM auction, and 2) DRAM Sellers provide the same type of data with their year-ahead and month-ahead supply plans.¹⁶ Furthermore, D.19-12-040 adopted a penalty structure and contract default criteria to disincentivize underperformance.

The DMM Report notes that, in the first half of the year, aggregate DR capacity values exceeded the metered load of the underlying customers providing the load.¹⁷ Conversely, after June, Figure 3.10 of the DMM Report shows that metered load of the DR resources increases dramatically to exceed RA capacity and, from August onward, far exceeds RA capacity. The absence of load behind the shown RA capacity was a key concern cited by the Energy Division to justify its proposal.¹⁸ However, the Energy Division did not note that this was no longer an issue in the second half of 2019 nor did not explain why they believe it will be an ongoing problem.

¹³ IOUs are not currently required to submit supply plans for their DR programs. Therefore, it is not clear how well the IOUs are performing relative to a supply plan in the way that third parties are evaluated.

¹⁴ PG&E AL 5284-E, SCE AL 3797-E, SDG&E 3218-E, PG&E AL 5109-E, SCE AL 3629-E, and SDG&E AL 3095-E.

¹⁵ D.19-07-009 and D.19-12-040.

¹⁶ D.19-07-009, Ordering Paragraph 7.

¹⁷ *Q3 Report on Market Issues and Performance*, California Independent System Operator, December 5, 2019, at pp. 90-92.

¹⁸ Energy Division Proposal, at p. 4.

iv. A Monthly 12-Hour Dispatch Requirement is Arbitrary.

The Energy Division provides no explanation or analysis to demonstrate why a 12-hour monthly dispatch requirement is prudent. This proposal ignores the possibility that there could be an insufficient number of hours within the Availability Assessment Hour (“AAH”) timeframe in some months when the CAISO market prices will meet or exceed the opportunity cost of each DR resource. In some non-summer months, when prices can often fall to or below the Net Benefits Test (“NBT”) threshold price, there is nothing to guarantee that future energy market prices will be sufficiently high for DRPs to meet their opportunity costs while complying with the minimum dispatch requirement. The Commission should not force DRPs to sell their energy at prices below their opportunity costs—or worse, schedule out-of-market tests—to satisfy an arbitrary dispatch requirement.

v. The CAISO and DMM Have Enforcement Authority if They Believe DR Resources are Behaving Inappropriately.

The Joint Parties are concerned that some components of the Energy Division’s proposals are intended to address issues that the CAISO and its DMM are in a better position to address. If the CAISO believes that a DRP is conducting itself in a way that is contrary to the CAISO’s tariff, it has enforcement tools at its disposal to address the situation. The Commission also has the option of working with the CAISO to introduce initiatives within the context of the CAISO market to affect specific outcomes. But, as indicated by some parties’ responses to D.19-10-021 and the Commission’s approval of D.20-03-016, it may be challenging for the Commission to adopt requirements that impinge on a resource’s bidding behavior in the wholesale energy market.

B. Qualifying Capacity of DR Resources

The Energy Division proposes to allow DRPs to choose between two QC valuation options.¹⁹ The first option would continue the use of LIPs as currently required. The second option would be to set QC to contract capacity and use a performance contract modeled after the IOUs’ Local Capacity Requirement (“LCR”) contracts with standardized provisions for 1) testing, dispatch and performance requirements, 2) payments and penalties for non-performance,

¹⁹ Energy Division proposal, at pp. 7-8

and 3) terms & conditions including bidding requirements similar to the IOUs' Least Cost Dispatch ("LCD") requirements.²⁰

As shown above in its revised DR Counting proposal, the Joint Parties are supportive of an expanded set of standardized requirements for third-party DR, including testing requirements and penalty structures, if QC is set equal to contract capacity as proposed by the Energy Division as an alternative to the LIPs. However, the IOUs' LCR contracts are not a constructive starting point because their penalty structure is unreasonably strict when applied to most DR (e.g. DRPs are subject to penalties for performance below 90% of the monthly supply plan), and the application of least-cost dispatch principles to RA contracts with non-IOU LSEs would be an inappropriate expansion of Commission jurisdiction.

The Energy Division's proposal, though likely well-intentioned, does not specify a timeline for finalizing its envisioned performance contract. Therefore, it is very possible that this resolution of this issue could be delayed like a majority of other DR-related issues in the RA proceeding. The Joint Parties are concerned about postponing, yet again in the RA proceeding, consideration of substantive rules that need to be addressed for third-party DRPs to grow their market in California, in support of the State's decarbonization goals and its need for new capacity.

The Commission should seek to approve a comprehensive set of rules governing the provision of third-party DR in the June decision that provides greater certainty to LSEs and DRPs while also ensuring their reliability. As the Commission stated in its Scoping Memo, the issue of QC counting conventions and requirements for third-party DR are "priority" refinements.²¹ In that spirit, the Joint Parties have put forth a detailed proposal in an attempt to address the components necessary to move the third-party DR market forward. Furthermore, as described in detail above, the Joint Parties have revised their DR Counting proposal in response to stakeholder feedback to incorporate enhanced testing requirements, as well as DC and QC penalties. In fact, the Joint Parties' revised proposal structure satisfies a majority of the principles outlined in the Energy Division's proposal. The Joint Parties urge the Commission to approve their revised DR Counting proposal and, if necessary, reassess these rules in 2022 after a year of experience has been gained.

²⁰ Energy Division Proposal, at pp. 7-8.

²¹ Scoping Memo, at p. 5.

C. Transparency of LIPs.

The Energy Division has proposed that all LIP results be posted publicly to the maximum extent allowable while protecting customer privacy and market-sensitive information.²² The Joint Parties have no objections to this but note that protections for customer privacy and market-sensitive information are not currently defined for third-party DRPs. The confidentiality protections approved in D.06-06-066 define the types of information allowed confidential treatment for IOUs and energy service providers, but not for DRPs. Confidentiality protections are needed for DRPs' load impact evaluations to ensure that competitive information, such as the number of customers and aggregate capacity provided by customers in each subLAP, is protected.

The Joint Parties reiterate their February 21 recommendation that, if the LIPs are retained as the principal means of obtaining QC, draft and final load impact evaluations should be confidential and only shared with the DRMEC (to the extent it continues to assess DRPs' draft evaluation plans and draft reports), and the Energy Division.²³ In addition, for the reason explained above, DRPs' draft and final evaluation plans should also be provided the same confidentiality protections. These proposed protections have been and continue to be unnecessary for IOU load impact evaluations because provision of DR by the IOUs is not a profit-making enterprise.

IV. PG&E DR COUNTING PROPOSALS

In the DR Counting Working Group process, PG&E proposed a two-tiered testing requirement for third-party DR.²⁴ Under this proposal, DR resources with a "track record of stable performance" would be required to test once per year for two hours during the AAH, with the results provided to the Commission. New and changing (above a to-be-determined threshold) resources would be required to test once per quarter for four hours during the AAH.

As explained above, the Joint Parties do not support four-hour test events. However, the approach to apply a different testing standard to well-performing resources has a lot of merit so

²² Energy Division Proposal, at p. 15.

²³ Track 2 Proposal of California Efficiency + Demand Management Council, CPower, Enel X North America, Inc., And Leapfrog Power, Inc., February 21, 2020, at pp. 14-15.

²⁴ Demand Response Working Group Report Submitted by Pacific Gas And Electric Company, The Public Advocates Office, And CPower, at p. 10.

that good actors are not penalized for the poor performance of others. The Joint Parties have adopted this general approach in its revised DR Counting proposal.

V. OHMCONNECT DR COUNTING PROPOSALS

OhmConnect proposes the following updates to the RA Template used by LSEs to demonstrate compliance with RA procurement requirements:²⁵

1. Allow for DR to be counted toward a LSE's Local RA obligation.
2. Allow adjustments to be made directly in the RA template to a PDR'S NQC to account for avoided transmission and distribution losses.
3. Allow for a DRP's resources to have different Local RA values three years forward.

OhmConnect's proposed revisions to the RA Template are solely technical in nature and are needed to ensure that contracting LSEs can have confidence that the Commission recognizes the capacity being provided by a DRP for RA compliance. To the extent that these changes require Commission decision, the Joint Parties urge the Commission to approve these non-controversial revisions.

VI. CAISO DR COUNTING PROPOSAL

A. Slow Response DR Technical Solution.

The CAISO proposes that the Commission require the IOUs to include their DR programs in their respective supply plans to enable the CAISO to know which DR resources can be used by the CAISO in its slow DR dispatch solution currently being developed in its Energy Storage and Distributed Energy Resources Phase 4 stakeholder initiative. As the CAISO states, this will enable the CAISO to exceptionally dispatch slow DR resources when the CAISO identifies a pre-contingency need using its new dispatch methodology.²⁶

The Joint Parties are supportive of the CAISO's proposal because it will provide the CAISO with more resources to meet local reliability needs. Furthermore, as the CAISO states, this would create a level playing field between IOU and third-party DR.²⁷ If the Commission

²⁵ OhmConnect, at pp. 3-5

²⁶ CAISO proposal, at p. 5.

²⁷ Ibid.

adopts this proposal, additional revisions to the RA Template may be needed beyond those recommended by OhmConnect.

B. Variable Output Energy-Limited DR QC Methodology Proposal.

The CAISO proposes to replace the LIPs with an Effective Load Carrying Capability (“ELCC”) methodology for determining the QC value of variable-output energy-limited DR, and proposes that the Commission collaborate with the CAISO and other stakeholders to develop an ELCC methodology.²⁸ It would be inappropriate for the Commission to adopt this proposal at this time. First, the CAISO provides no evidence to support its contention that an ELCC methodology would be superior to the LIPs or another methodology for QC valuation. The CAISO should be able to quantitatively demonstrate that a specific ELCC methodology, not one to be determined at a later date, is better able to forecast the energy DR resources are able to deliver to the market.

**VII.
CONCLUSION**

The Joint Parties appreciate this opportunity to comment on the Track 2 Proposals.

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Respectfully submitted,

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CPower, Enel X North America, Inc., Leapfrog Power,
Inc., and OhmConnect, Inc.

²⁸ CAISO Proposal, at p. 11.