

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)

**OPENING COMMENTS OF THE
CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT COUNCIL
ON THE ORDER INSTITUTING RULEMAKING TO OVERSEE THE RESOURCE
ADEQUACY PROGRAM, CONSIDER PROGRAM REFINEMENTS, AND ESTABLISH
FORWARD RESOURCE ADEQUACY PROCUREMENT OBLIGATIONS**

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I. INTRODUCTION

The California Efficiency + Demand Management Council (the Council) appreciates this opportunity to submit its Opening Comments on the Order Instituting Rulemaking to Oversee the Resource Adequacy Program, Consider Program Refinements, and Establish Forward Resource Adequacy Procurement Obligations (OIR), pursuant to Rule 6.2 of the Rules of Practice and Procedure of the California Public Utilities Commission (CPUC or Commission) and the instructions accompanying the OIR issued November 13, 2019.

II. BACKGROUND

The Council is a statewide trade association of non-utility businesses that provide energy efficiency, demand response, and data analytics services and products in California.¹ Our member companies employ many thousands of Californians throughout the state. They include demand response (DR) and grid services technology providers, implementation and evaluation experts, energy service companies, engineering and architecture firms, contractors, financing experts, workforce training entities, and manufacturers of energy efficiency (EE) products and equipment. The Council's mission is to support appropriate EE and DR policies, programs, and technologies to create sustainable jobs, long-term economic growth, stable and reasonably priced energy infrastructures, and environmental improvement.

¹ Additional information about the Council, including the organization's current membership, Board of Directors, antitrust guidelines and code of ethics for its members, can be found at <http://www.cedmc.org>. The views expressed by the Council are not necessarily those of its individual members.

The Council regularly participates before the Commission to support appropriate EE and DR policies, programs and technologies to create sustainable jobs, long-term economic growth, stable and reasonably priced energy infrastructures, and environmental improvement. The Council is a party to numerous Commission proceedings, including, but not limited to the previous Resource Adequacy (RA) Rulemaking (R.17-09-020), DR proceedings (R.13-09-011 and A.17-01-012 et al.), EE proceedings (R.13-11-005 and A.17-01-013, et al.), Integrated Distributed Energy Resources (IDER) rulemaking (R.14-10-003), Distribution Resources Plans proceeding (R.14-08-013, et al.) and the Integrated Resource Plan (IRP) rulemaking (R.16-02-007). The Council understands the importance and role that RA has and will continue to have moving into the future as California looks to achieve its ambitious climate and energy goals. We look forward to the opportunity to participate in the proceeding and to represent the EE and DR industries to achieve the low-cost, low-carbon energy future we need in California.

III. THE PROPOSED SCHEDULE IN THE OIR MAY BE UNREALISTIC GIVEN THE INITIAL SCOPE

The Council is concerned that a June 2020 decision may be overly aggressive given the significance and complexity of the issues the Commission plans to address. In addition to the regular process of adopting Local, Flexible, and System RA requirements, the OIR proposes to consider structural changes to the RA program as well as refinements to the existing RA rules. There does appear to be some Commission recognition of the challenge associated with a potentially broad scope in that the OIR proposes to limit the number of RA program refinements considered in this proceeding.² However, as discussed in greater detail below, there are several critical DR-related issues that need to be addressed in this proceeding. The Council is concerned by the Commission's recent practice of postponing consideration, or rushing the adoption, of DR-related issues in the RA proceeding due to a lack of time. Most recently, in Track 1 and Track 3 of Rulemaking (R.) 17-09-020, Enel X North America and CPower, two DR providers who are also Council members, made three and six joint proposals, respectively.³ The

² OIR, at p. 6.

³ Joint Track 1 Proposals of CPower, EnerNOC, Inc. [now Enel X North America, Inc.], and EnergyHub ("Joint DR Parties"), submitted in R.17-09-020, on February 16, 2018; Joint Track 3 Proposals of CPower, Enel X North America, Inc., and EnergyHub ("Joint Dr Parties"), submitted in R.17-09-020, on March 4, 2019.

Commission addressed none of these issues in its Track 1 and Track 3 decisions in June 2018 and June 2019, respectively.

In Decision (D.) 19-06-026, the Commission directed that the exemption for third-party DR RA contracts from being required to use the DR Load Impact Protocols (LIPs) be allowed to expire without parties being given the opportunity to provide feedback or highlight areas of needed clarification.⁴ Consequently, no guidance was given in the decision for how the LIPs should be applied to third-party DR RA contracts. Had DR parties been given the opportunity to comment on this proposal, they would have highlighted the need for more specificity.⁵ The absence of the necessary guidance has created a great deal of uncertainty for DR providers (DRP) as well as non-investor-owned utility (IOU) load-serving entities (LSEs) who would otherwise be ready and able to execute RA contracts but cannot without a clear set of rules governing the application of the LIPs to third-party DR contracts. This and other related outstanding issues that are discussed below must be addressed through a meaningful stakeholder process and ruled on by June 2020 to enable DRPs and LSEs to contract for RA capacity in time to be included in the October 2020 year-ahead RA showings. The need for these guidelines is especially acute given the current Local RA shortage as evidenced by the large number of Local RA waivers submitted to the Commission recently, as well as anticipated System RA shortages. Note further that these waivers are being granted to carbon-emitting generation resources, which means the State will be falling further behind in achieving its clean energy policy goals.

The Council sincerely hopes that similar situations can be avoided in the future but for this to happen, it is critical that the Commission allocate a sufficient amount of time to address DR-related issues. As the Commission has recently affirmed in its proposed decision in Application (A.) 17-01-012 et al, all RA-related DR issues must be addressed in the RA proceeding.⁶

For this approach to work effectively, the Council respectfully urges the Commission to structure this new rulemaking in such a way as to afford the necessary amount of time to follow through on this requirement and ensure that DR issues are in fact addressed in the RA proceeding

⁴ This provision was added after the Proposed Decision was issued without issuing an alternate proposed decision.

⁵ The Council submitted an October 18, 2019 letter to the Energy Division expressing these concerns and received a reply over one month later that this issue is being considered.

⁶ Proposed Decision Refining the Demand Response Auction Mechanism issued in A.17-01-012, et al., November 15, 2019, at p. 56.

and not simply postponed each year. To this end, the Council recommends that the Commission create a separate track for DR issues beginning in early 2020 for a June 2020 decision. This timeline is necessary to allow time for DRPs to submit their load impact reports to the Energy Division in time for their DR contracts to be included in the October 2020 year-ahead RA filings. The Council recognizes that DR issues may not be a priority for some parties (and some parties may be interested in DR issues only), so a separate track would more easily allow parties to allocate their time according to their priorities.

IV. THE COUNCIL RECOMMENDS THAT SEVERAL ISSUES BE GIVEN HIGH PRIORITY IN THIS PROCEEDING

There are several issues that should be considered high priority in this proceeding. Those issues are: (1) guidelines for application of the LIPs to third-party DR RA contracts, (2) RA reporting template changes, (3) multi-year forward procurement of System and Flexible RA, (4) role of the Loading Order in RA Procurement, and (5) Local RA by “slow” DR.

A. Guidelines for Application of DR LIPs to Third-Party DR RA Contracts.

As discussed above, more clarity is critical regarding the application of the LIPs for third-party DR RA contracts. This was apparent in the informal comments submitted by Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and the Public Advocates Office in response to OhmConnect Inc.’s October 10, 2019 “Draft Load Impact Evaluation of OhmConnect DR Resources”—as well as OhmConnect’s response to these comments—in which parties put forth several areas needing clarification regarding how the LIPs should be applied to third-party DR being procured by non-IOU LSEs.⁷

Furthermore, the process by which third-party DRPs’ load impact evaluations will be considered is severely lacking in transparency. Specifically, more transparency is needed on how the load impact evaluations are assessed and translated into qualifying capacity (QC) values.

⁷ “PG&E’s Comments on the Draft 2018 Load Impact Evaluation for OhmConnect’s Demand Response Resources” submitted in A.17-01-012, et al. on October 17, 2019; “Southern California Edison Company’s Amended Comments on Notice of Availability of OhmConnect, Inc. Draft Load Impact Report for Program Year 2018 Pursuant to Load Impact Protocols Adopted by D.08-04-050, as Modified by D.10-04-006 and Applied to Third-Party Demand Response Resources by D.19-06-026” submitted in A.17-01-012, et al. on October 18, 2019; “Informal Comments to the Draft Load Impact Report” submitted by the Public Advocates Office in A.17-01-012, et al. on October 18, 2019; “Amended OhmConnect, Inc. Compliance Filing Pursuant to Load Impact Protocol Filing Requirement Adopted in D.08-04-050, as Modified by D.10-04-006, and Applied to Third-Party Demand Response Resources by D.19-06-026” submitted in A.17-01-012, et al. on October 22, 2019.

This includes transparency around the timeline for determining QC values once a DRP submits a load impact evaluation, the team and/or individuals at the Energy Division responsible for making these decisions, and the role that any other entities (e.g. Demand Response Measurement & Evaluation Committee (DRMEC)) play in helping to shape the final valuation. Discrepancies between the LIP-reported values and the final assigned QC should be fully explained by the decisionmakers. Finally, the process should allow for a back-and-forth between the DRP and/or its evaluators and Energy Division staff, where the DRP and/or its evaluator is given an opportunity to discuss any discrepancies between the LIP-reported values and the final QC. The Council understands that the IOUs are afforded the opportunity to discuss the QC values of their own DR programs with the Energy Division so if this understanding is correct, third-party DRPs should have the same degree of access. Finally, DRPs and non-IOU LSEs should be formally represented on the DRMEC, which is the technical body led by the Energy Division that oversees the IOUs' annual DR load impact reports and determines how the LIPs are applied.⁸ Without representation on the DRMEC, DRPs and non-IOU LSEs will be unable to participate in the very DRMEC discussions that influence their ability to enter into RA contracts. This is needed to ensure that all perspectives and interests are represented and to avoid any potential bias against third-party DRPs and non-IOU LSEs.

B. RA Reporting Template Changes.

The reduced Demand Response Auction Mechanism (DRAM) budget, Local RA shortages, and forecasted System RA shortages are creating an impetus for IOUs and non-IOU LSEs to execute RA contracts with third-party DRPs. To accommodate third-party DR RA contracts, the RA Filing Guide and the RA Reporting Templates must be updated. At least one Council member has highlighted this need in their comments on the most recent RA Filing Guide but no changes were made to the RA Reporting Templates or RA Filing Guide in response. In many instances, Energy Division has recommended temporary workarounds on an informal basis but permanent fixes are needed along with the transparency of formal documentation and/or Commission approval. These shortcomings with the RA Reporting Templates and the associated absence of guidance in the RA Filing Guide have discouraged some LSEs from executing

⁸ The Council submitted a November 7, 2019 e-mail to the Energy Division requesting representation of DRPs and non-IOU LSEs on the DRMEC; the Energy Division's response indicated that this request is being considered.

contracts with DRPs. Changes are needed in the following areas to ensure that third-party DR can be useful as an RA resource:

- **Transmission & Distribution (T&D) Adder:** Per the RA Guide, the RA value of a DR resource is based on the forecasted load impacts grossed up for the planning reserve margin and avoided T&D losses.⁹ The RA Reporting Templates do not include the T&D Gross-up Factor; this is applied to IOU DR programs in a separate spreadsheet by the Energy Division but there is no way in the RA Reporting Templates for this factor to be applied to third-party DR contracts. This has dissuaded LSEs from procuring third-party DR because they do not “see” its full RA value when completing the RA Reporting Templates and simply have to “trust” that the appropriate amount will be credited toward their obligation.
- **Accounting for DR Resources Providing Local RA in RA Local/Flex Template:** The current Local and Flexible RA Template does not allow for third-party DR RA resources to be counted as Local RA or Flexible RA, only System RA.
- **Remove Requirement that DR Resources Have a California Independent System Operator (CAISO) Resource ID:** For an RA resource to be included in the RA reporting templates for the year-ahead RA filing, it must have an assigned Scheduling Resource ID that is used to identify it in the CAISO market. This system works well with fixed resources such as generators because their underlying technology and output generally do not change from one year to the next. However, it may not always be practical (or possible) to indicate the QC value of each DR resource so far in advance. DR resources are comprised of an aggregation of customers and the mix of these customers can change from one year to the next, which impacts the QC value of a DR resource. Even though a DRP may have an RA contract and fully intends to deliver the full value of the contract, they may not be able to predict with perfect accuracy the number of associated resources, their composition, or their location so far in advance. This acts as an administrative barrier to DRPs providing more RA capacity to LSEs.

⁹ 2020 Filing Guide for System, Local and Flexible Resource Adequacy (RA) Compliance Filings, at p. 31, R.17-09-020, October 17, 2019.

C. Multi-Year Forward Procurement of System and Flexible RA.

The Council is generally supportive of a mechanism for forward procurement of System and Flexible RA capacity. With the approval of D.19-11-016, it is clear that Local RA is not the only type of RA for which there are concerns about future availability. A forward procurement mechanism would create greater market certainty for RA providers while mitigating against short-term System and Flexible capacity price fluctuations that could occur should supplies become tight relative to demand on a year-ahead or intra-year basis.

D. Role of the Loading Order in RA Procurement.

Despite the existence of the Loading Order approved in the 2003 Energy Action Plan and the State's many environmental goals, the RA program includes no guidance or requirement that procurement of preferred resources (EE and DR) be considered as first (or even priority) options by LSEs. DR in particular has no statutory mandates or procurement targets, despite being at the top of the Loading Order. The Commission should consider how to encourage the procurement of cost-effective preferred resources for RA and develop the necessary guidelines for their procurement; for example, a QC counting methodology for third-party EE contracts that can be used to meet RA requirements within a specified geographic area.

E. Local RA by "Slow" DR.

"Slow Response" Resources have been defined by the CAISO as a use-limited resource that requires more than 20 minutes advance notification in order to dispatch.¹⁰ CAISO's purpose for this designation is to address its usefulness to the CAISO in rebalancing the system after a contingency event within 30 minutes.¹¹ This requirement can be met by resources that are capable of being available for pre-dispatch, in a pre-contingency scenario, or to be able to respond within 20 minutes in a post-contingency scenario. The Commission did not address the CAISO's proposed methodology¹² to count "slow" DR for Local RA in R.17-09-020, but the FERC's November 13, 2019 approval of CAISO tariff revisions as part of its Energy Storage and

¹⁰ Local Resource Adequacy with Availability-Limited Resources and Slow Demand Response – Draft Final Proposal, October 3, 2019, at p. 9.

¹¹ *Ibid.*

¹² California Independent System Operator Corporation Resource Adequacy Proposals, February 16, 2018, at pp. 11-18.

Distributed Energy Resources (ESDER) 3a filing necessitates Commission consideration of this methodology.¹³

V. COMMENTS ON CATEGORY, NEED FOR HEARING, AND SCHEDULE

The Council does not object to the preliminary determinations regarding category, need for hearing and schedule.

VI. CONFIRMATION OF PARTY STATUS

Pursuant to Section 10, at page 10: “Persons who file responsive comments become parties to the proceeding (see Rule 1.4(a)(2)) and will be added to the ‘Parties’ category of the official service list upon such filing.” By filing these responsive comments, therefore, the Council requests “party status” and inclusion on the service list of R.19-11-009 as a party as follows:

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VII. CONCLUSION

The Council appreciates the Commission’s consideration and the opportunity to provide Opening Comments on the OIR.

Dated: December 3, 2019

Respectfully submitted,

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¹³ <https://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=15399812>.