

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Continue
Electric Integrated Resource Planning and
Related Procurement Processes.

Rulemaking 20-05-003
(Filed May 7, 2020)

**OPENING COMMENTS OF THE
CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT COUNCIL, CPOWER AND
ENEL NORTH AMERICA, INC. ON ADMINISTRATIVE LAW JUDGE'S RULING
SEEKING COMMENTS ON BACKSTOP PROCUREMENT AND COST ALLOCATION
MECHANISMS**

Dated: July 22, 2020

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I. INTRODUCTION

The California Efficiency + Demand Management Council, CPower and Enel North America, Inc.¹ (the Joint Parties) respectfully submit these Opening Comments on the Administrative Law Judge's Ruling Seeking Comments on the Backstop Procurement and Cost Allocation Mechanisms, issued in R.20-05-003 (IRP) on June 5, 2020 (June 5 ALJ Ruling). These Opening Comments are filed and served pursuant to the Commission's Rules of Practice and Procedure and the instructions contained in the June 5 ALJ Ruling.

The June 5 ALJ Ruling requested that parties respond to several questions. The Joint Parties only respond to the questions pertaining to backstop procurement but reserves the right to address cost allocation in their reply comments.

II. RESPONSES TO QUESTIONS IN THE JUNE 5 ALJ RULING

1. Do the proposed trigger points align with typical and realistic development and contracting timelines for resource types relevant to D.19-11-016? If not, propose alternative milestones and trigger points.

The September 1, 2020 Milestone 1 date should be pushed out to October 1 to allow time for demand response providers (DRPs) to initiate negotiations with load-serving entities (LSEs). Under Table 1 of the Energy Division's February 10, 2020 *Updated Demand Response Load Impact Protocols 2020 Filing Requirements and Process*, DRPs will be provided the Qualifying Capacity (QC) values of their respective DR portfolios by the Energy Division on September 1, 2020. LSEs may be hesitant to enter negotiations with DRPs until the DRPs know definitively

¹ Enel North America, Inc. filed and served a Motion for Party Status in this proceeding (R.20-05-003), today (July 22, 2020).

how much capacity they have available to sell. Because the proposed Milestone 1 due date would fall on the exact date that the DRPs are informed of this, LSEs would likely be unable to report on any substantive negotiation status for DR resources. Extending the Milestone 1 date to October 1 should provide adequate time for LSEs to be able to provide the status of any negotiations with DRPs for a RA resource.

The February 1, 2021 Milestone 2 date seems reasonable as it applies to DR resources.

2. Are the showings for each milestone practical and effective? If not, explain why not and propose alternatives.

It is unclear exactly what details the Commission would require from LSEs to adequately demonstrate that negotiations are underway with DRPs including a description of anticipated resources and negotiation status. The Council suggests a memorandum of understanding or letter from the LSE indicating the counterparty and an estimated number of MW being discussed. Regardless of the approach adopted by the Commission, the information provided should be given confidential treatment to prevent any impacts on other ongoing negotiations

The Commission should also specify exactly what information is required to demonstrate the incrementality of any DR capacity being procured. The January 3, 2020 ALJ Ruling in R.16-02-007 (January 3 ALJ Ruling) directed Southern California Edison (SCE) to use the matrix contained in Appendix A of its December 9, 2019 comments in that proceeding for determining incrementality of demand-side resources and directed the other IOUs to use the matrix as a guide for developing their own incrementality criteria.² However, these criteria remain unclear in how they apply to all DR resources. Incorporating the direction from the Commission in the January 3 ALJ Ruling to utilize the guidance from D.16-12-036 and SCE's matrix as an example, we request that the Commission clarify that DR is incremental if it meets the following criteria: 1) the specific proxy demand resource (PDR) does not appear on the California Independent System Operator (CAISO) Area Baseline List, or appears on the CAISO Area Baseline List for fewer MW than will be contracted for, and 2) the specific PDR has not been used to meet another utility procurement, program, or tariff.³

² Administration Law Judge's Ruling Finalizing Baseline for Purposes of Procurement Required by Decision 19-11-016, R.16-02-007, at p. 9, January 3, 2020.

³ Ibid, at p. 8.

3. Should showings for demand response and imports be required on August 1, 2021, beyond those that LSEs are required to make in the resource adequacy proceeding?

Enhanced Milestone 3 showing requirements for DR resources beyond those already required under Resource Adequacy rules are unnecessary. All DR capacity eligible to be sold to meet LSE procurement requirements is required to be vetted through the Load Impact Protocol process, with the Energy Division ultimately deciding on the final QC value of each DRP's portfolio. This process, though not the Council's preferred approach, was recently affirmed with modifications in Decision (D.) 20-06-031, and is sufficiently robust to render additional vetting or evidentiary requirements unnecessary. Adopting additional requirements outside of the Resource Adequacy (RA) proceeding requirements on a DR resource would be outside of the Track 3.A scope.

4. Is the third milestone's trigger point (commercial operation date by August 1, 2021) helpful in attempting to best meet D.19-11-016's requirements in the event of a resource failure? If it is too late to address D.19-11-016 goals, what other options should be considered to address late-identified failure? If it is too soon to assume the complete failure of a resource that has successfully met the first and second trigger points, how could the backstop mechanism be improved to address D.19-11-016 goals?

The Council has no objections to the Milestone 3 trigger date but the Commission should specify that contracts may start at least one month earlier to ensure that the full contracted capacity is available by August 1. For DR resources, the option of an earlier trigger date may be helpful to the extent there are delays in their roll-out. For example, there is a potential for delays associated with moving customers from investor-owned utility (IOU) DR programs. This process can have a number of delays – one example is the need to request a customer's removal from an IOU DR program such as critical peak pricing 10-15 days prior to a customer's meter read date or a 10-day delay in customer enrollments if a customer is served by a community choice aggregator (CCA) or electric service provider (ESP) that could cause a temporary shortfall in the DR capacity delivered in August. Delays of this nature have been experienced by Demand Response Auction Mechanism (DRAM) providers, so it would not be unreasonable to believe that delays of a similar nature could occur in the context of IRP procurement.

- 5. The proposal above contemplates backstop procurement within each procurement tranche, which is a different approach than the Commission took in D.19-11-016, which did not allow LSEs to elect in advance to “partially self-provide.” Comment if you disagree with this proposal and indicate why. In your response, explain how a successfully developed resource meeting part of an LSEs obligation should be treated if the IOU backstopped fully for a particular tranche of procurement (or for all three tranches, if you believe that any failure should trigger full procurement, not just procurement for the tranche in which there was partial failure).**

The Council has no comment on this question but reserves the right to comment in the future.

- 6. How should the potential for a resource to fail to meet one trigger point, but then catch up and successfully meet later trigger points, be addressed by the backstop mechanism? In your response, include a discussion of how to treat the costs associated with an IOU commencing backstop procurement for a resource that ultimately ends up being developed by the original LSE.**

The Council comments only on Milestone 3. As discussed in its response to Question 4 as it pertains to DR, the Commission should specify that DR contracts may begin delivery earlier than August 1 to ensure LSE compliance with the August 1 trigger date.

- 7. For new generation or storage resources, according to the proposal, signed and approved contracts would be required on or before the first trigger point. This proposal contemplates that LSEs may seek to transact with one another by way of reassigning these contracts, up until the first trigger point (September 1, 2020), after which backstop procurement would commence to the extent that individual self-procuring LSEs’ showings are short of their D.19-11-016 requirements. Is this date too early? If so, explain why and propose how the backstop mechanism should be modified.**

The Council has no comment on this question but reserves the right to comment in the future.

- 8. Should an extension to one or more of the identified trigger points be allowed? If so, what criteria would need to be met to grant the extension and how long of an extension would be reasonable? Why?**

As discussed in the Council’s response to Question 1, the Milestone 1 trigger date could be problematic for DRPs because they will not be informed of their portfolio QC values until September 1. In addition to an October 1 trigger date for DR resources, a one-month extension

would be helpful because the ten-year duration of the procurement requirement could introduce some additional complications to DRPs who will need to do the due diligence to ensure they will be able to deliver reliable capacity throughout this time frame.

9. Are the steps regarding the communication and determination of procurement failure, and the direction to relevant IOUs to conduct backstop procurement, practical and feasible? If not, suggest improvements, including consideration of potential confidentiality issues.

It is unclear in the Milestone 2 showing requirement whether the procuring LSE would be required to provide any DR contracts to the Energy Division only, or if the local IOU will have access to these documents as well. The Joint Parties recommend that the Energy Division be the only entity to review these contracts and that the appropriate measures be taken to protect contract price and confidential customer data. However, should the Commission intend that LSEs also send contracts to the local IOU, the contract price and any underlying customer data should be removed.

10. Should there be a deadline for IOUs to commence backstop procurement activities? If so, when and why?

The Council has no comment on this question but reserves the right to comment in the future

III. CONCLUSION

The Joint Parties appreciate this opportunity to submit these Reply Comments.

Dated: July 22, 2020

Respectfully submitted,

/s/ MEGAN M. MYERS

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