

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
CPOWER, ENEL X NORTH AMERICA, INC., AND THE
CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT COUNCIL
ON THE PROPOSED DECISION ON
TRACK 3.A ISSUES: LOCAL CAPACITY REQUIREMENT REDUCTION
COMPENSATION MECHANISM AND COMPETITIVE NEUTRALITY RULES**

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CPower, Enel X North America, Inc. (Enel X), and the California Efficiency + Demand Management Council (Council) (Joint Parties) respectfully submit these Joint Opening Comments on the Proposed Decision on Track 3.A Issues: Local Capacity Requirement Reduction Compensation Mechanism and Competitive Neutrality Rules mailed in R.19-11-009 (Resource Adequacy (RA)) on October 23, 2020. These Joint Opening Comments are timely filed and served pursuant to Rule 14.3 of the Commission’s Rules of Practice and Procedure and the instructions accompanying the Proposed Decision.

**I.
THE PROPOSED DECISION ERRS BY FAILING TO PROVIDE A
MEANINGFUL AND TIMELY PATH FORWARD TO ESTABLISH
NET QUALIFYING CAPACITY VALUES FOR
BEHIND-THE-METER HYBRID STORAGE AND SOLAR RESOURCES.**

The Proposed Decision states that it addresses issues as defined in an Amended Track 3.A and 3.B Scoping Memo issued in this proceeding on July 7, 2020 (Amended Track 3 Scoping Memo).¹ In reliance on a “Joint Agency Workshop between the Commission, CAISO [California Independent System Operator], and the CEC [California Energy Commission] “set

¹ Proposed Decision, at p. 4.

forth” by Decision (D.) 20-06-031 and the Amended Track 3 Scoping Memo, the Proposed Decision identifies one of those Track 3.A issues as planning the “joint agency steps necessary to establish net qualifying capacity (NQC) values for Behind-the-Meter (BTM) hybrid storage/solar resources with the goal of counting these resources in the Resource Adequacy program.”² The Proposed Decision, however, declines to address the issue or identify any timeline for such steps to be taken. Instead, the Proposed Decision merely repeats language in the Amended Track 3 Scoping Memo that “[t]he outcome of the joint agency workshop will flow into Track 4” and states that the Joint Agency Workshop is now scheduled for “November 2020” and that parties will have “an opportunity to provide comments on this workshop...in Track 4 of this proceeding.”³

This summary dismissal of the Track 3.A issue of NQC valuation for BTM hybrid resources has multiple shortcomings. Namely, the Proposed Decision (1) ignores timely and permitted pleadings objecting to the Amended Track 3 Scoping Memo on this point, especially where that scoping memo diverged from D.20-06-031 as to timing;⁴ (2) ignores the “time sensitive” nature of adopting RA rules for BTM resource valuation that are long overdue; and (3) ignores that the inclusion of the BTM capacity valuation issue as a Track 3.A issue in the Amended Track 3 Scoping Memo was based on the holding of that “Joint Agency Workshop” months ago (“Late August 2020”), instead of now having been postponed several times to take place, if it does, in *late* “November 2020.”⁵

Most significantly, it completely neglects the fact that, on October 6, 2020, the Commission published on its website a Joint Press Release of the Commission, California

² Proposed Decision, at p. 4.

³ Proposed Decision, at p. 32.

⁴ See, Joint DR Parties and California Efficiency + Demand Management Council (Joint Parties) Comments on Process Adopted in the Amended Track 3 Scoping Memo (August 7, 2020), at pp. 2-5.

⁵ At the present time, the Joint Agency Workshop is scheduled for November 23, 2020.

Independent System Operator (CAISO) and California Energy Commission (CEC) announcing the issuance of their joint Preliminary Root Cause Analysis of the August 2020 heat wave and rotating outages, which also provided a link to that analysis.⁶ Among other things, the Preliminary Root Cause Analysis provided by the Commission includes “recommendations and immediate steps” to be taken *by 2021* (“near term”) to include this Commission acting to “*expedite regulatory and procurement processes to develop additional resources that can be online by 2021*, including coordination with non-CPUC jurisdictional entities,” which “will most likely focus on ‘demand side’ resources such as demand response,” and to mitigate shortfalls by enhancing load flexibility and conservation.⁷

The BTM solar-storage hybrid resources fall squarely into the category of the very type of resources needed now to address both this procurement and flexibility need. Yet, the Proposed Decision – that offers the first opportunity to “expedite” a regulatory process to do so – instead *delays* consideration of this issue for months to June 2021 *at the earliest* and includes no schedule to even achieve that date. Such inaction ensures that these valuable resources could *not* be online by 2021, contrary to the express commitments made by the Commission in the Preliminary Root Cause Analysis.

In Comments filed on August 7, 2020, which are not referenced in the Proposed Decision, the Joint Parties (CPower, Enel X, and the Council) expressly addressed the deficiencies of the Amended Track 3 Scoping Memo as to the BTM hybrid resource capacity valuation issue,

⁶ CPUC-CAISO-CEC Joint Press Release (October 6, 2020): <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M348/K229/348229612.PDF> . Preliminary Root Cause Analysis of Mid-August 2020 Heat Storm (October 6, 2020): <http://www.caiso.com/Documents/Preliminary-Root-Cause-Analysis-Rotating-Outages-August-2020.pdf>. Pursuant to Rule 13.9 of the Commission’s Rules of Practice and Procedure, these documents can be officially noticed in this proceeding as “Official acts” of the Commission pursuant to its state constitutional and legislative authority. (California Evidence Code §452(c)).

⁷ Preliminary Root Cause Analysis, *supra*, at pp. 65, 67; emphasis added.

especially where determinations made in that scoping memo were *not* based on D.20-06-031 and where Issue 5 of Track 3.A *included* consideration of “time sensitive” issues.⁸ The Joint Parties urged the Commission to use its authority to “modify the schedule as necessary to promote the efficient management and fair resolution of this proceeding”⁹ by correcting and modifying the schedule for Track 3 to include establishing the NQC value for BTM hybrid storage/solar resources in the “Track 3.A” Proposed Decision to be issued by “Q4 2020.”¹⁰ From the Joint Parties’ perspective, “[t]o do otherwise would unnecessarily delay outcomes on ... time-sensitive issues to June 2021 or later.”¹¹

In particular, the Joint Parties’ August 7 Comments underscored the following determinations made by the Commission in D.20-06-031 on the issue of establishing NQC values for BTM hybrid storage and solar resources, as well as direction in the *original* Scoping Memo (January 22, 2020) for Tracks 3 and 4 that were *not* amended by the Amended Track 3 Scoping Memo, certainly did not require or contemplate a delay in addressing the BTM valuation issue until June 2021 at the earliest, and are now contrary to the near term goals of the Preliminary Root Cause Analysis. Namely:

- Track 3 was holistically intended to encompass “structural changes and refinements to the RA program” to include “[e]xamination of the broader RA capacity structure to address energy attribute and hourly capacity requirements given the increasing penetration of use-limited resources” and “greater reliance on preferred resources.”¹²
- In Decision (D.) 20-06-031, while the Commission declined to establish NQC values for hybrid Behind-the-Meter (BTM) storage/solar resources, it directed “a joint public

⁸ Joint Parties August 7 Comments, at pp. 3-5.

⁹ Amended Track 3 Scoping Memo, at p. 5.

¹⁰ Amended Track 3 Scoping Memo, at p. 6; Joint Parties August 7 Comments, at p.5.

¹¹ Joint Parties August 7 Comments, at p. 5.

¹² Scoping Memo (January 22, 2020), at p. 7.

workshop” of the Commission, the CAISO, and the CEC to be held “later this calendar year to plan the joint agency steps necessary” to do so.¹³

- D.20-06-031 never directed that the “joint agency steps necessary” to establish NQC values for hybrid BTM solar/storage resources was to be deferred or delayed to “Track 4” of this proceeding, which by the original Scoping Memo, was only identified as not expected to “conclude,” much less have a Proposed Decision, until at least “*June 2021.*”¹⁴
- The Amended Track 3 Scoping Memo offers no explanation as to why the NQC-BTM hybrid resource counting issue included in Track 3.A should then be excluded from the Track 3.A Proposed Decision due in Q4 2020.
- Further, the Amended Track 3 Scoping Memo did not address or establish the scope and schedule for Track 4, which by the original Scoping Memo, was only identified as not expected to “conclude,” much less have a Proposed Decision, until at least “*June 2021.*”¹⁵
- RA rules that would address these issues, including NQC for BTM hybrid storage and solar resources, are long overdue and are clearly “time sensitive” (Amended Track 3 Scoping Memo Track 3.A Issue 5)¹⁶ to ensure that these resources not only help meet this State’s climate goals, but also meet the Commission’s expectations of the role these resources are to play in accelerating microgrid deployment and providing resiliency solutions¹⁷ and now the near term goals of the Preliminary Root Cause Analysis for regulatory changes in the procurement of distributed energy resources.
- As of this date, the “schedule and scope of issues for Track 4” has still not been established.

In these circumstances, the Commission must modify the Proposed Decision to bring it in line with the actual directives of D.20-06-031, the recognition of a much-delayed Joint Agency

¹³ D.20-06-031, at pp. 33, 81-82.

¹⁴ Scoping Memo (January 22, 2020), at p. 8; emphasis added.

¹⁵ *Id.*; emphasis added.

¹⁶ Amended Track 3 Scoping Memo, at p. 4.

¹⁷ D.20-06-017, at pp. 26, 58, 105.

Workshop, and, most critically, the need for the Commission to use this *first* opportunity to meet its commitments in the Preliminary Root Cause Analysis to “*expedite* regulatory and procurement processes” to develop additional demand-side and flexible resources “that can be *online by 2021.*”¹⁸ To do otherwise undermines these joint agencies’ efforts to actually address and prevent the repetition of the widespread power outages that took place in August 2020.

Finally, in the just-published Agenda for the Commission’s Business Meeting for November 19, 2020, Item 35 is a proposed Rulemaking to “establish policies, processes, and rules to ensure reliable electric service in California in the event of an extreme weather event in 2021.” Its purpose is to “evaluate options and implement actions that will increase capacity in the energy grid...by the Summer of 2021.” The proposed Rulemaking appears to be responsive to the Preliminary Root Cause analysis and the need for near-term (2021) actions in response.

However, for BTM resources, this proposed Rulemaking is *not* proposed to be a vehicle to resolve the important issue of establishing NQC for BTM solar and storage resources and allow those resources to come online in 2021 to allow “near term” procurement that was a goal of the Preliminary Root Cause Analysis. Specifically, the proposed Rulemaking intends to consider only specifically identified “measures” by which Commission jurisdictional Load Serving Entities (LSEs) can increase energy supply and decrease demand during the peak demand and net peak demand hours in the event that a heat storm similar to the August 2020 storm occurs in the summer of 2021, with adoption of such measures by April 2021.¹⁹ Of note, by doing so, the Commission has confirmed that “near term” measures must be adopted by April 2021 to be “online” to increase capacity in the energy grid by the Summer of 2021.

¹⁸ Preliminary Root Cause Analysis, at pp. 65, 67; emphasis added.

¹⁹ Proposed Rulemaking, at p. 12.

It is the case that one of the issues identified as being within the scope of the proposed Rulemaking relates to BTM hybrid-solar-storage, *but only* as to whether those “assets” should be allowed “to participate and discharge their available capacity in excess of onsite load.”²⁰ Further, the potential to allow such discharges from BTM hybrid resources is only discussed in the context of demand-side solutions, as part of a proposed out-of-market “Emergency Load Reduction Program” that would compensate resources after-the-fact based on event performance. Thus, while allowing for such discharges would provide a marginally improved opportunity for such resources to contribute to grid emergencies (above and beyond voluntary uncompensated demand reductions in response to Flex Alerts that likely prevented rotating outages on August 17-19), it would not amount to a meaningful or sustainable way for the full capabilities of BTM hybrid or standalone Distributed Energy Resources (DER) to contribute to grid reliability as supply resources.

Because the Track 3.A scope was meant to cover “time sensitive issues,” which certainly now applies to the urgency to bring more distributed energy and hybrid resources online by 2021, it is necessary to create a separate expedited track in this proceeding for an immediate consideration of establishing the NQC for BTM hybrid resources (by ~Feb 2021) instead of punting this issue to this proceeding’s still unknown Track 4 schedule, for which a decision, again, would be no sooner than June 2021. This change would address what the Joint Parties view as a significant omission of the proposed Rulemaking, which would only consider BTM - DER exports as an emergency load resource and would ensure that such resources have meaningful avenues to participate in the supply stack starting in Summer 2021.

To that end, the Joint Parties request that the Proposed Decision be modified to require a *separate track* in this proceeding for the development of “joint agency *steps* necessary to

²⁰ Proposed Rulemaking, at p. 13.

establish net qualifying capacity (NQC) values for Behind-the-Meter (BTM) hybrid storage/solar resources with the goal of counting these resources in the Resource Adequacy program.”²¹ The Joint Parties concede that the starting date for such a BTM-NQC valuation track could be the now-scheduled November 23 Joint Agency Workshop, but only if a commitment to that date remains. Whether or not that Joint Agency Workshop is held on November 23, however, the Proposed Decision must adopt a timeline for party input (oral or written) and agency action that will *conclude* no later than January 2021 to permit a decision by the Commission no later than February 2021.

Put simply, there is no basis to delay consideration of the establishment of NQC for BTM hybrid resources to mid-year 2021 or later. Further, timeliness is of the essence in deciding this issue, especially where no schedule has been set for Track 4, and it is imperative to confirm and further the Commission’s expectations of the role these resources are to play in accelerating microgrid deployment and providing resiliency solutions²² and now the near term goals of the Preliminary Root Cause Analysis for regulatory changes in the procurement of distributed energy resources.

II. CONCLUSION

For the reasons stated above, neither D.20-06-031 nor current circumstances support an ongoing delay in the Commission establishing an NQC for BTM hybrid solar and storage resources. To correct for the Proposed Decision’s error in delaying resolution of that issue to June 2021 *or later*, the Proposed Decision must be modified to adopt a schedule for timely resolution of that issue, including the creation of a separate track in this proceeding to do so no

²¹ Proposed Decision, at p. 4; emphasis added.

²² D.20-06-017, at pp. 26, 58, 105.

later than February 2021. To that end, the Joint Parties have proposed findings of fact, conclusions of law, and ordering paragraphs in Appendix A hereto.

Respectfully submitted,

November 12, 2020

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APPENDIX A

JOINT PARTIES PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDERING PARAGRAPHS FOR PROPOSED DECISION ON TRACK 3.A ISSUES: LOCAL CAPACITY REQUIREMENT REDUCTION COMPENSATION MECHANISM AND COMPETITIVE NEUTRALITY RULES.

CPower, Enel X North America, Inc. (Enel X), and the California Efficiency + Demand Management Council (Council) (Joint Parties) propose the following modifications to the Findings of Fact, Conclusions of Law, and Ordering Paragraphs in the Proposed Decision on Track 3.A Issues: Local Capacity Requirement Reduction Compensation Mechanism and Competitive Neutrality Rules mailed in this proceeding on October 23, 2020 (Proposed Decision).

Please note the following:

- A page citation to the Proposed Decision is provided in brackets for each Finding of Fact, Conclusion of Law, or Ordering Paragraphs for which a modification is proposed.
- Added language is indicated by **bold type**; removed language is indicated by **bold strike-through**.
- A new or added Finding of Fact, Conclusion of Law, or Ordering Paragraph is labeled as “**NEW**” in **bold underscored** capital letters.

PROPOSED FINDINGS OF FACT:

NEW FINDING OF FACT: No schedule has yet been established for Track 4 of this proceeding.

NEW FINDING OF FACT: D.20-06-031 did not state that establishing a Net Qualifying Capacity (NQC) for Behind-the-Meter solar-storage resources should be delayed until Track 4 of this proceeding.

NEW FINDING OF FACT: The need for new regulatory and procurement near-term actions to permit flexible resources, such as BTM hybrid solar-storage resources, to come

online by 2021 has been identified by the Commission, CAISO, and the CEC in their Preliminary Root Cause Analysis of the August 2020 power outages.

NEW FINDING OF FACT: The Proposed Rulemaking to address the August 2020 power outages and extreme weather events will not result in establishing an NQC for BTM hybrid resources and, therefore, requires that issue to continue to be heard and resolved expeditiously in this proceeding.

PROPOSED CONCLUSIONS OF LAW:

NEW CONCLUSION OF LAW: Due to the urgency of establishing an NQC for BTM hybrid solar and storage resources, this proceeding should add a new track devoted to the timely resolution of this issue no later than February 2021.

NEW CONCLUSION OF LAW: An amended scoping memo should be issued within 10 days of the effective date of this decision setting forth the schedule for establishing an NQC for BTM hybrid resources by February 2021.

PROPOSED ORDERING PARAGRAPHS:

NEW ORDERING PARAGRAPH: Within 10 days of the issuance of this decision, an Amended Scoping Memo shall be issued in this proceeding adopting a schedule by which the Commission shall establish the Net Qualifying Capacity for Behind-the-Meter solar and storage resources by a final decision issued no later than February 2021.