

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Establish  
Policies, Processes, and Rules to Ensure  
Reliable Electric Service in California in the  
Event of an Extreme Weather Event in 2021.

Rulemaking 20-11-003  
(Filed November 19, 2020)

**RESPONSE OF THE CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT  
COUNCIL AND LEAPFROG POWER, INC. TO RULING DIRECTING PARTIES TO  
SERVE AND FILE RESPONSES TO PROPOSALS AND QUESTIONS REGARDING  
EMERGENCY CAPACITY PROCUREMENT BY THE SUMMER OF 2021**

Dated: December 18, 2020

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The California Efficiency + Demand Management Council (the Council)<sup>1</sup> and Leapfrog Power, Inc. (Leap) respectfully submit this Response to the Ruling Directing Parties to Serve and File Responses to Proposals and Questions Regarding Emergency Capacity Procurement by the Summer of 2021, e-mailed in this proceeding on December 11, 2020 (December 11 Ruling). This Response is timely filed and served pursuant to the Commission's Rules of Practice and Procedure and the instructions accompanying the December 11 Ruling.

**I.  
SUMMARY OF THE COUNCIL AND LEAP'S POSITION**

Before addressing the questions posed in the Commission's December 11 Ruling, the Council and Leap would like to express their deep concern and disappointment that demand response (DR) is not being considered in the Commission's procurement proposal. This is especially puzzling because the Commission sought a great deal of feedback from parties on opportunities for DR to address incremental Summer 2021 resource needs in its November 30 Order Instituting Rulemaking (OIR). There was significant support among environmental parties, investor-owned utilities (IOUs), community choice aggregators (CCAs), technology providers, and DR providers for procuring additional DR through third-parties and IOU DR programs, so it is unclear why DR should not be considered along with other resource types proposed in the December 11 Ruling.

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<sup>1</sup> The views expressed by the California Efficiency + Demand Management Council are not necessarily those of its individual members.

In what is beginning to feel like déjà vu, the Council and Leap again respectfully reminds the Commission of the State's policies that are meant to promote lower emissions, environmental justice, and economic development: the Loading Order, Senate Bill (SB) 100, SB 350, SB 49, and key recommendations from the recent Joint Agency Root Causes Analysis. DR is a critical component in fulfilling all of these policies, yet is continually downplayed or suppressed by the Commission. The Commission's exclusion of DR in incremental procurement for Summer 2021 appears to be yet another step in what appears to be an unofficial policy to slowly eliminate third-party DR from the State through a series of steps that steadily whittles it down. These steps are being taken without justification and in spite of state policies that are completely supportive of expanded DR.

Other major steps the Commission has taken to degrade third-party DR include: 1) capping LSE procurement of DR despite no evidence that DR has been over-procured, 2) subjecting third-party DR to the costly, inflexible, and time-consuming DR Load Impact Protocol (LIP) Qualifying Capacity (QC) process, 3) reducing by 50% the Demand Response Auction Mechanism (DRAM) program budget beginning in 2020 despite warnings from the DR community that the lost capacity might be needed in 2020, 4) eliminating the Aggregator Managed Portfolio (AMP) bilateral contracts, and 5) forcing a majority of DR to integrate into the California Independent System Operator (CAISO) market at great cost and effort to the IOUs and DR providers with no clear benefits to reliability. The Commission should rectify its omission and open DR resources to its procurement proposal.

Notwithstanding the above statement, the Council and Leap respond to the December 11 Ruling questions.

## **II. THE COUNCIL AND LEAP'S RESPONSES TO QUESTIONS REGARDING PROCUREMENT TYPE INITIAL PROPOSAL**

### **1. In considering incremental authorization for procurement, what parameters should the Commission place on contracts regarding pricing, contract term, and operational characteristics?**

As a general practice, the Commission should avoid approving extended contracts while under duress. The 2001 energy crisis has shown the risks of negotiating long-term contracts when suppliers know there is little available supply.

The Commission should limit contract terms to one year only. The Commission is considering incremental procurement for Summer 2021 now because it has already approved 2021 Resource Adequacy (RA) requirements. However, the Commission has adequate time in the RA proceeding to assess and adopt 2022 RA requirements in a June 2021 decision, so it would be premature to assume that any incremental procurement is needed for 2022. Also, it is not clear how any incremental procurement for 2022 will be coordinated with the incremental procurement efforts currently underway pursuant to Decision 19-11-016.

Contracted resources should meet the minimum requirements to qualify as an RA resource - be available during the 4:00 p.m.-9:00 p.m. Availability Assessment Hours (AAH), and be capable of dispatching for four hours for three consecutive days, at least 24 hours per month. According to the Mid-August Event Overview in the Preliminary Root Cause Analysis (PRCA), these hours coincide with the periods on August 14 and 15 when controlled load shed occurred and also coincide with the highest net load hours. However, to the extent DR resources are contracted and dispatched outside of the AAH, their performance should be recognized for payment purposes regardless of when they are dispatched.

**2. Should the Commission limit the total volume of incremental procurement authorized?**

The volume of incremental capacity procured should be linked to any reassessment of the Summer 2021 RA requirement, change to the Planning Reserve Margin (PRM), or stack analysis. The Commission is understandably concerned about ensuring that there are no blackouts in 2021 but at the same time, it should not overreact and procure more capacity than is reasonably needed. Based on the narrative provided in the PRCA on the events during the August heat storm, it seems clear that there was a unique confluence of factors that led to blackouts, many of which have already been identified and addressed. Therefore, it would not be prudent for the Commission to simply authorize the IOUs to procure any and all capacity that is available.

**3. Should procurement that cannot achieve a commercial operation date by June 1, 2021 also be considered in this procurement authorization?**

No, for a capacity resource to be eligible for this incremental procurement, it should be available beginning on June 1, 2021. This is especially important if a new resource must accelerate its development milestones to commit to a June 1 commercial date, because there will

be a greater likelihood that it might not be available by then. In such an instance, assuming a one-month delay in the rollout of new resources would at least result in them being available by July. However, if a new resource with accelerated development milestones with a commercial date of, for example, August 1 is unable to meet that commitment, its availability could slip into September and miss July and August, two of the highest load months of the year. In such a scenario, the IOUs could end up procuring lower cost capacity that is not available when needed in favor of comparatively higher cost capacity that would be available for the entire summer.

**4. Are there any additional considerations regarding the procurement type that the Commission should consider in issuing a procurement authorization?**

Third-party DR should be included in the eligible resource types. The Commission should not eliminate a significant source of capacity from consideration, especially when so few details of the Summer 2021 procurement have been established. It is unclear how much additional capacity will ultimately be needed next summer, nor is it clear whether the prescribed amount of capacity is even available, nor is it clear whether the capacity that is available can be had at a reasonable price. There is DR capacity available that can be procured and deployed quickly. As the PRCA showed and as explained above, DR resources are available for dispatch exactly when the most acute system conditions occurred during the August heat storm. To the extent that the Commission does include DR as an eligible resource, the per-load-serving entity (LSE) 8.3% MCC cap must be suspended to ensure all LSEs can receive their allocation of any DR capacity procured by the IOUs, and to allow third-party DR providers to contract directly with LSEs.

**5. Are there additional specific issues the Commission should consider in authorizing procurement to ensure that the procurement is cost-effective under the existing circumstances, would address system needs and be in the public interest?**

Consistent with the Loading Order, and the State laws and policies, the Commission should seek to procure preferred resources first rather than more fossil-fueled capacity. This is clearly in the public interest because it supports State laws and policies pertaining to decarbonization and reducing emissions.

**III.**  
**THE COUNCIL AND LEAP’S RESPONSES TO QUESTIONS REGARDING  
PROCUREMENT PROCESS INITIAL PROPOSAL**

- 6. Are there other expedited processes besides bilateral negotiations or revisiting offers from recent IRP RFO bid stakes that could be used to ensure cost-competitive resources are procured to be online for Summer 2021?**

The Commission should consider using the Demand Response Auction Mechanism (“DRAM”) in conjunction with a bilateral contract to procure additional DR. DR can be procured quickly and competitively through the DRAM process. As the Council showed in its Reply Comments to the OIR, the IOUs can perform a DRAM solicitation within two months of the RFO date.<sup>2</sup>

- 7. Can or should actions be taken to expedite the permitting and interconnection processes associated with this procurement?**

The Commission should not facilitate expedited permitting or interconnection of new fossil-fueled generation, especially to the extent that there could be negative environmental impacts. The Commission’s insistence that only fossil-fueled capacity be procured will already add to the environmental harm, and any corner-cutting that occurs in the form of accelerated environmental or safety reviews will further exacerbate the problem. However, this whole question is moot for DR because, unlike generation resources, it requires no permitting or interconnection. This is yet another reason in favor of opening this procurement to DR.

- 8. What existing investor-owned electric utility procurement processes (for example, Procurement Review Group consultation independent evaluator oversight, etc.) should be utilized for this procurement?**

The Procurement Review Group will likely provide adequate oversight.

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<sup>2</sup> Reply Comments on Order Instituting Rulemaking, California Efficiency + Demand Management Council, December 10, 2020, at p. 5.

**9. What information must be included in any filings seeking final approval from the Commission, including in any potential advice letter filings that might be evaluated and resolved by the Commission’s Energy Division?**

Any procurement filings seeking Commission approval should not include any more or less information than is typically required by the Commission when approving similar advice letter filings for new procurement, subject to the appropriate confidentiality protections.

**10. Are there any additional considerations regarding the procurement process that the Commission should consider in issuing a procurement authorization?**

Please refer to the Council and Leap’s opening statement in this pleading contained in Section I.

**IV.  
THE COUNCIL AND LEAP’S RESPONSES TO QUESTIONS REGARDING  
PROCUREMENT COST RECOVERY AND RATEMAKING TREATMENT**

**11. Are there any additional considerations regarding cost recovery and ratemaking treatment the Commission should consider in issuing a procurement authorization?**

The Council and Leap respectfully decline to respond to this question but reserves the right to do so in the future should the opportunity arise.

**V.  
THE COUNCIL AND LEAP’S RESPONSES TO QUESTIONS REGARDING PROCESS  
FOR COMMISSION REVIEW**

**12. Are there any additional considerations regarding the process for Commission review that the Commission should consider in issuing a procurement authorization?**

The Council and Leap respectfully decline to respond to this question but reserves the right to do so in the future should the opportunity arise.

**VI.  
CONCLUSION**

The Council and Leap appreciate this opportunity to provide this Response

Dated: December 18, 2020

Respectfully submitted,

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