

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, CPOWER, ENEL X NORTH AMERICA, INC., LEAPFROG
POWER, INC., OHMCONNECT, AND SUNRUN, INC. ON ADMINISTRATIVE LAW
JUDGE'S RULING ON ENERGY DIVISION'S DEMAND RESPONSE PROPOSAL AND
SEEKING COMMENTS ON THE PROPOSAL**

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I. INTRODUCTION

The California Efficiency + Demand Management Council¹ (“the Council”), CPower, Enel X North America, Inc., Leapfrog Power, Inc., OhmConnect, Inc., and Sunrun, Inc. (collectively, the “Joint Parties”) respectfully submit these Opening Comments on the Administrative Law Judge’s Ruling on Energy Division’s Demand Response Proposal and Seeking Comments on the Proposal, submitted in this resource adequacy (“RA”) proceeding on April 19, 2021 (“April 19 ALJ Ruling”). These Opening Comments are timely filed and served pursuant to the Commission’s Rules of Practice and Procedure and the instructions contained in the April 19 ALJ Ruling. Appendix A to the April 19 ALJ Ruling is the Energy Division Demand Response Proposals for Proceeding R.19-11-009 (“Appendix A”).

II. SUMMARY

The Joint Parties appreciate the Energy Division’s efforts to develop a series of proposals to address some of the problems associated with the current demand response (“DR”) Qualifying Capacity (“QC”) process while conforming with the California Independent System Operator’s (“CAISO’s”) Proposed Revision Request (“PRR”) 1280. However, the Joint Parties are concerned that several aspects of this proposal were developed outside of the formal proceeding, in discussions to which not all relevant stakeholders were privy. Specifically, the Energy Division cites recent conversations with the investor-owned utilities (“IOUs”) and the CAISO

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

regarding the issues addressed in its proposals.² This is concerning because these conversations occurred outside of the record in this proceeding and were not captured in comments or working group reports, nor were other parties given an opportunity to participate in these discussions.

The Joint Parties provide more details below in response to the guiding principles and proposals. As a general comment, each of the final proposals should explicitly specify how they apply to third-party DR programs and resources to avoid any ambiguity or confusion. Any lack of clarity with regard to how third-party DR is valued and counted creates regulatory uncertainty which acts as a barrier to non-IOU load serving entities (“LSEs”) contracting with DRPs.

III. PROPOSED GUIDING PRINCIPLES

The Joint Parties have strong concerns regarding some of the proposed guiding principles. First, the notion that DR is a variable resource along the same lines as intermittent wind and solar resources (Principle #1) ignores the dispatchable nature of DR and the existence of a diverse set of programs, many of which can provide predictable load curtailment. The Energy Division should consider potential future unintended consequences of applying this categorization to a broad and diverse set of resources.

The Joint Parties instead recommend that the Commission adopt formal criteria for what constitutes a variable resource or even create multiple categories of variable resources. This is critical because there are fundamental differences between DR and intermittent renewables with regard to their predictability and dispatchability that clearly place them in different categories. These include:

- Solar and wind resources can only operate when their underlying resource (i.e., the sun and wind) are available, whereas DR resources can be designed to dispatch at any time.
- The output of a solar and wind resource is directly dependent on the amount of solar and wind that is available at any given point in time, whereas the output of many DR resources can be predicted based on a load reduction plan and load control technologies.

Second, the Joint Parties suggest that the Net Qualifying Capacity (“NQC”) of a DR resource take into account both historic *and expected future* performance (“Principle #2”). IOU DR programs tend to be fairly static with comparatively high enrollments, so their historical performance is certainly relevant. For third-party DR programs, however, historical performance

² April 19 ALJ Ruling, Appendix A, at p. 5.

is not the only relevant factor because portfolios are constantly evolving and, for non-residential DRPs, their customers tend to be highly heterogeneous. For this reason, the Joint Parties recommend that this guiding principle be revised as follows:

The net qualifying capacity (NQC) of a DR resource should be established based on a counting method that reflects the resource's contribution to system reliability, and the resource's historical and forecasted performance.

With regard to the third guiding principle, the Joint Parties have no concerns.

IV. ENERGY DIVISION PROPOSALS

A. Proposal 1: DR on Supply Plans with a Variable DR Model

The Energy Division proposes that the Commission direct IOUs to move their DR portfolios onto Supply Plans once CAISO adopts a variable DR model exempted from Resource Adequacy Availability Assessment Mechanism ("RAAIM") that permits variable bids.³

The Joint Parties support allowing DR - both IOU and third-party DR - to be bid as available without RAAIM penalties based on behavioral and weather dependencies. However, moving IOU DR programs into Supply Plans will create some downstream problems for the Capacity Bidding Program ("CBP") penalty structure that will need to be addressed. Currently, CBP aggregators must nominate their monthly capacity 15 days prior to the delivery month. Once the CBP is moved into IOU and LSE Supply Plans, this time frame will likely increase to be similar to the 75-day requirement currently in effect for the DRAM. This will increase the difficulty for CBP aggregators to accurately forecast the amount of capacity they can deliver for a given month. Consequently, the IOUs should consider reducing CBP penalties for under-performance. Regardless, the IOUs will need to revise their CBP tariffs to reflect the new nomination timeline.

B. Proposal 2: Methodology for Determining QC of DR Resources

The Energy Division proposes that the California Energy Commission ("CEC") be the lead agency for developing recommendations for a comprehensive and consistent measurement and verification ("M&V") strategy, including a new capacity counting methodology for DR addressing both ex-post and ex-ante load impacts by March 2022 for implementation in RA compliance year 2023. In the interim, for RA compliance year 2022, the Energy Division would

³ Appendix A, at p. 4.

apply an administratively-set 5 percent derate adjustment to the QCs determined for DR resources in the 2021 LIP evaluation process (for RA compliance year 2022).⁴

The Joint Parties strongly object to an interim 5 percent derate to all QC values derived through the load impact protocol (“LIP”) process until a new DR QC methodology can be developed. This proposal is completely arbitrary and apparently is based on Energy Division’s offline discussions with the IOUs and CAISO. There is no evidentiary basis to support an interim derate, and private conversations do not constitute evidence. The proposed 5 percent automatic derate appears to be a political concession to the CAISO in return for their acceptance of this proposal. The CAISO’s Effective Load Carrying Capability (“ELCC”) study was only meant to demonstrate that a DR ELCC methodology could be developed in concept. Any claims made by the CAISO on the basis of this study regarding the accuracy of the LIPs relative to a to-be-determined ELCC methodology, or the propriety of a blanket 5 percent derate, are premature and use the study in a way it was not intended. No analysis has yet been provided to support the claim that any ELCC methodology is more accurate.

The interim derate notwithstanding, the Joint Parties support the proposed CEC-led working group process to determine a DR capacity counting methodology. However, the proposed time frame is problematic and needs revision. If the CEC completes a proposed DR QC methodology by March 2022, it will likely not be approved until June 2022 as part of the annual RA decision. Knowing that there is no guarantee that the Commission would approve the CEC’s proposal, DRPs would have completed the annual LIP process by the time the Commission would address the proposed methodology in a decision. According to the February 10, 2021 *Guide to CPUC’s Load Impact Protocols (LIP) Process*, final LIP reports for the 2023 RA year are due on April 1, 2022. Therefore, if the Commission adopts a new DR QC process in 2022 for the 2023 RA year, DRPs who have already made the heavy financial investment to participate in the LIP process should be given the discretion to either use the QC values under the LIP process or under the new QC process for that year only. Alternatively, any new DR QC methodology approved in 2022 should go into effect in the 2024 RA year.

C. Proposal 3: DR Adders

The Energy Division proposes to retain the Distribution Loss Factor (“DLF”) and Transmission Loss Factor (“TLF”) adders, and the portion of the Planning Reserve Margin

⁴ Appendix A, at pp. 8-9.

(“PRM”) adder associated with forced outages. The Joint Parties support this proposal but the Commission should clearly specify that these adders will be reflected in LSE Supply Plans, as the Joint Parties have explained in their Track 4 proposal.⁵ Any other outcome would result in the recognized value of DR being different between the Commission and the CAISO, which is unsustainable and confusing to both DRPs and buyers.

V. CONCLUSION

The Joint Parties appreciate the opportunity to comment on the Energy Division proposals and urge the Commission to take the actions recommended above.

Respectfully submitted

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⁵ Joint Track 4 Proposal of the California Efficiency + Demand Management Council, CPower, Leapfrog Power, Inc. and OhmConnect, Inc., January 28, 2021, at pp. 5-6.