

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)

**RESPONSE OF
THE CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT COUNCIL AND
CPOWER TO THE PETITION OF OHMCONNECT, INC. FOR MODIFICATION
OF DECISION 20-06-031**

Dated: October 11, 2021

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I. INTRODUCTION

The California Efficiency + Demand Management Council¹ (“the Council”) and CPower (“the Joint Parties”) respectfully submit this Response to the Petition of OhmConnect, Inc. (OhmConnect) for Modification of Decision (D.) 20-06-031 filed on September 9, 2021 (Petition for Modification). This Response is timely filed and served pursuant to the Commission’s Rules of Practice and Procedure.

II. SUMMARY OF THE JOINT PARTIES’ POSITION

On June 30, 2020, the Commission issued D.20-06-031 which is the Decision Adopting Local Capacity Obligations for 2021-2023, Adopting Flexible Capacity Obligations for 2021, and Refining the Resource Adequacy Program (D.20-06-031), in the resource adequacy (RA) proceeding (R.19-11-009). D.20-06-031 adopted a revised Maximum Cumulative Capacity (MCC) bucket cap for demand response (DR) of 8.3%.²

The Joint Parties have continuously requested that the Commission eliminate the 8.3% MCC bucket cap. The Council, CPower, Enel X North America, Inc. (“Enel X”), Leapfrog Power, Inc. (“Leap”) and OhmConnect, Inc. (“OhmConnect”) submitted Joint Reply Comments on the Proposed Decision which was ultimately adopted as D.20-06-031 on June 16, 2020. In these Reply Comments, the Joint Parties argued that a DR procurement cap is unnecessary and counter to State goals.³ Later, the Council, CPower, Enel X, and OhmConnect submitted a proposal in Track 3B.1 of R.19-11-009 to either 1) apply the 8.3% cap at the System level only,

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

² D.20-06-031, at p. 96 (Ordering Paragraph 19).

³ Reply Comments of the Joint Parties, at pp. 3-4.

2) adopt the cap for third-party procured resources only, or 3) allow behind-the-meter resources that are able to meet the operational characteristics of MCC Bucket 1 to count toward Bucket 1 so as to create additional headroom under the cap.⁴ In Phase 1 of the emergency reliability proceeding (R.20-11-003) the Council, with Google LLC, Leap, NRG Energy, Inc., OhmConnect, Oracle, Tesla, Voltus, Inc., and Willdan, recommended the Commission suspend the per-LSE component of the cap.⁵ In Phase 2, the Council, jointly with ecobee, Inc., Leap, and Oracle, submitted an Opening Brief on September 20, 2021 and once again urged the Commission to eliminate the 8.3% MCC DR procurement cap.⁶

While the Joint Parties believe the cap should be eliminated entirely, it supports OhmConnect's recommendation to increase the cap to 11.3%.

III. THE JOINT PARTIES AGREE WITH OHMCONNECT THAT D.20-06-031 SHOULD BE MODIFIED TO INCREASE THE MCC DR BUCKET CAP TO 11.3%

OhmConnect provides several compelling arguments for why the Commission should grant its requested relief. Critical among them are the clear unintended consequences that resulted from the rushed decision to adopt the DR procurement cap in D.20-06-031.

First, the cap is, in reality, significantly lower than the 8.3% statewide cap due to its application at the LSE level. When adopting the cap, the Commission provided assurance that it was "approximately 100% over the current levels" of DR.⁷ However, the actual cap is unknown because it is based on the number and size of LSEs that intend to actually use their allotment of the DR cap headroom. As a proxy, the Joint Parties refer to the amount of IOU and third-party DR provider Qualifying Capacity ("QC") that was awarded by the Energy Division for August 2022 delivery. According to these numbers, a total of 1,841 MW of QC is contracted or available.⁸ If, as OhmConnect attests to in its Petition, some LSEs have already met their MCC bucket cap for DR, then the actual cap is far lower than the 3,735 MW official cap that was approved by D.20-06-031.

⁴ Joint Track 3B.1 Proposal of the California Efficiency + Demand Management Council, CPower, Enel X North America, Inc., Leapfrog Power, Inc. and OhmConnect, Inc., at pp. 5-6.

⁵ Opening Prepared Testimony of the DR Coalition, at p. 19, line 25 to p. 20, line 11.

⁶ Opening Brief of the Joint Parties on Phase 2 Issues, at p. 11.

⁷ Decision 20-06-031, at p. 57.

⁸ This is based on the 2022-2024 DR totals for [PG&E](#), [SCE](#), and [SDG&E](#), and the September 17, 2021 [NQC List for CPUC RA Compliance](#).

Second, the cap has exposed the inequity across different types of DR providers. As a DR provider, IOU capacity gets “first dibs” on the DR cap headroom for each LSE because it is allocated across all LSEs on a load-ratio share. Third-party DR providers then get whatever headroom, if any, that remains. This preference for IOU DR is unjustified, discriminatory, and directly contradicts the Commission’s own past statements which explicitly endorse a preference for third-party DR.

Third, the Resource Adequacy (“RA”) market is insufficiently transparent to support the LSE-specific application of the procurement cap. This would not be an issue if there was transparency with regard to the remaining DR headroom for each LSE. However, as OhmConnect points out, “it is practically impossible for a DR resource owner to identify which potential buyers still have capacity to purchase a DR product.”⁹ This is a critical problem because it virtually guarantees that the 8.3% cap can never be reached.

III. CONCLUSION

The Joint Parties urge the Commission to approve OhmConnect’s Petition for Modification of D.20-06-031. It is clear that the change in the State’s reliability circumstances combined with the demonstrated unintended, but adverse, consequences of the 8.3% DR procurement cap merit its increase to 11.3%.

Respectfully submitted

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⁹ OhmConnect Petition, at p. 7.