

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 21-10-002
(Filed October 7, 2021)

**OPENING COMMENTS OF THE
CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT COUNCIL,
OHMCONNECT, INC., OLIVINE, INC., AND ORACLE (“DR COALITION”) ON THE
ORDER INSTITUTING RULEMAKING TO OVERSEE THE RESOURCE ADEQUACY
PROGRAM, CONSIDER PROGRAM REFINEMENTS, AND ESTABLISH FORWARD
RESOURCE ADEQUACY PROCUREMENT OBLIGATIONS**

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I. INTRODUCTION

The California Efficiency + Demand Management Council (the Council), OhmConnect, Inc., Olivine, Inc., and Oracle, (jointly, “the DR Coalition”) appreciate this opportunity to submit their Opening Comments on the Order Instituting Rulemaking to Oversee the Resource Adequacy Program, Consider Program Refinements, and Establish Forward Resource Adequacy Procurement Obligations (“OIR”), pursuant to Rule 6.2 of the Rules of Practice and Procedure of the California Public Utilities Commission (CPUC or Commission) and the instructions accompanying the OIR issued October 11, 2021.

II. BACKGROUND

The Council is a statewide trade association of non-utility businesses that provide energy efficiency, demand response, and data analytics services and products in California.¹ Our member companies employ many thousands of Californians throughout the state. They include energy efficiency (“EE”), demand response (“DR”), and distributed energy resources (“DER”) service providers, implementation and evaluation experts, energy service companies, engineering and architecture firms, contractors, financing experts, workforce training entities, and energy efficient product manufacturers. The Council’s mission is to support appropriate EE and DR

¹ Additional information about the Council, including the organization’s current membership, Board of Directors, antitrust guidelines and code of ethics for its members, can be found at <http://www.cedmc.org>. The views expressed by the Council are not necessarily those of its individual members.

policies, programs, and technologies to create sustainable jobs, long-term economic growth, stable and reasonably priced energy infrastructure, and environmental improvement.

OhmConnect was founded in 2014, and today enables hundreds of thousands of customers to reimagine how they use energy, to choose clean energy over dirty energy when required, and to be rewarded for timely, smarter, home energy use. OhmConnect pays its users for saving energy when the grid is at risk of using dirty power. Customers of the three major California energy suppliers – Pacific Gas and Electric (“PG&E”), Southern California Edison (“SCE”), and San Diego Gas & Electric (“SDG&E”) – can sign up with OhmConnect for free.

Olivine, Inc. is an industry leading DER and DR management and grid services company with a long and proven track record of integrating and managing DERs and DR for participation in wholesale markets and retail customer programs. As a Scheduling Coordinator, DR Provider (“DRP”), and program administrator, Olivine focuses on the integration of DERs and DR to create a reliable and sustainable grid with equitable access for all utility customers. Olivine provides infrastructure and services that enable aggregations of customer-sited distributed energy resources, including demand response enabled end-user technologies, to effectively and efficiently provide demand response and related grid services at the retail and wholesale levels.

Oracle (formerly Opower, Inc.) has delivered Opower’s behavioral energy efficiency, demand response, and customer engagement services to over one hundred electric and natural gas utilities across ten countries and thirty-five states, including California. To date, these programs have saved over 30 terawatt-hours of energy. In 2020 alone, the Opower behavioral energy efficiency program drove over 230 GWh of savings across the three electric investor-owned utilities (“IOUs”). Oracle’s comments are based on the 13+ years of behavioral DSM experience contained in the Opower platform, which has been implemented by more than 100 utilities around the world.

The DR Coalition understands the importance and role that resource adequacy (“RA”) has and will continue to have moving into the future as California looks to achieve its ambitious climate and energy goals. We look forward to the opportunity to participate in the proceeding and to represent the EE, DR, and DER industries to achieve the low-cost, low-carbon energy future we need in California.

III. SUMMARY OF THE DR COALITION’S RECOMMENDATIONS

The DR Coalition makes the following recommended additions to the preliminary scope:

- Add the remaining issues being addressed by the California Energy Commission’s (“CEC”) DR Qualifying Capacity (“QC”) Methodology Working Group.
- Revise the DR QC Methodology Working Group scope and timeline to adopt the existing Load Impact Protocol (“LIP”) QC process for the 2023 RA year and finalize a long-term methodology to conform with the Slice-of-Day framework that is expected to be approved in the June 2022 RA decision for 2024 deployment.
- Develop and adopt rules for the dual-tier DR testing requirement approved in D.20-06-031.
- Develop and adopt guidelines governing how event-based Load Modifying Resource (“LMR”) DR can be embedded into the CEC’s base case load forecast, thereby reducing the RA requirement.
- Consider modifications to the DR procurement cap.
- Develop a standardized RA purchase agreement for use-limited resources.
- Revise the schedule by including the March 18, 2022 due date for the CEC to submit its DR QC Methodology Working Group report, including any process for parties to comment on the report.

IV. IMPLEMENTATION TRACK

A. CEC Working Group Issues

The OIR correctly includes QC Counting Conventions within the scope to include, among other topics, proposals stemming from the CEC’s DR QC Methodology Working Group, convened pursuant to Decision (D.) 21-06-029. However, in this decision, the Commission also requested that the CEC address several other issues in this working group which should be included within the scope of this proceeding. These issues that are missing in the preliminary scope consist of:²

- Whether and to what extent alignment of DR measurement and verification (“M&V”) methods in the operational space for California Independent System Operator (“CAISO”)

² D.21-06-029, Ordering Paragraph 11.

market settlement purposes with methods to determine RA QC in the planning space should be achieved, and if so, how;

- Whether, and if so what, enhancements to intra-cycle adjustments to DR QC during the RA compliance year, as adopted in Decision 20-06-031, are feasible and appropriate to account for variability in the DR resource in the month-ahead and operational space;
- Whether implementation of any elements of DR QC methodology modifications that may be adopted by the Commission should be phased in over time; and
- Whether, and if so how, any changes to DR adders should be reflected in DR QC methodology, including whether the planning reserve margin adder should be retained and whether the transmission loss factor adder should be retained beyond 2022.

B. CEC Working Group Schedule and Consistency with the RA Reform Timeline

In D.21-06-029, the Commission requested that the CEC “submit recommendations to the Commission no later than March 18, 2022 and the Commission will consider recommendations as appropriate for implementation in the 2023 RA compliance year which included direction to provide 2023 QC values using the new DR QC methodology.³ However, by the time these recommendations are submitted, and certainly by the time a decision is rendered, DR providers will have already completed the full Load Impact Protocol (“LIP”)-based QC process for the 2023 RA year. According to the timeline provided in the Energy Division’s February 10, 2021 *Guide to CPUC’s Load Impact Protocols (LIP) Process*, IOUs and DR providers must submit their final LIP Reports no later than April 1, 2022.⁴ Therefore, they or their consultants will have already completed most or all of the work and incurred the associated cost of the LIP-based QC process for the 2023 RA year. It would be inappropriate for the Commission to approve a new QC methodology in its June decision for the 2023 RA year if it supersedes the LIP-based process because the time and budget spent on it would be wasted.

Another major factor that complicates adoption of a new DR QC methodology for implementation in 2022 for the 2023 RA year is the process currently underway to further develop the Slice-of-Day framework. If approved by the Commission, it would be implemented beginning in the 2024 RA year, one year after the new DR QC methodology. Therefore, implementing a new DR QC methodology beginning in the 2023 RA year will require that it

³ D.21-06-029, Ordering Paragraph 11.

⁴ *Guide to CPUC’s Load Impact Protocols (LIP) Process*, Updated February 10, 2021, at Table 1.

conform with the current RA regime. The new DR QC methodology would then need to be immediately revised to conform with the new Slice-of-Day RA framework (if adopted). Adopting and subsequently immediately revising the DR QC methodology to make it consistent with a new RA framework would needlessly generate a significant amount of work and complications for stakeholders for little benefit.

To minimize confusion and disruption to planning and operations, the Commission should reconsider the timeline for implementing the new DR QC methodology and modify the scope of the CEC working group process. These changes should be adopted in the scoping ruling of this proceeding in order to provide expeditious guidance to IOUs, DRPs, and the CEC. Specifically, the Commission should include the following provisions in the RA OIR scoping ruling:

1. IOUs and DR providers will utilize the current LIP-based DR QC process in 2022 for the 2023 RA year. This will provide the assurance needed for these entities to move forward with retaining consultants who will need to begin developing evaluation plans.
2. The CEC working group process should yield detailed conceptual DR QC methodology proposals, with thought given to how these might be adapted to a Slice-of-Day framework. These conceptual proposals would be delivered in the March 18, 2022 working group report. The report will not propose complete and implementable proposals with specific QC values.
3. The Commission will approve one DR QC methodology proposal in its June 2022 decision and authorize a process by which the proposal will be adapted to the Slice-of-Day framework, adopted in the same decision. This process would need to be completed no later than November 2022 because IOUs and DR providers are required to submit their LIP evaluation plans by the end of the year. IOUs and DR providers could then utilize the new conformed DR QC methodology in 2023 for the 2024 RA year.

C. Rules for Tiered DR Testing

In D.20-06-031, the Commission adopted minimum testing requirements for third-party DR resources procured by non-IOU load serving entities (“LSEs”).⁵ These testing requirements consisted of a two-tiered approach in which “new or changing” DR resources would be subject

⁵ D.20-06-031, Ordering Paragraphs 13 and 14.

to one four-hour dispatch (either as an economic dispatch or out-of-market test event) per quarter, whereas “stable resources with solid track records” would only require one two-hour test per year.⁶ In adopting this two-tiered testing requirement, the Commission cited an insufficient record to determine criteria to differentiate between “new and changing” resources and “stable” resources, and ruled that all third-party DR resources procured by non-IOU LSEs would be subject to the stricter testing regime pending the development of a clear set of rules.⁷ These rules have yet to be developed.

The preliminary scope should be modified to include developing criteria for 1) what constitutes a “stable” and “new and changing” DR resource, and 2) how a resource can graduate or be demoted from one tier to the other.

D. Clear Process for Recognizing the Impact of LMR DR on Resource Adequacy Requirements

In the past year, the DR Coalition has observed growing support among a wide range of parties as well as the Energy Division for the expanded use of event-based LMR DR. The DR Coalition anticipate greater attention on a wider range of IOU and third-party LMR DR program types in 2022 in light of the High DER Future proceeding (R.21-06-017), a potential new proceeding to develop a framework based on the Energy Division’s May 25, 2021 UNIDE proposal, as well as an expectation that at least some of the IOUs will propose to shift one or more of their event-based DR programs from the supply-side to the load-side in their 2023-2027 DR program applications. For this to occur, the Commission must rectify a handful of regulatory findings and sources of ambiguity with regard to their treatment within the RA framework that, if left unaddressed, will act as a barrier to their broader deployment.

When the Commission first adopted DR bifurcation in D.14-03-026, it defined LMR DR as “resources that reshape or reduce the net load curve.”⁸ Later, in D.15-11-042, the Commission differentiated between non-event-based LMR DR which was defined as critical peak pricing (“CPP”), real-time pricing, time-of-use rates, permanent load shifting, and peak time rebates, and event-based LMR DR.⁹ In differentiating between the two types of LMR DR, the Commission found that 1) “without a valid and substantive [valuation] methodology, event-based load

⁶ D.20-06-031, at pp. 37-38.

⁷ *Id.*, at p. 40.

⁸ D.14-03-026, at Ordering Paragraph 2.

⁹ D.15-11-042, at pp. 16-17.

modifying demand response has no capacity value”¹⁰, and 2) that event-based LMR DR has no capacity value because it was neither market-integrated nor embedded in the California Energy Commission’s (“CEC”) unmanaged/base case load forecast (thus reducing the Resource Adequacy Requirement).¹¹

In light of these earlier findings, the Commission should either 1) satisfy Ordering Paragraph 1 in D.15-11-042 by developing and approving a methodology in this proceeding for how event-based LMR DR can be embedded in the CEC’s base case load forecast, or 2) overturn Conclusion of Law 4 and Ordering Paragraph 1 in D.15-11-042 and find that event-based LMR DR does in fact have capacity value. If the latter option is taken, then the Commission would need to determine by what methodology and process the load impacts of IOU and third-party event-based LMR DR can be quantified and incorporated into the CEC’s base case load forecast. It may very well be logical that event-based LMR DR be subject to the LIP process with the load impacts reducing the RA Requirement.

The Commission should devote attention in this proceeding to developing these guidelines to guide development of these programs to ensure a fair RA valuation and accurate calculation of their cost-effectiveness; otherwise, there will be no framework within which to develop them. The Commission broached this issue in its January 22, 2020 Track 2 scoping memo in R.19-11-009 but chose not to pursue it further.¹² If the Commission again foregoes the opportunity to address this issue, the resulting absence of regulatory certainty will only discourage investment in, and exploration of, new event-based LMR DR to the detriment of innovation and grid reliability.

E. Improvements to the DR Procurement Cap

To the extent the Commission chooses not to consider improvements to the DR procurement cap in Phase 2 of the Emergency Reliability proceeding (R.20-11-003) or in response to OhmConnect’s Petition for Modification of D.20-06-031, it should formally consider the following issues with regard to the cap: 1) the impacts of the existing DR procurement cap on overall DR procurement, 2) issues regarding the equitability of the cap as applied to IOU-administered and third-party DR programs, and 3) whether the current cap percentage is

¹⁰ D.15-11-042, at Conclusion of Law 4.

¹¹ *Id.*, at Ordering Paragraph 1.

¹² See Question 4.b.iv in January 22, 2020 Assigned Commissioner’s Scoping Memo and Ruling, R.19-11-009, at p. 6.

appropriate. When the Commission has approved the procurement of thousands of MW of new gas-fired capacity, it should ensure that a carbon-free resource like DR can play its proper role in meeting forecasted resource needs.

F. Standardized Purchase Agreement for Use-Limited Resources

The standardized purchase agreements used by IOUs for RA procurement are designed for conventional generators and do not reflect the use and variability limitations of DR resources. Under the CAISO's RA Enhancements Phase 2 stakeholder initiative, RA availability requirements include a 24x7 default Must Offer Obligation, which would apply to DR as well unless otherwise clearly specified in program rules or RA contracts. The Commission should examine how either 1) the IOUs' existing RA purchase agreements can be modified to be compatible with DR and other use-limited resources, or 2) to develop a standardized RA purchase agreement for use-limited, aggregated resources. RA purchase agreements for DR should clearly state availability requirements, including number of events per day, hours per day, hours per month, real-time market dispatchability, and any other applicable limitations.

IV. SCHEDULE

The preliminary schedule should be modified to include the March 18, 2022 due date for the CEC to submit its DR QC Methodology Working Group report, pursuant to D.21-06-029, Ordering Paragraph 11. If it is the intent of the Commission to conduct one or more workshops and/or to provide parties an opportunity to comment on the working group report, the Commission should account for this in its schedule as well. The DR Coalition is concerned that with a proposed decision in this proceeding expected in May, if the Commission intends to provide such an opportunity for party feedback, there may not be sufficient time for that feedback to be properly accounted for in a May proposed decision.

V. COMMENTS ON CATEGORY, NEED FOR HEARING, AND SCHEDULE

The DR Coalition does not object to the preliminary determinations regarding category, need for hearing and schedule.

VI. CONFIRMATION OF PARTY STATUS

Pursuant to Section 7 at page 11: "Persons who file responsive comments become parties to the proceeding (*see* Rule 1.4(a)(2)) and will be added to the 'Parties' category of the official service list upon such filing." By filing these responsive comments, therefore, the Council,

OhmConnect, Olivine, and Oracle requests “party status” and inclusion on the service list of R.20-10-002 as parties as follows:

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VII. CONCLUSION

The DR Coalition appreciates the Commission’s consideration and the opportunity to provide Opening Comments on the OIR.

Dated: November 1, 2021

Respectfully submitted,

/s/ GREG WIKLER

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