

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Oversee the  
Resource Adequacy Program, Consider  
Program Reforms and Refinements, and  
Establish Forward Resource Adequacy  
Procurement Obligations.

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

**NOTICE OF EX PARTE COMMUNICATIONS BY THE CALIFORNIA EFFICIENCY +  
DEMAND MANAGEMENT COUNCIL, CPOWER, ENEL NORTH AMERICA, INC.,  
LEAPFROG POWER, INC. AND OHMCONNECT, INC.**

Dated: June 26, 2023

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Pursuant to Rule 8.4 of the Commission’s Rules of Practice and Procedure, the California Efficiency + Demand Management Council, CPower, Enel North America, Inc., Leapfrog Power, Inc. and OhmConnect, Inc. (the “Joint Parties”) hereby timely give notice of two (2) ex parte communications. Rule 8.4(a) provides that “[t]he notice may address multiple ex parte communications in the same proceeding, provided the notice of each communication identified therein is timely.”

Two (2) individual ex parte meetings occurred on Wednesday, June 21, 2023. The communications were oral and involved the same information, unless otherwise indicated, and all took place by Webex. The communications were initiated by Joseph Desmond, Executive Director of the California Efficiency + Demand Management Council. The first communication occurred by Webex on Wednesday, June 21, 2023 at 3:00 p.m. with Nick Dahlberg, Energy Advisor to President Alice Reynolds, and Caitlin Pollock and Jake McDermott, Advisors to Commissioner John Reynolds and lasted approximately 30 minutes. The second communication occurred by Webex on Wednesday, June 21, 2023 at 3:30 p.m. with Karin Sung, Chief of Staff and Legal Advisor to Commissioner Darcie Houck; Maryam Mozafari, Energy Advisor to Commissioner Darcie Houck; and Niki Bawa, Advisor to Commissioner Darcie Houck and

lasted approximately 30 minutes. Present at the meetings were the following party representatives:

- **The California Efficiency + Demand Management Council:** Joseph Desmond (Executive Director), Luke Tougas (Consultant), and Clark McIsaac (Director, Policy & Strategy).
- **CPower:** Kenneth D. Schisler (Regulatory and Government Affairs)
- **Enel North America, Inc.:** Poonum Agrawal (Senior Manager, Regulatory Affairs, Western U.S.) and Jacob Varsano (Senior Program Manager, Energy Markets)
- **Leapfrog Power, Inc.:** Amaani Hamid (Senior Market Development Manager) and Collin Smith (Regulatory Affairs Manager)
- **OhmConnect, Inc.:** Elysia Vannoy (Regulatory Affairs Manager)

For that purpose, the meetings are scheduled as follows:

Mr. Desmond began both meetings by discussing the Proposed Decision Adopting Local Capacity Obligations for 2024-2026, Flexible Capacity Obligations for 2024, and Program Refinements, issued on May 25, 2023, in the Resource Adequacy (“RA”) proceeding (R.21-10-002). He stated that the Proposed Decision’s demand response (“DR”)-related proposals will have highly detrimental impacts on the DR market, particularly third-party DR which is contrary to DR budgets and legislative policies. He stated that the Joint Parties have concerns about all of the Proposed Decision’s DR proposals, but their greatest concerns are with the proposal to derate third-party DR RA values based on test results, the proposal to eliminate the Transmission Load Factor (“TLF”), and the proposal to adopt a \$500/MWh bid cap for Proxy DR (“PDR”).

Ms. Vannoy discussed the Proposed Decision’s determination to derate third-party DR qualifying capacity (“QC”) values when they perform below their supply plan values. She stated

that this proposal fails to recognize the differences between the processes used to calculate QC in the Load Impact Protocol (“LIP”) process and test results. She stated that forecasts used to inform QC are based on the hottest weather conditions expected and it is unlikely that the proposed quarterly testing could be perfectly scheduled to also fall on the days with the hottest weather conditions. She concluded that this would unfairly result in a quarterly reduction in QC based on a single event and the Proposed Decision should be modified to remove this proposal.

Mr. Smith discussed the elimination of the TLF Adder and stated that the record upholds that DR resources avoid transmission line losses, just as they avoid distribution line losses, which supports the justification for retaining the TLF Adder. He stated that experience shows that this type of adder can be sustainably applied and elimination of the TLF Adder would put Supply-Side DR at a competitive disadvantage to Load-Modifying DR despite providing a virtually identical service. Mr. Schisler stated that the TLF Adder is not so much an adder but ensures that DR is treated comparably with generation resources.

Mr. Schisler discussed the \$500/MWh PDR bid cap which will have far reaching impacts that will likely lead to large volumes of DR simply departing the market. He stated that the cap is lower than what the investor-owned utilities (“IOUs”) offer for their programs which means that PDR resources receiving RA are going to see far more frequent dispatches. He stated that if this error is not corrected, many DR customers will shift to IOU DR programs but many will simply stop participating. He concluded that if the Commission does want to modify the cap it should be set at \$949/MWh to ensure that PDRs are dispatched prior to reliability DR resources (“RDRRs”).

Mr. Tougas addressed two concerns with the DR QC methodology: (1) the Proposed Decision’s timeline for finalizing the incentive-based proposal is far too long and (2) the

Proposed Decision creates another working group to streamline the LIPs which would further distract from the effort to finalize the incentive-based methodology. He stated that the Commission should shorten the timeline as demonstrated in the California Efficiency + Demand Management and CPower's Opening Comments on the Proposed Decision, filed and served in this proceeding on June 14, 2023.

Lastly, Mr. Smith discussed expanded DR availability requirements and expressed concerns about expanded availability and how that will impact DR participants. He stated that DR should be used when reliability needs are greatest but the conditions set forth in the Proposed Decision could lead to PDRs being forced to be available far more than they are now.

In further compliance with Commission rules and instructions included in Commissioners' Meeting Request forms, this notice has been served on the R.21-10-002 (RA) Service List and electronically copied to [CommissionerJohnReynoldsExparte@cpuc.ca.gov](mailto:CommissionerJohnReynoldsExparte@cpuc.ca.gov); [douglas\\_exparte@cpuc.ca.gov](mailto:douglas_exparte@cpuc.ca.gov); [Houck.Exparte@cpuc.ca.gov](mailto:Houck.Exparte@cpuc.ca.gov), and [PresidentReynoldsExparte@cpuc.ca.gov](mailto:PresidentReynoldsExparte@cpuc.ca.gov).

Respectfully submitted,

June 26, 2023

/s/ JOSEPH DESMOND

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