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 23-10-011 (Filed October 12, 2023)

**REPLY COMMENTS OF
THE CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT COUNCIL,
LEAPFROG POWER, INC., AND OHMCONNECT, INC. ON THE ORDER
INSTITUTING RULEMAKING TO OVERSEE THE RESOURCE ADEQUACY
PROGRAM, CONSIDER PROGRAM REFORMS AND REFINEMENTS, AND
ESTABLISH FORWARD RESOURCE ADEQUACY PROCUREMENT OBLIGATIONS**

November 20, 2023

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I. INTRODUCTION

The California Efficiency + Demand Management Council (the "Council"), Leapfrog Power, Inc. ("Leap"), and OhmConnect, Inc. ("OhmConnect") (hereinafter collectively "the Joint Parties") submit these Reply Comments on the Order Instituting Rulemaking to Oversee the Resource Adequacy Program, Consider Program Reforms and 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 19, 2023.

II. THE NARRATIVE THAT THIRD-PARTY DEMAND RESPONSE PERFORMS WORSE THAN INVESTOR-OWNED UTILITY DEMAND RESPONSE IS UNSUPPORTED

In their opening comments on the OIR, the Natural Resources Defense Council and Union of Concerned Scientists ("NRDC/UCS") perpetuate the false narrative that third-party demand response ("DR") is less reliable than investor-owned utility ("IOU") DR by citing the California Independent System Operator ("CAISO") Department of Market Monitoring ("DMM") report on the 2022 heat event stating, "a recent Department of Market Monitoring report finds that utility DR programs successfully provided 88% of scheduled load reductions while third party DR provided only 45%. It is important for the Commission to ensure that DR resources are accurately accredited [footnote omitted]."[1]

[1] NRDC/UCS Opening Comments on OIR, at p. 3.

The Joint Parties are highly concerned by this statement because it reflects the unsubstantiated narrative perpetuated in the recent past that Resource Adequacy ("RA") capacity provided by third-party DR providers is less reliable than IOU DR, as purportedly demonstrated by a difference in their performance relative to their CAISO market schedules. This incorrect narrative was most recently highlighted in Decision ("D.") 23-06-029 in which the Commission defended its inequitable treatment of third-party DR for this very reason stating, "[w]e do, however, also acknowledge DMM's comment that IOU DR resources appear to have met a majority of the scheduled load reductions."[2] Like the Commission in this decision, NRDC/UDC overlooks the critical fact that IOU DR is *not* shown on RA supply plans because it is *credited* against LSEs' RA requirements (thereby lowering their respective RA requirements). For this reason, IOUs are *not* obligated to bid their full credited RA value into the CAISO market, unlike third-party DR providers whose RA capacity must be bid at its full value.

Instead, IOUs have the prerogative to bid their DR programs according to the day-to-day capabilities of the individual DR resources, even if those capabilities fall far short of their credited RA values due to reasons such as 1) temperatures being lower than the 1-in-2 weather planning conditions, 2) customer fatigue due to successive DR events, 3) inaccurate customer enrollment forecasts, and 4) inaccurate ex ante load impact forecasts. Conversely, DR RA provided by third-party DR providers is *required* to be shown on supply plans which obligates them to bid into the CAISO market consistent with their RA values. The day-to-day capability of third-party DR will often vary due to the exact same factors that cause variability among IOU DR, but DR providers are not permitted to bid according to their resources' capabilities, as IOUs are. Take a fictional 5 MW DR program as an example. In an IOU program, 5 MW would be credited against the RA requirement, thereby lowering their RA requirement by that amount. If that same program were a third-party DR program, it would count as 5 MW of RA capacity. As an IOU DR program, the IOU could bid it into the CAISO market at *any* quantity (e.g., 1 or 2 MW) despite having a 5 MW credited RA value. As a third-party DR program, it would have to be bid at 5 MW into the CAISO market, consistent with its RA value.

Therefore, as a result of these different market rules, IOU DR performance relative to their CAISO market schedules will often *appear* to be comparatively better than DR providers. Using the same example above, if the IOU were to bid the DR program at 2 MW and deliver 2

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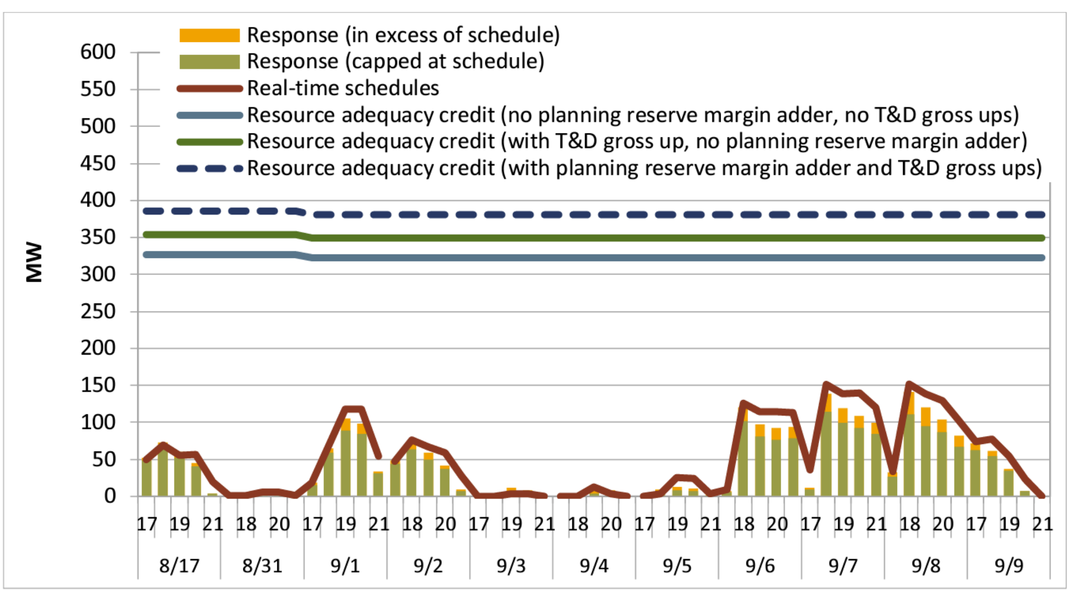
[2] D.23-06-029, at p. 111.

MW, its performance would appear to be excellent. However, if a DR provider were to bid the exact same program but at 5 MW and it performed at 2 MW, its performance would be considered inferior. Consequently, IOU DR will always perform better than third-party DR *relative to their CAISO market schedules* because the IOUs have the discretion to bid lower quantities when their resources are unlikely to perform as well as projected in their credited RA values. In order to compare IOU and third-party DR on a level playing field, schedules and performance must be compared to credited RA value (for IOUs) and supply plan RA value (for DR providers).

Applying this concept to the DMM report that NRDC/UCS appear to cite, Figure 2.7 from the DMM Demand Response Issues and Performance 2022 Report ("2022 DR Report") (shown below) illustrates that, during the hottest non-holiday weekdays of 2022 (September 3-5 was Labor Day weekend when Proxy Demand Resources ("PDR") were not required to be bid into the CAISO market), IOU PDR real-time schedules relative to credited RA values ranged from approximately 0 MW out of approximately 390 MW (zero percent) on August 31 to approximately 140 MW on September 7-8 out of approximately 380 MW (37 percent) on September 7-8.[3] Although IOU DR performance was often close to the schedules, it was, at best, delivering only approximately 37 percent of its credited RA value.

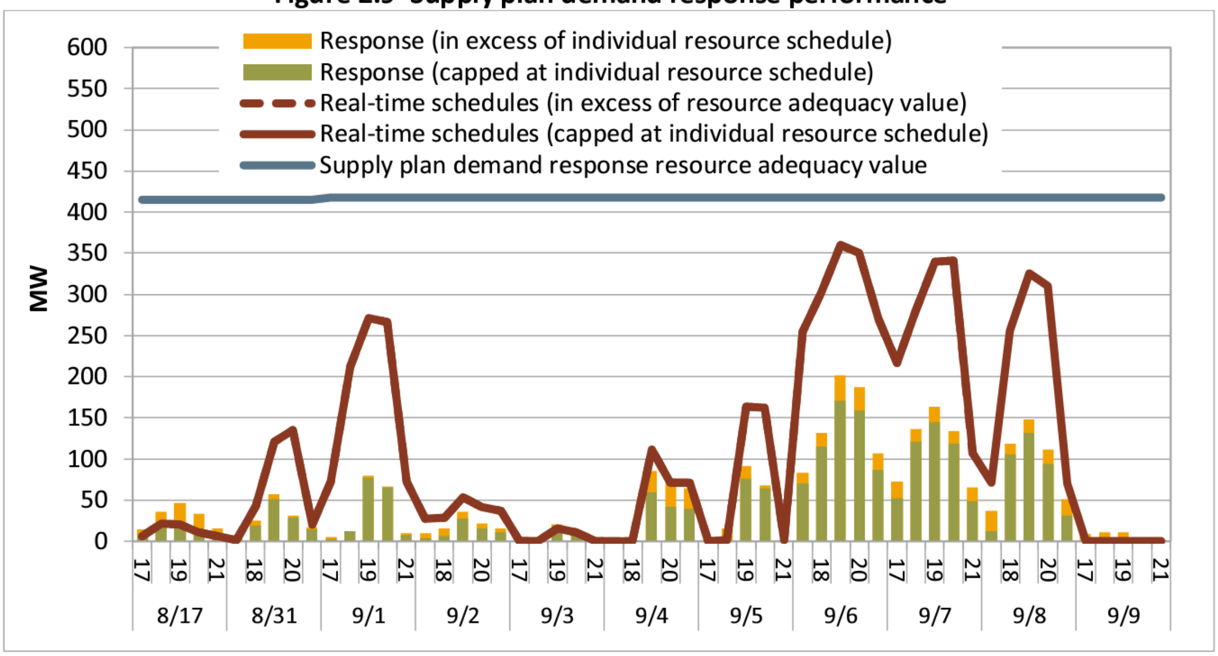
Figure 2.7 CPUC-jurisdictional utility proxy demand response performance



[3] 2022 DR Report which can be found here: https://www.caiso.com/Documents/Demand-Response-Issues-and-Performance-2022-Report-Feb14-2023.pdf, at p. 16.

The same assessment can be made for third-party supply plan DR using Figure 2.9 from the 2022 DR Report (shown below). This illustrates that, during the same non-holiday weekdays examined above in Figure 2.7, third-party PDR real-time schedules relative to supply plan RA values ranged from 0 MW of approximately 415 MW (zero percent) on August 17 to approximately 360 MW out of 415 MW (87 percent), on September 6.[4] Actual performance relative to supply plan RA value ranged from approximately 5 MW out of 415 MW (one percent) on September 1 to approximately 200 MW out of 415 MW on September 6 (48 percent).

Figure 2.9 Supply plan demand response performance



Comparing IOU DR and third-party DR schedules and performance relative to their respective RA values (credited or supply plan, as applicable) in Table 1 below, it is clear that third-party DR is being scheduled at a far higher level than IOU DR and delivering on a comparable level (or better) during the days when it is most needed to maintain reliability.

[4] 2022 DR Report which can be found here: https://www.caiso.com/Documents/Demand-Response-Issues-and-Performance-2022-Report-Feb14-2023.pdf, at p. 17.

Table 1: Comparison of IOU and Third-Party DR Performance During 2022 Heat Event

	Range of MW Schedule vs. RA Value	Range of Performance vs. RA Value
IOU DR	0-37%	0-37%
Third-Party DR	0-87%	1-48%

Once the different market rules governing IOU and third-party DR are taken into account, and the data for PDR-based DR are compared appropriately, it is clear that the narrative that third-party DR performs worse than IOU DR is unsupported. The Joint Parties respectfully recommend that the Commission forego adopting any new RA policies that further restrict third-party DR in light of this false narrative until the current discrepancies between IOU and third-party DR, as explained in the August 4, 2023 Application for Rehearing in R.21-10-002 (RA), are resolved.

III. CONCLUSION

The Joint Parties appreciate the Commission's consideration and the opportunity to provide Reply Comments on the OIR. The Joint Parties urge the Commission to amend the preliminary scope for this OIR as recommended herein and in Opening Comments.

Dated: November 20, 2023

Respectfully submitted,

/s/ JOSEPH DESMOND

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