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)

OPENING COMMENTS OF THE CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT COUNCIL AND CPOWER ENERGY MANAGEMENT ON PROPOSED DECISION ADOPTING LOCAL CAPACITY OBLIGATIONS FOR 2026-2028, FLEXIBLE CAPACITY OBLIGATIONS FOR 2026, AND PROGRAM REFINEMENTS

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I. INTRODUCTION

The California Efficiency + Demand Management Council (the "Council") and CPower Energy Management ("CPower") submit these Opening Comments on the Proposed Decision Adopting Local Capacity Obligations for 2026-2028, Flexible Capacity Obligations for 2026, and Program Refinements ("Proposed Decision" or "PD"), mailed in Rulemaking ("R.") 23-10-011 (Resource Adequacy ("RA")) on May 22, 2025. These Opening Comments are timely filed and served pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure and the instructions accompanying the Proposed Decision.

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, DR, and

[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.

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

CPower is the leading distributed energy resources monetization and Virtual Power Plant provider in the country, working to enable a flexible, clean and dependable energy future. With over 7.0 GW of capacity at approximately 29,000 sites across the U.S., CPower works to unlock the full value of DERs to strengthen the grid when and where reliable, dispatchable resources are needed most.

III. SUMMARY OF THE COUNCIL AND CPOWER'S POSITION

The Council and CPower appreciate the Commission's consideration of OhmConnect, Inc. and Leapfrog Power, Inc.'s proposal to allow the Energy Division to consider the underlying technologies and load profiles of the resources in a DR provider's portfolio to award QC outside of the Availability Assessment Hours ("AAH") during the Qualifying Capacity ("QC") process ("OhmConnect/Leap Proposal").[2] Commission approval of this proposal would significantly improve the cost-effectiveness of DR resources that are capable of multiple daily dispatches by expanding the number of hourly slices during which Resource Adequacy ("RA") capacity can be provided.

It is critical that DR dispatches occurring outside of the AAH do not interfere with or reduce the capabilities of DR resources during the AAH. Fortunately, all the necessary guidelines and rules exist to satisfy this condition. Furthermore, the Council and CPower respectfully note that the OhmConnect/Leap Proposal only requests the Commission to authorize the Energy Division to consider DR QC values outside of the AAH at their discretion – it would ultimately be up to the Energy Division to make the final assessment of ex ante load impact analyses. With the concerns expressed in the Proposed Decision addressed in these opening comments, the Council and CPower respectfully urge the Commission to approve the OhmConnect/Leap Proposal.

IV. EXISTING COMMISSION RULES ARE IN PLACE TO ACCEPT THE OHMCONNECT/LEAP PROPOSAL

The Proposed Decision recognizes the merit of the OhmConnect/Leap Proposal but cites several questions to be addressed before further consideration by the Commission.[3] As an initial

[2] Proposed Decision, at pp. 65-67.
[3] *Id.*, at pp. 66-67.

point, the Council and CPower observe that these questions are all important to answer, but as will be demonstrated below, the rules are already in place to address all of them within the context of the DR Load Impact Protocol ("LIP") process and current California Independent System Operator ("CAISO") market rules. This is consistent with the OhmConnect/Leap Proposal which does not request *automatic* Commission approval for all DR resources to provide Resource Adequacy ("RA") capacity outside of the AAH, only that the Energy Division *consider* the underlying ex ante load impact analyses of investor-owned utilities ("IOUs") and DR providers contained in their annual Demand Response Load Impact Reports.

The Council and CPower respectfully urge the Commission to approve the OhmConnect/Leap Proposal because it would significantly improve the cost-effectiveness of DR resources that are capable of multiple daily dispatches by expanding the number of hourly slices during which RA capacity can be provided. With the growing importance of rate affordability, it is critical that customer-side programs provide the most benefit to ratepayers as they can.

Below, the Council and CPower address each of the four issues identified by the PD for further refinement and demonstrates that additional information is not needed:

(1) How to ensure that the availability and load reduction capability of the DR resource during the AAHs is not compromised with expanded offerings outside of the AAHs.[4]

The Council and CPower agree that if a DR resource counted for RA is dispatched outside of the AAH, this dispatch should not negatively impact its ability to provide its full RA value during the AAH. As an initial point, depending on the underlying enabling technologies of the participating customers enrolled in a DR resource, the RA value of a DR resource during the AAH may sometimes differ relative to a morning dispatch, especially for temperature-dependent enabling technologies like smart thermostats; for other enabling technologies that are largely unaffected by temperature or customer fatigue, such as behind-the-meter ("BTM") energy storage, there will often be no difference to the RA value regardless of the time of day it is dispatched.

The problem cited in this question can be addressed by ensuring an adequate amount of time exists for the underlying customer load of a DR resource to normalize and for any snapback load to dissipate (i.e., temporary incremental load that may occur to, for example, recharge

[4] Proposed Decision, at p. 66.

energy storage that was dispatched for a DR event or restore the temperature of a home after a thermostat was turned up for a DR event).

As an initial suggestion, it might be practical to adopt a four-hour "rest period" buffer between DR events to ensure this normalization occurs, combined with a prohibition on a DR resource being dispatched more than once between noon and midnight. This would ensure that any snapback load following one event would not interfere with the next event.

There is already a precedent for multiple daily dispatches for in-front-of-the-meter ("IFOM") energy storage. Decision ("D.") 23-04-010 authorized IFOM energy storage resources "that are operationally and contractually able to provide multiple cycles in a 24-hour cycle are allowed to be shown for multiple cycles per day, provided that the load-serving entity (LSE) shows sufficient excess energy and time between discharge cycles to charge the battery."[5] There is no reason why such a model could not apply to behind-the-meter BTM energy storage at minimum, as well as other technologies.

(2) The measurement and verification methodology for estimating QC values outside of the AAHs.[6]

The measurement and verification regime already exists for estimating QC values outside of the AAH. As the OhmConnect/Leap proposal cites, "Both the current Load Impact Protocols process and the supply-side incentive-based QC methodology under development provide pathways for quantifying monthly hourly load reduction capabilities for each of the 24 hours, so no technical changes would be required..."[7] As stated above, the Council and CPower agree that the DR LIPs already provide the framework for assessing hourly ex post and ex ante load impacts. Additionally, D. 23-04-010 explicitly directed that the DR snapback effect must be included in the ex ante analyses contained in the annual DR Load Impact reports.[8]

[5] D.23-04-010 is the Decision on Phase 2 of the Resource Adequacy Reform Track issued in R.21-10-002 (RA) on April 7, 2023, at p. 106 (Ordering Paragraph 9).
[6] Proposed Decision, at p. 66.
[7] OhmConnect/Leap Proposal, at p. 2.
[8] D.23-04-010, at p. 106 (Ordering Paragraph 11).

(3) Any updates needed for the application of DR resources' MCC bucket cap.[9]

No updates are needed to the application of the DR Maximum Cumulative Capacity ("MCC") Bucket. As OhmConnect/Leap cite in their proposal, D.23-04-010 already directed that the MCC Bucket DR limit applies to all hourly slices under the Slice of Day framework.[10]

(4) Implications on the CAISO's operational requirements and constraints (including the interaction with the CAISO MOO and supply plan showings).[11]

As it applies to DR resources, the CAISO Must Offer Obligation ("MOO") would only change to the extent that a DR program tariff or contract changes. Currently, the CAISO DR MOO is dictated by the availability requirements of a DR program or contract, both of which are dictated by the Commission's RA rules. Therefore, a third-party DR resource under contract to provide RA during two groups of hourly slices (e.g., 6:00 a.m.-8:00 a.m. and 5:00 p.m.-9:00 p.m.) would be required to bid in the respective RA values during these periods.[12]

With regard to supply plan showings, there would be no impact – shown DR resources would continue to be shown in the hours for which they provide RA capacity, as they are now.

V. THE PROPOSED DECISION SHOULD BE CORRECTED TO SHOW THAT THE COUNCIL SUPPORTED THE OHMCONNECT/LEAP PROPOSAL

In discussing the OhmConnect/Leap proposal, the Proposed Decision states that it is supported by the Alliance for Retail Energy Markets ("AReM"), California Community Choice Association ("CalCCA"), California Environmental Justice Alliance ("CEJA"), California Energy Storage Alliance ("CESA"), and the Center for Energy Efficiency and Renewable Technology ("CEERT").[13] The Council respectfully requests that its support for the proposal, as described in its March 17 reply comments to the proposal, be recognized in the Proposed Decision.[14]

VI. CONCLUSION

The Council and CPower appreciate the Commission's consideration of these opening comments and recommend that the Proposed Decision be modified in order to improve the

[9] Proposed Decision, at p. 66.
[10] D.23-04-010, at p. 107 (Ordering Paragraph 16).
[11] Proposed Decision, at pp. 66-67.
[12] CAISO Tariff, Section 40.6.4 and Appendix B.14.
[13] Proposed Decision, at p. 66.
[14] The Council and Leap Reply Comments on Track 3 Proposals, submitted in this proceeding on March 17, 2025.

ratepayer benefits that DR can provide. Those needed modifications are included in Appendix A (Proposed Modifications to Findings of Fact, Conclusion of Law, and Ordering Paragraph) attached and incorporated by reference hereto.

Dated: June 11, 2025

Respectfully submitted,

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APPENDIX A

THE CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT COUNCIL AND CPOWER ENERGY MANAGEMENT PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDERING PARAGRAPHS FOR THE PROPOSED DECISION ADOPTING LOCAL CAPACITY OBLIGATIONS FOR 2026-2028, FLEXIBLE CAPACITY OBLIGATIONS FOR 2026, AND PROGRAM REFINEMENTS

The California Efficiency + Demand Management Council (the "Council") and CPower Energy Management ("CPower") propose the following modifications to the Findings of Fact, Conclusions of Law, and Ordering Paragraphs in the Proposed Decision Adopting Local Capacity Obligations for 2026-2028, Flexible Capacity Obligations for 2026, and Program Refinements, mailed in R.23-10-011 on May 22, 2025 ("Proposed Decision").

Please note the following:

- A page citation to the Proposed Decision is provided in brackets for each Finding of Fact, Conclusion of Law, or Ordering Paragraphs for which a modification is proposed.
- Added language is indicated by **bold type**; removed language is indicated by **bold strike-through**.
- A new or added Finding of Fact, Conclusion of Law, or Ordering Paragraph is labeled as "**NEW**" in **bold underscored** capital letters.

PROPOSED FINDINGS OF FACT:

16. [NEW] Existing Commission and CAISO market rules allow for the Energy Division to assess NQC values for IOU and third-party DR programs outside of the AAH.

PROPOSED CONCLUSIONS OF LAW:

17. [NEW] The Commission should authorize the Energy Division to assess NQC values for IOU and third-party DR programs outside of the AAH.

PROPOSED ORDERING PARAGRAPHS:

19. [NEW] The Energy Division is authorized to award NQC values for IOU and third-party DR resources outside of the AAH subject to the following restrictions:

- **The DR resource continues to provide RA capacity during the AAH, subject to Commission availability requirements;**
- **a minimum four-hour "rest period" is observed between dispatches; and**
- **the DR resource may only provide RA capacity for a sub-set of hourly slices between HE01-HE13 and again during the AAH.**