

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Oversee
The Resource Adequacy Program, Consider
Program Refinements, and Establish Annual
Local Procurement Obligations.

Rulemaking 11-10-023
(Filed October 20, 2011)

**JOINT INITIAL COMMENTS OF THE
ENERNOC, INC. AND COMVERGE, INC.
ON RULEMAKING 11-10-023**

Mona Tierney Lloyd
Director, Regulatory Affairs
EnerNOC, Inc.
P.O. Box 378
Cayucos, CA 95630
Telephone: 805-995-1618
Facsimile: 805-995-1678
Email: mtierney-lloyd@enernoc.com

Carlos Lamas-Babbini
Program Manager
Comverge, Inc.
58 Mt. Tallac Ct.
San Rafael, CA 94903
Telephone: 510-270-5963
Facsimile: 510-360-9690
Email: clamasbabbini@comverge.com

Sara Steck Myers
Attorney at Law
122-28th Avenue
San Francisco, CA 94121
Telephone: (415) 387-1904
Facsimile: (415) 387-4708
Email: ssmyers@att.net

November 7, 2011

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Oversee
The Resource Adequacy Program, Consider
Program Refinements, and Establish Annual
Local Procurement Obligations.

Rulemaking 11-10-023
(Filed October 20, 2011)

**JOINT INITIAL COMMENTS OF THE
ENERNOC, INC. AND COMVERGE, INC.
ON RULEMAKING 11-10-023**

EnerNOC, Inc. (EnerNOC) and Comverge, Inc. (Comverge) respectfully submit these Joint Initial Comments on “preliminary matters pertaining to the scope, schedule, and administration” of Rulemaking (R.) 11-10-023 (Resource Adequacy (RA)).¹ These Joint Initial Comments are timely filed and served pursuant to the Commission’s Rules of Practice and Procedure and Ordering Paragraph 5 of R.11-10-023.

**I.
INTRODUCTION**

In R.11-10-023, the Commission continues its task to annually establish local procurement obligations and consider local capacity requirements (LCR) (pursuant to the California Independent System Operator’s (CAISO’s) LCR study) and to oversee and review the RA Program, with R.11-10-023 serving as the successor proceeding to R.09-10-032. Of significance for EnerNOC and Comverge, both of which provide demand response services in California, the Preliminary Scoping Memo for R.11-10-023 also includes consideration of the following issues, as identified in R.11-10-023 and Appendix A thereto:

- “Issues that were referred to this rulemaking by D.11-10-003, regarding RA for demand response resources;”²
- “Issues deferred to this proceeding by D.11-06-022, the Commission’s decision regarding 2012 LCRs and refining the RA program;”³

¹ R.11-10-023, at p. 1.

² R.11-10-012, at p. 4.

- “Issues deferred to this proceeding by a September 7, 2011 Ruling in R.09-10-032.”⁴
- “Maximum Cumulative Capacity (MCC buckets) – In D.11-06-022 the Commission deferred discussion of the MCC buckets until this year’s RA proceeding. The MCC buckets are currently based on load curves dating back to 2005. Further, D.11-10-003 created a new MCC bucket for Demand Response resources, to be determined in this proceeding.”⁵
- “Standard Capacity Product (SCP) – D.09-06-028 deferred final consideration of the SCP to this proceeding. Further, the Federal Energy Regulatory Commission has directed the California Independent System Operator (CAISO) to work toward extending the SCP to currently exempted resources. This proceeding will consider adoption of the SCP and any associated changes to the RA program.”⁶

Of significance from the perspective of both EnerNOC and Comverge, resolution in R.11-10-023 of the issues identified above will determine how demand response resources will qualify for resource adequacy, will be able to transact for a capacity payment in the wholesale market, and will be factored into load-serving entity (LSE) procurement decisions for RA purposes. Both EnerNOC and Comverge, as demand response providers, have an obvious interest in the resolution of these issues and intend to participate fully in their resolution in this proceeding.

EnerNOC and Comverge support the preliminary categorization of R.11-10-023 as ratesetting, do not believe that hearings are necessary to resolve the issues within the scope of this proceeding, and do not have specific changes to the proposed schedule. However, both believe that the Commission should identify and prioritize the issues to be addressed in Phase 1, especially to permit rule implementation by 2013, as indicated below.

³ Id.

⁴ R.10-10-023, at p. 4.

⁵ R.11-10-023, App. A, at p. 1.

⁶ R.11-10-023, App. A., at p. 1.

II.
ISSUES DEFERRED TO THIS PROCEEDING BY D.11-10-003

A. LOCAL DISPATCHABILITY IN ORDER TO QUALIFY FOR RESOURCE ADEQUACY

Several issues regarding the implementation of a local dispatchability requirement in order to receive local resource adequacy were deferred to this proceeding by D.11-10-003, issued in the prior RA rulemaking (R.09-10-032). Because resolution of these issues has already been deferred once, these issues should be included in Phase I of this proceeding and scheduled for a decision by June 2012.

To the extent retail demand response programs are integrated into the wholesale market, EnerNOC and Comverge agree that a demand response resource should be locally dispatchable in order to receive local resource adequacy credit. However, some programs may not be integrated into the wholesale market. As such, EnerNOC and Comverge look forward to reviewing and replying to the initial comments of the investor-owned utilities (IOUs) on the local RA treatment afforded those programs.

B. MAXIMUM CUMULATIVE CAPACITY (MCC) BUCKETS

D.11-10-003 adopted an MCC Bucket for demand response to be created in 2013.⁷ The MCC Buckets establish a maximum amount of capacity that can be provided by each type of resource for resource adequacy purposes. The principal concern of both EnerNOC and Comverge is how to reflect the Commission's loading order in any MCC limit and to ensure that this issue is addressed in Phase 1 of this rulemaking. Both reserve the right to address this topic further in reply to the initial comments or proposals made by other parties.

⁷ D.11-10-003, at p. 33.

C. BACK-UP GENERATORS

D.11-10-003 adopted a policy position prohibiting back-up generators (BUGs) from qualifying for resource adequacy as a demand response resource or from qualifying as a demand response resource period. However, in doing so, D.11-10-003 also permitted data and analysis on this issue to be provided in a future proceeding.⁸ Such additional analysis and submission of data on this topic should take place in Phase 1 of this rulemaking.

D. STANDARD CAPACITY PRODUCT

The development of a standard capacity product (SCP) for demand response resources has been an issue in R.09-10-032 and is now an issue in this proceeding. While the Commission is making incremental progress toward developing the rules under which demand response resources will qualify for resource adequacy for participation in the wholesale market, very little progress has been made in developing a standardized transactional product that will allow demand response resources to receive a capacity payment for the associated resource adequacy.

While EnerNOC and Comverge recognize that the SCP cannot be fully developed until the Commission has determined the basis for DR to qualify for RA in the wholesale market, the serial nature of considering or deferring resolution of the SCP issues will only result in further delay of effective wholesale DR participation. For this reason, EnerNOC and Comverge recommend that the California Independent System Operator (CAISO) develop a straw proposal for party comment in Phase I of this proceeding. Such a step will ensure timely and final resolution of this issue.

On this point, EnerNOC and Comverge also note that the CAISO intends to commence stakeholder meetings on SCP in the first quarter of 2012. The Commission should ensure that

⁸ D.11-10-003, at p. 30.

the work that is done in this proceeding on SCP is coordinated with the CAISO process and encourage the CAISO process to move ahead as expeditiously as possible.

III. ISSUES DEFERRED TO THIS PROCEEDING BY D.11-06-022

A. SEASONAL LOCAL RA REQUIREMENT

EnerNOC and Comverge recommend that this issue be deferred to Phase II.

B. RESOURCE ADEQUACY CREDIT FOR THIRD PARTY DEMAND RESPONSE PROVIDERS WHO PARTICIPATE IN THE RELIABILITY DEMAND RESPONSE RESOURCE

On February 8, 2011, EnerNOC filed Comments in the predecessor RA rulemaking, R.09-10-032, on the implementation of the cap on RA credit for reliability-based demand response programs (RDRP). In those Comments, EnerNOC indicated its support for the implementation of that cap pursuant to a settlement adopted in D.10-06-034, to which EnerNOC was a party, but specifically noted that this settlement did not address how RA capacity would be allocated among qualified DR providers in excess of the three utilities.⁹ It was EnerNOC's recommendation that third party demand response providers (DRPs) who participate in RDRP should receive an allocation of the RA credit.¹⁰

Specifically, as detailed in those Comments, without an allocation of RA credit for participation in the RDRP for third parties, utilities will have a distinct advantage for its participation. By 2014, RA credit will only be provided for 1,000 MW of RDRP capacity, unless the cap is adjusted.¹¹ While there is no cap on participation in RDRP resources, the value of doing so will be significantly different as between those entities that receive RA credit and those that do not. Because the settlement approved by D.10-06-034 did not address the allocation of

⁹ R.09-10-032 (RA) EnerNOC Comments on Phase 2 Workshop Issues (February 8, 2011), at pp. 5-6; n. 3.

¹⁰ Id.

¹¹ Id., at p. 6

capacity credits to third party RDRP participants, both EnerNOC and Comverge believe that the issue is ripe for consideration by the Commission and should be addressed and resolved in Phase I of this rulemaking.

In this regard, the Commission continues to encourage third parties to move toward more full participation in the CAISO's DR markets. However, unless third parties can participate on a basis comparable with the utilities and receive the same benefits and opportunities as the utilities, third parties and the associated customers will be disadvantaged by forfeiting RA value. EnerNOC and Comverge, therefore join in requesting that this issue be addressed in Phase I of this proceeding.

**IV.
ISSUES DEFERRED TO THIS PROCEEDING BY THE SEPTEMBER 7, 2011 RULING**

EnerNOC and Comverge believe that CAISO's proposal to require that the operational characteristics of RA resources include regulation and ramping should be deferred to Phase II. Any consideration or resolution of this issue should also consider recent, relevant decisions made by the Federal Energy Regulatory Commission (FERC) in Order 755, Compensation for Frequency Regulation Services.

V.
CONCLUSION

EnerNOC and Comverge ask that the Commission take into consideration their Joint Initial Comments in the final Scoping Memos for Phase 1 and Phase 2 of this rulemaking. The recommendations made herein will ensure that priority issues, in particular, those that will facilitate DR participation in wholesale markets, will be resolved in a timely manner.

Respectfully submitted,

November 7, 2011

/s/ SARA STECK MYERS
Sara Steck Myers
On Behalf of EnerNOC and Comverge

SARA STECK MYERS
Attorney at Law
122 – 28th Avenue
San Francisco, CA 94121
(415) 387-1904 (Telephone)
(415) 387-4708 (FAX)
ssmyers@att.net

Mona Tierney Lloyd
Director, Regulatory Affairs
EnerNOC, Inc.
P.O. Box 378
Cayucos, CA 95630
Telephone: 805-995-1618
Facsimile: 805-995-1678
Email: mtierney-lloyd@enernoc.com

Carlos Lamas-Babbini
Program Manager
Comverge, Inc.
58 Mt. Tallac Ct.
San Rafael, CA 94903
Telephone: 510-270-5963
Facsimile: 510-360-9690
Email: clamasbabbini@comverge.com