

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)

**PROPOSALS OF  
ENERNOC, INC. AND COMVERGE, INC. ON PHASE 1 ISSUES**

**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](mailto: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](mailto:clamasbabbini@comverge.com)

**Sara Steck Myers**  
**Attorney at Law**  
122-28<sup>th</sup> Avenue  
San Francisco, CA 94121  
Telephone: (415) 387-1904  
Facsimile: (415) 387-4708  
Email: [ssmyers@att.net](mailto:ssmyers@att.net)

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EnerNOC, Inc. (EnerNOC) and Comverge, Inc. (Comverge) (“Joint Parties”) respectfully submit these Proposals on the Phase 1 Issues in Rulemaking (R.) 11-10-023 (Resource Adequacy (RA)). The Joint Parties’ Proposals are timely filed and served pursuant to the Commission’s Rules of Practice and Procedure and the Phase 1 Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge (“Scoping Memo”) issued in R.11-10-023 on December 27, 2011.

**I.  
INTRODUCTION**

The Scoping Memo identifies several issues that will be examined in Phase 1 of R.11-10-023 relative to resource adequacy (RA). Several of these issues have been identified as issues to be resolved in the previous rulemaking proceeding on resource adequacy, R.09-10-032. The Joint Parties will be addressing RA issues relative to demand response (DR). Some of these issues are specific to DR participation in the wholesale market. The timing and process associated with DR direct participation in the wholesale market, at this point, is unclear; but, there is still merit in exploring these issues despite the uncertainty. Addressing these issues sooner rather than later is necessary to avoid any future policy delay once the direction and timing of wholesale market participation is resolved.

## II. JOINT PARTIES' PROPOSALS ON REFINEMENTS TO THE RESOURCE ADEQUACY PROGRAM RELATED TO DEMAND RESPONSE ISSUES

### A. STANDARD CAPACITY PRODUCT (SCP)

The Standard Capacity Product (SCP) is the means by which capacity is easily transacted between buyers and sellers in California for purposes of meeting resource adequacy requirements in the absence of a centralized capacity market. Standardized terms and conditions and a consistent definition of RA capacity facilitates transactions to avoid “one-off” negotiations. At some point in the future, DR capacity will also need to be transacted between buyers and sellers and a consistent product will facilitate those transactions.

In its Order in Docket Number ER09-1064-000, the Federal Energy Regulatory Commission (FERC) adopted the SCP, which exempted certain resources, including demand response, from the product applicability on a temporary basis “because these issues are being addressed in ongoing CAISO and CPUC proceedings and the exemptions are, therefore, temporary.”<sup>1</sup> While this issue has been raised in several phases of the last RA Proceeding (R.09-10-032), no real progress has been made on the matter to date. The reasons are, at least in part, that inclusion of demand response into the SCP requires the Commission to determine the conditions under which DR will first qualify for RA when participating in the wholesale market. Then a transactional product can be developed around those requirements.

Progress has been made toward determining the conditions under which DR transactions in the wholesale market will count toward RA capacity. The Commission, in D.11-06-022, adopted an availability requirement for DR of four hours/event for three consecutive days.<sup>2</sup> The Commission in D.11-10-003 determined that load impact protocols (LIPs) would be the

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<sup>1</sup> FERC Order in Docket No. ER09-1064-000, P. 58 at p. 22. Issued on June 26, 2009.

<sup>2</sup> D.11-06-022, COL 21, p. 68.

methodology used to determine the RA capacity associated with a DR resource as opposed to tested, registered capacity, as proposed by EnerNOC. As such, once a DR resource's capacity is determined subsequent to the LIPs, the CAISO should accept that capacity as verified for purposes of RA and for transactional purposes between buyers and sellers and no further verification by CAISO should be warranted at that point.

In this proceeding, the issue of maximum cumulative capacity (MCCs) will be addressed. The Joint Parties appreciate that progress is being made toward providing definition around RA capacity credit for DR participation in the wholesale market. It is also the Joint Parties' understanding that the California Independent System Operator (CAISO) will be holding stakeholder meetings on DR and the SCP sometime in the first quarter of 2012. The urgency of resolving these issues now depends upon the next steps involved in CAISO's implementation of FERC's Order 745<sup>3</sup> and its implications on the Proxy Demand Resource (PDR) and the Reliability Demand Response Product (RDRP) as well as the next steps of the Commission as it relates to the Direct Participation Phase of R.07-01-041.

It is not necessary, nor is it reasonable, to try to force DR to "fit" into the existing SCP mechanism designed for conventional generation resources. It is likely that a separate product, specifically designed for DR, with the availability requirements determined within this, and the predecessor docket, will need to be developed. Joint Parties asks that each of these proposals be considered at the Phase 1 Workshops. Joint Parties also look forward to reviewing and discussing the proposals of other parties on these issues at the workshops.

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<sup>3</sup> Issued on March 15, 2011 and December 15, 2011.

## **B. MAXIMUM CUMULATIVE CAPACITY (MCC) BUCKETS**

D.11-10-003 adopted CAISO's proposal that a new MCC Bucket be developed for DR, to be created in 2013 RA Proceeding.<sup>4</sup> The Scoping Memo contemplates redesigning, potentially, all of the MCC Buckets.

Joint Parties do not take a position as to the appropriate design of all of the MCC Buckets at this time. However, Joint Parties have raised a concern relative to reconciling the purpose of an MCC for DR (which includes an inherent limitation of the amount of RA capacity that could come from a particular resource) with the Commission's loading order that places DR and energy efficiency at the top of the loading order. Joint Parties appreciate that it is not realistic that 100% of the RA capacity coming from a DR resource as DR has a limited availability relative to a base-load resource. However, at the same time, resources that can integrate intermittent resources, such as demand response and storage, will become increasingly important from a balancing perspective as the State implements the renewable resource requirements, where renewable resources will comprise 33% of the State's resource mix. As such, the Joint Parties look forward to reviewing other parties' proposals for the MCC Buckets and will respond according to such proposals to ensure that any limitation is not in conflict with the Commission's loading order policy. .

## **C. ALLOCATION OF RESOURCE ADEQUACY CREDIT TO THIRD PARTIES WHO PARTICIPATE IN THE CAISO'S RELIABILITY DEMAND RESPONSE PRODUCT (RDRP)**

D.11-06-022 implemented a cap on RA-eligible capacity participating as Emergency DR for the 2012 RA Compliance Year by investor-owned utility (IOU).<sup>5</sup> A Settlement was developed to resolve the issues contained in Phase 3 of Docket No. R.07-01-041 and submitted

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<sup>4</sup> D.11-10-003, COL 2, at p. 33.

<sup>5</sup> D.11-06-022, OP 13, at p. 73.

to the Commission in February 2010. The Commission issued an order adopting the Settlement (D.10-06-034) in June 2010. EnerNOC was a Settling Party.

The Settlement proposed, and D.10-06-034 adopted, a cap of RA-eligible capacity for emergency DR of 2% of CAISO system peak by 2014, with interim targets for the transition years. The allocation of capacity among the utilities was developed based upon the load ratio share of Emergency DR capacity that each utility had at the time of the Settlement. The Settlement was the basis for developing the Reliability Demand Response Product (RDRP), which was submitted by CAISO to FERC for approval in May 2011.

In its comments in R.09-10-032, EnerNOC raised an issue that was neither addressed by the Settlement nor the Decision adopting the Settlement, which involves the issue of apportioning the RA-eligible capacity to third parties who participate in RDRP. Absent some pro rata allocation of capacity to third parties that participate in RDRP, third parties would be treated discriminatorily relative to utilities, who would receive all of the available RA-eligible capacity allocated to them. As EnerNOC stated in its Comments filed in that proceeding on February 18, 2011:

“If the Commission does not address the method by which qualified third-party DRPs would receive an allocation of the RA-eligible capacity, the only option for participating in RDRP for third-party DRPs would be without RA-eligible capacity. Participation, on that basis, would be discriminatory for third-party DRPs. RDRP is a reliability-based DR program that was developed through a CAISO stakeholder process that would integrate existing reliability-based utility retail programs into the wholesale market. The utilities are currently the only providers of that product and are, therefore, allocated all of the RA-eligible capacity. However, this circumstance should not result in a permanent allocation of RA-eligible capacity to the IOUs when that service offering is opened to all qualified third-party DRPs. Therefore, the Commission needs to determine an appropriate method of allocating the RA-eligible capacity among eligible DRPs. To that end, EnerNOC proposes that the Commission, on an annual basis, determine the allocation of RA-eligible capacity based upon a load share ratio of the RA-eligible capacity, which is determined based upon the settlement.

In other words, if the CAISO's all-time peak demand is 50,000 MW in 2014, 2% of 50,000 equals 1000 MW of RA-eligible capacity. If PG&E had 1,100 MW, SCE had 800 MW, SDG&E had 50 MW and DRP1 had 50 MW, equaling 2,000 MW, then each DRP would receive an allocation of RA-eligible capacity equal to 50% of the total capacity held. PG&E would have 500 MW, SCE, 400 MW, SDG&E, 25 MW and DRP1 25 MW of RA-eligible capacity.

If the Commission does not address the allocation of capacity among eligible DRPs, participation in RDRP by third-party DRPs would be distinctly disadvantaged. Therefore, EnerNOC believes it is necessary to allocate a portion of the RA-eligible capacity among qualified DR providers in an equitable manner, as described above.”<sup>6</sup>

Joint Parties believe that this recommendation is appropriate for consideration in Phase 1.

Joint Parties, therefore, ask that this proposal be included at the upcoming Phase 1 Workshops.

### **III. CONCLUSION**

The Joint Parties ask that the Commission consider the proposals contained herein at the Phase 1 workshops scheduled for January 26 and 27. The Joint Parties look forward to addressing these proposals in those workshops, as well as responding to the proposals of the Energy Division staff and other parties at that time.

Respectfully submitted,

January 13, 2012

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

SARA STECK MYERS  
Attorney at Law  
122 – 28<sup>th</sup> Avenue  
San Francisco, CA 94121  
(415) 387-1904 (Telephone)  
(415) 387-4708 (FAX)  
[ssmyers@att.net](mailto:ssmyers@att.net)

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<sup>6</sup> R09-10-032 EnerNOC Comments (February 18, 2011), at pp. 5-6.

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](mailto:mtierney-lloyd@enernoc.com)

AND

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](mailto:clamasbabbini@comverge.com)