

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Enhance the  
Role of Demand Response in Meeting the  
State's Resource Planning Needs and  
Operational Requirements.

Rulemaking 13-09-011

**PREHEARING CONFERENCE STATEMENT OF THE  
CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION**

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October 14, 2013

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Pursuant to the October 8, 2013 Administrative Law Judge's Ruling and clarification Ruling of October 11, 2013 the California Large Energy Consumers Association<sup>1</sup> (CLECA), submits this statement through service only

**I. INTRODUCTION**

Demand response, along with energy efficiency, tops the Loading Order, and like energy efficiency, is provided by end use customers. Demand response has helped maintain grid reliability in California for decades, not only during generation shortages, price spikes and hot weather, but also during transmission outages. While the focus now is on the potential for demand response to help with integration of intermittent generation in the wholesale market, much remains unknown about renewables integration, including what flexibility attributes may be needed. Moreover, the costs of integrating demand response into the California Independent System Operator's market also remain unknown. We do

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<sup>1</sup> The California Large Energy Consumers Association is an organization of large, high load factor industrial electric customers of Southern California Edison Company and Pacific Gas and Electric Company. CLECA member companies are in the cement, steel, industrial gas, beverage, pipeline and mineral industries. CLECA has been an active participant in Commission regulatory proceedings and Commission Demand Response Programs since 1987.

know, however, that transmission outages will continue to occur and existing reliability demand response programs can help maintain grid reliability during transmission outages. These facts must inform the California Public Utilities Commission's proposed enhancement of "the role of demand response programs in meeting the state's long-term clean energy goals while maintaining system and local reliability."<sup>2</sup>

## **II. COMMENTS**

The Order Instituting Rulemaking sets within its scope the general topic areas of "1) program bifurcation, 2) program approval and funding cycle, 3) a roadmap for future demand response, and 4) potential bridge year funding and staff proposed pilots."<sup>3</sup> The ALJ Ruling also sought parties' input on additional issues, the need for hearing, and a proposed schedule to enable completion within 24 months. CLECA's comments are below.

### **(a) Any additional issues the Rulemaking should consider and why;**

The OIR states it will,

determine whether and how to bifurcate [existing demand response programs] as demand side (customer-focused programs and rates) and supply-side resources (reliable and flexible demand response that meets local and system resource planning and operational requirements). Towards that end, this rulemaking will identify the criteria that should be used to distinguish demand-side and supply-side demand response resources and determine whether there is an optimal mix that should be maintained.<sup>4</sup>

First, ALL demand response programs are and must remain customer-focused to succeed. Second, the existing demand response programs are categorized into

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<sup>2</sup> OIR, at 1.

<sup>3</sup> ALJ Ruling Calling for Prehearing Conference Statements, at 1.

<sup>4</sup> OIR, at 16.

reliability programs and pricing programs. This important aspect of the existing demand response programs appears to have been ignored; it should not be as it governs customers' ability to dual participate in demand response programs. CLECA supports retention of these categories and the dual participation rules. The Commission should clarify its intent regarding the existing categorization of demand response programs into reliability programs and pricing programs.

The OIR also questions “how should cost effectiveness be treated, if at all, under a competitive procurement framework for supply-side demand response?”<sup>5</sup> CLECA reminds the Commission that the current cost effectiveness methodology is still relatively new. The current programs were the first ones subjected to the cost effectiveness methodology, and one key issue associated with the current cost effectiveness methodology, exclusion of load impacts with dual participation programs, remains outstanding. The current Protocols provide that the load drop is only attributed to one program in the cost-effectiveness analysis, regardless of whether the events overlapped. This convention of allocating load impacts to only one program if a customer is engaged in dual participation leads to understating the benefits of the other program; the program which cannot include the load impacts will have costs but an apparently reduced benefit due to the eliminated load impacts. Accordingly, the impact of exclusion of the load impacts associated with dual participation from the cost-effectiveness analysis should be included in the scope of this rulemaking.

**(b) The need for hearing (i.e., state whether hearings are necessary and, if so, list potential material issues of disputed fact which require an evidentiary hearing.)**

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<sup>5</sup> OIR, at 18.

Hearings are necessary to develop a record on disputed issues of fact. It is difficult, if not impossible, to address the need for hearing in the abstract, where no testimony has been served and no applications for specific utility programs have been made. The potentially sweeping changes envisioned by the Rulemaking, however, may lead to disputed issues of fact that require testing in the formal setting of a hearing room through testimony and cross examination.

For example, disputed issues of fact could include whether and what benefits result from integration of demand response into the California Independent System Operator market, and what the costs are. In this context, CLECA notes that the 2020 load shape on which the “duck curve” is based assumes no changes from the current load shape. By next year, however, virtually all non-residential Investor Owned Utility customers will be on Time Of Use rates. Through both Time Of Use rates and dynamic pricing, the Commission’s intent is to provide pricing signals to these customers to encourage shifting load both away from peak periods and away from dynamic pricing “event” periods.<sup>6</sup> Given the ongoing implementation of Commission rate design policy intended to effectuate load shape changes over the next few years,<sup>7</sup> forecast “benefits” of integration based on that duck curve may be disputable. Other potential factual disputes could occur over “specific roles for

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<sup>6</sup> See, e.g., D. 10-02-032 and D. 11-11-008 for PG&E and D.13-03-031 for SCE.

<sup>7</sup> Specifically, agriculture and commercial classes are now being moved to Time Of Use pricing. Further, pursuant to AB 327, the residential class may also be moved to default time-of-use rates in 2018.

the utilities and demand response providers for the delivery of demand response starting in 2016.”<sup>8</sup>

Moreover, parties may disagree on the resolution of outstanding issues with the cost-effectiveness methodology. As noted above, this includes the exclusion of load impacts associated with dual participation. Parties’ disagreements may be fact-based and need hearings for full exploration. The workshop process, while beneficial in some instances, does not result in the same, indisputable record provided by a hearing with transcripts and exhibits entered into evidence.

Hearings thus may very well become necessary, but at this point CLECA cannot provide a complete list of potential material disputed issues. The topics raised above, and others that may develop as the proceeding moves along, may require hearings; hearings should be planned for from the outset as it is often easier to cancel hearings at a later date than to schedule them.

**(c) A proposed schedule for the proceeding in order for the Commission to resolve this proceeding within 24 months of its initiation**

The Commission should not prioritize completion of a proceeding within 24 months over substantive, necessary determinations informed by a complete record. Demand response is a valuable resource, positioned above renewable resources in the loading order, and the issues raised in the OIR deserve due, deliberate consideration. Some of the scoped issues are still developing, and will be for some time to come. For example, on the issue of integration of intermittent generation, the associated grid “needs” are still being determined.

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<sup>8</sup> OIR, at 16.

As it is not yet clear what the needs are, how demand response can help meet those needs also cannot be known. Yet even before the October 24 PHC, not one but two workshops are already scheduled to take place, with a focus on the proposed bifurcation and integration. CLECA understands that concerns are heightened due to the loss of SONGS, but cautions against a rush to judgment on sweeping changes that may impair or inhibit customer participation in demand response.

### **III. CONCLUSION**

Demand response is a long-term resource. If one looks at the history of demand response programs over the last several decades, participation has not dropped significantly and has indeed grown over time. However, the uncertainty created by the three-year funding cycle and changing regulatory frameworks has created uncertainty for customers participating in and providing demand response. Within this context, CLECA supports the proposed consideration of longer program cycles, and the tie-in with energy efficiency. Like energy efficiency, demand response has value beyond traditional “capacity” considerations, and demand response deserves due consideration as a top loading order resource, preferred over – not in service to - renewable resources.

Respectfully submitted



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