

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
(Filed September 19, 2013)

**PREHEARING CONFERENCE STATEMENT OF
THE OFFICE OF RATEPAYER ADVOCATES**

I. INTRODUCTION

Pursuant to the Administrative Law Judge's ("ALJ") Ruling of October 2, 2013, the Office of Ratepayer Advocates ("ORA") hereby submits this prehearing conference ("PHC") statement to the *Order Instituting Rulemaking To Enhance the Role of Demand Response in Meeting the State's Resource Planning Needs and Operational Requirements* ("Rulemaking"), in the above referenced docket.

The ALJ's Ruling allows parties to submit PHC statements no later than October 14, 2013. The ruling requested parties address the following items:

- (a) Any additional issues the Rulemaking should consider and why;
- (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.); and
- (c) A proposed schedule for the proceeding in order for the Commission to resolve this proceeding within 24 months of its initiation.

II. ADDITIONAL ISSUES TO BE CONSIDERED

As stated in the Rulemaking, the purpose of the proceeding is to enhance the role of demand response in meeting the State's resource planning needs and operational requirements. The Rulemaking will: (a) review and analyze current demand response programs to determine whether and how we should bifurcate them into demand-side and supply-side resources; (b) create an appropriate competitive procurement mechanism for

supply-side demand response resources; (c) determine the program approval and funding cycle; (d) provide guidance for transition years; and (e) develop and adopt a roadmap with the intent to collaborate and coordinate with other Commission proceedings and state agencies in order to strategize the future of demand response in California.¹

The Rulemaking provides a list of issues for examination in the determination of whether and how to bifurcate demand response programs as demand-side and supply-side resources. ORA proposes the scope of the Rulemaking additionally include the following issues.

A. How should the Commission induce the design of demand response programs that will provide assurance of their reliability?

“Supply-side” demand response programs are meant to displace conventional generation, which is subject to various mechanisms to ensure compliance with reliability standards. The Rulemaking should determine whether DR should be treated equally in the application of those mechanisms. If so, the Rulemaking should consider the mechanisms to ensure compliance—such as must offer obligations, non-compliance penalties, etc.—in the design of demand response programs.

B. What specific additional evaluation, measurement, and verification (“EM&V”) protocols need to be incorporated will provide sufficient information to the Commission, IOUs and CAISO to demonstrate the capabilities of demand response to avoid the procurement of supply side resources?

This issue expands upon Question 5 of the Bifurcation section of the Rulemaking, which asks, “What changes in programs (e.g. locational targeting, longer funding cycles, load-increasing) and *evaluation methods* will create greater certainty that a demand response program can supply capacity when and where the grid needs it?”² This question

¹ R.13-09-011, Ordering Paragraph 1, p. 27.

² R.13-09-011, p. 18 (emphasis added).

focuses on how different parties can develop greater confidence that demand response programs can respond at specific times and places based on system needs.

ORA recommends identifying the specific requirements that the Commission, the investor-owned utilities (“IOUs”) and the California Independent System Operator (“CAISO”) deem essential in demonstrating the capabilities of demand response to meet various grid needs. The requirements will then feed into specific program design changes that will be needed to meet each requirement. Narrowly defining each product requirement will enable matching DR customers’ business needs and operating limitations to specific needs and thus help maximize each customer’s DR potential.

Finally, appropriate evaluation, measurement and verification (“EM&V”) protocols should be developed and incorporated in each DR program. Annual impact and process evaluations of these programs based on the collection and analysis of information needed to demonstrate the outlined requirements would provide parties with greater confidence in the capabilities of the programs.

C. How should the Commission determine what is the appropriate vehicle for providing capacity incentives—through RA? Or IOU programs? Or both?

Question 6 in the Bifurcation section of the Rulemaking asks, “How should the Commission determine the appropriate policy on Resource Adequacy (“RA”) capacity payments for demand response?”³ It is unclear from the Rulemaking whether RA payments are meant to replace or be in addition to the capacity incentives that are currently available through BIP, CBP and AMP.⁴ Currently, the capacity provided by these IOU programs qualifies for their RA requirements. Current capacity incentives are determined based on the avoided cost of a new combustion turbine (“CT”). Is this

³ R.13-09-011, p. 18.

⁴ Base Interruptible Program (“BIP”); Capacity Bidding Program (“CBP”); Aggregator Managed Portfolio (“AMP”).

method still appropriate or should incentives be based on market prices for various type RA capacity products envisioned in the Rulemaking? Since market RA prices are likely to be different than avoided cost of a CT (they are currently only a fraction of CT costs) is this a concern if capacity payments are provided exclusively through RA procurement?

D. To what extent do the utilities use peaker plants at a higher rate than DR programs and why? What changes do the utilities need to adopt for DR programs so they can be dispatched before utility peaker plants?

Question 11 of the Bifurcation section asks, “How does a proposed bifurcated framework with supply-side demand response enforce the loading order and ensure that demand response is procured and operated as a preferred resource before the utilities peaker power plants?” This does not fully address the issue raised in D.13-07-003 Ordering Paragraph 1 which states,

The new Rulemaking on Demand Response programs will consider the issue of whether, to what extent, and why utilities are using peaker plants at a higher rate than Demand Response programs. The rulemaking should fully address this requirement in the decision.⁵

More information is needed on whether, to what extent, and why peaker plants are used at a higher rate than demand response programs to determine not only what impact a bifurcated framework would have but also how utilities can design programs to be dispatched before peaker plants.

III. HEARINGS

ORA does not currently see a need for hearings for this Rulemaking.

IV. SCHEDULE

ORA agrees with the schedule set forth in the Rulemaking, and is prepared to discuss a more detailed schedule at the prehearing conference.

⁵ D.13-07-003, p. 39.

V. CONCLUSION

For the reasons stated above, ORA respectfully requests that the Commission include the additional issues noted above.

Respectfully submitted,

/s/ LISA-MARIE SALVACION

Lisa-Marie Salvacion
Attorney for the Office of Ratepayer
Advocates

California Public Utilities Commission
505 Van Ness Ave.
San Francisco, CA 94102
Phone: (415) 703-2069
Email: lms@cpuc.ca.gov

October 14, 2013