

**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

**COMMENTS ON DEMAND RESPONSE BRIDGE FUNDING AND
RESPONSES TO QUESTIONS ON STAFF PROPOSED PILOTS OF THE
CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION**

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Pursuant to section 5.4 of the Order Instituting Rulemaking (OIR),¹ the California Large Energy Consumers Association² (CLECA) submits these comments on Demand Response (DR) bridge funding and the questions regarding staff's proposed pilots.

I. SUMMARY

CLECA supports two years of bridge funding for existing DR programs and AMP contracts, and recommends its expeditious adoption. Several other parties suggested two years of bridge funding in their Prehearing Conference Statements.³ CLECA joins these parties in advocating for two years of bridge funding and attaches its Prehearing Conference Statement to these comments.

¹ OIR, at 20-22.

² 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.

³ See Joint Prehearing Conference Statement of EnerNOC, Inc., Johnson Controls, Inc. and Converge, Inc., at 3-7; see *also* Prehearing Conference Statement of San Diego Gas & Electric Company, at 5-6.

CLECA also strongly supports the proposed pilot on customer responsiveness to dynamic pricing.

II. TWO YEARS OF BRIDGE FUNDING FOR EXISTING DEMAND RESPONSE PROGRAMS SHOULD BE QUICKLY AUTHORIZED

The OIR queries the “reasonableness” of authorizing one year of bridge funding to allow current DR programs to continue through 2015.

1. Do you find it reasonable for the Commission to authorize SCE, SDG&E, and Pacific Gas and Electric Company (PG&E) a one-year bridge funding (sic) to allow current demand response programs to continue, as is, through 2015 while the Commission contemplates changes to the structure of the overall demand response program?

A minimum of one year of bridge funding for existing DR programs is reasonable, but two years for bridge funding would be more reasonable. DR programs and funding have in general suffered from the erratic timing of recent DR decisions, especially for utility programs, over the last decade. The expanded scope of this rulemaking, which includes consideration of an entirely new set of DR activities, is extensive and raises many new issues, completely aside from the review and continuation of existing DR programs. In addition, there will be a need for negotiation and approval of new aggregator managed program (AMP) contracts, since the current ones run out at the end of 2014. There will need to be sufficient time for all of these efforts.

There appears to be a sense of urgency in the rulemaking with respect to new DR programs for purposes such as flexibility, the parameters of which are still under development. This effort, which is likely to be time-consuming, should take place in a separate phase, and CLECA expects this focus on new “flexible” DR programs to have a high priority.

However, given the commendable interest in pursuing a longer program funding cycle in the future, adequate attention must be also given to possible modifications to existing DR programs and AMP contracts. This should, logically, also occur in its own phase. Since the utilities will need at least six months to prepare their DR program filings, if those remain due in January 2015, a thorough review would have to be accomplished before July 2014. This timeline seems infeasible. Thus, unless the Commission undertakes a more limited effort to prepare for the future of existing programs and contacts, two years of bridge funding for existing DR programs, including AMP contracts, are warranted.⁴ During those two years, continued progress on integration of DR into California Independent System Operator (CAISO) wholesale markets can be made; moreover, parties can focus on new DR programs and concepts without endangering the continuation of existing programs.

It is important to recognize that the new focus on developing DR to provide flexibility and be bid into the CAISO markets is a major undertaking. Current, ongoing efforts to integrate some *existing* DR into the CAISO's markets are moving forward but face challenges. These challenges must be acknowledged and considered.

A. Direct Participation and Rule 24 Are Not Yet Final

Resolution of issues surrounding direct participation in the CAISO's markets is ongoing, and the procedures necessary for and associated with Rule

⁴ In the alternative, the Commission could focus on updating the cost-effectiveness methodology and other essential changes by July 2014, which could permit the utilities to file their proposals for future DR programs by January 2015. However, a full review does not appear to be feasible.

24 are still being finalized. Decision 12-11-025 was intended to address the final issues requiring resolution prior to Commission-authorized bidding of bundled customer load into the CAISO markets, but some key direct participation issues still appear unresolved. There are currently four outstanding petitions for modification of that decision.⁵ Also, the Commission procedures enabling direct participation in CAISO markets are not yet final. As the joint utility advice letter filing with proposed revisions to Rule 24 on direct participation notes, “direct participation of retail customer load is novel in California.”⁶ The tier 3 joint advice letter filing on the Rule 24 procedures was only submitted on October 10; protests are due October 30. The joint utility filing may be protested, and changes may be required to the proposed Rule 24. Further, the timing of adoption of a Commission resolution approving the tier 3 advice letter on Rule 24 is not known.

B. There Is Much Inexperience with Basic CAISO Mechanics

Additionally, much remains to be learned about integration of DR into the CAISO markets, including basic mechanics. As explained by the utilities in their joint advice letter filing:

Throughout the process of refining Rule 24 and the related documents, it became clear to the stakeholders that *familiarity with CAISO’s systems,*

⁵ See, e.g., Joint Petition of Pacific Gas & Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Division of Ratepayer Advocates, EnerNOC, Inc., Johnson Controls, Inc., Comverge, Inc., Alliance for Retail Energy Markets, and Direct Access Customer Coalition for Modification of Decision 12-11-025, Ordering Paragraphs 7, 12, and 21, submitted August 9, 2013 in R.07-01-041; see also Petition of Pacific Gas & Electric Company for Modification of Decision 12-11-025, Ordering Paragraphs 6, 8, and 35, submitted August 9, 2013 in R.07-01-041; see also Petition of EnerNOC, Inc., Alliance for Retail Energy Markets, and Direct Access Customer Coalition for Modification of Decision 12-11-025, submitted August 9, 2013 in R.07-01-041; see also Petition of EnerNOC, Inc. for Modification of Decision 12-11-025, submitted August 9, 2013 in R.07-01-041.

⁶ Joint Advice Letter 4298-E (PG&E), 2949E (SCE) and 2526-E (SDG&E), at 6.

*rules and procedures is important to effectively develop IOU retail tariffs, particularly because of the expansive role the Utility Distribution Company plays in communicating with CAISO about customer service accounts (their location, their enrollment in IOU DR programs, their relationship with Third-Party DRP registrations, etc.).*⁷

Indeed, two of the staff proposed 2015 pilots (IRM2 in Northern California and IRM2 in Southern California) focus on increasing familiarity with CAISO markets and operating procedures.⁸ “The IRM2 pilot is a very early stage training vehicle to give Demand Response Providers (DRP) experience in the wholesale market ... [T]here is a compelling need to build expertise with direct CAISO engagement among certain participants.”⁹ “This pilot proposal [IRM 2 Implementation in Southern California] addresses a key problem of third party DR providers (and large end use customers) lack of understanding and experience of bidding DR into ... CAISO.”¹⁰

C. CAISO’s Reliability Demand Response Tariff Is Pending

In addition to the pending direct participation process, and a general lack of familiarity with CAISO markets and operating procedures, integration of existing *reliability* DR into the CAISO’s market is also pending. As the CAISO’s compliance filing to FERC makes clear, software, testing and market simulation changes are necessary for Reliability Demand Response Product implementation, and these modifications are still being developed.¹¹ The

⁷ Joint Advice Letter 4298-E (PG&E), 2949E (SCE) and 2526-E (SDG&E), at 6 (emphasis added).

⁸ OIR, Attachment A, at 1-11.

⁹ OIR, Attachment A, at 3.

¹⁰ OIR, Attachment A, at 7.

¹¹ CAISO Compliance Filing, at 4-5, dated August 19, 2013, in FERC Docket ER11-3616 (available at http://www.aiso.com/Documents/Aug19_2013Compliance-ReliabilityDemandResponseResourceER13-2192-000.pdf)(emphasis added).

software, testing and market simulation modifications under development must occur prior to implementation next spring.

D. Unknown Costs Require Quantification and Analysis, and Grid Needs Must Be Determined

Critically, the costs of integrating DR into the CAISO market also remain unknown. And, on the issue of the use of “flexible” DR to assist in the integration of intermittent generation, the “needs” of the grid for such flexibility and the required operating characteristics are still being determined. As it is not yet clear what the needs are, how DR can help meet those needs also cannot be known.

In all of these areas, there is a need for more information before decisions can be made. For this reason, sufficient time and attention must be devoted to the phase of this rulemaking focused on integration of DR into CAISO markets and its possible provision of flexibility in those markets.

In the meantime, two years of bridge funding should be authorized for existing DR programs and AMP contracts. A single year of bridge funding is unlikely to provide enough time to address both the anticipated focus on new flexible DR as well as complete the evaluation and possible refinement, of existing DR activities. A more limited update could be undertaken to focus on such important matters as fixing the currently-flawed cost-effectiveness methodology; such a focus may not, however, address the Commission’s concerns associated with flexibility and the SONGS outage.

E. Two Years of Bridge Funding for Current Demand Response Programs Would Provide Needed Certainty to Customers

An additional beneficial result of two years of bridge funding would be providing customers engaged in DR with much-needed program stability and

certainty. The uncertainty created by the erratic, current three-year funding cycle and the potential for significant changes to the regulatory framework for DR causes substantial concerns for customers now participating in and providing DR. Participating customers would be reassured by the deliberate process of review and refinement, if the latter is needed, that would come with two years of bridge funding and the expectation of a longer-term funding cycle for well-defined programs beginning in 2017.

III. RESPONSES TO QUESTIONS ON PROPOSED PILOTS

The OIR also attached three proposed pilots; two focus on learning more about integration with CAISO markets and one considers customer responsiveness to dynamic pricing rates. CLECA supports the pilot on customer responsiveness to dynamic pricing rates. The Commission has adopted rate design changes in order to provide signals to customers as to how their load affects the system. We anticipate that customers will respond to these new rates and this response should be measured and reflected in future load forecasting. CLECA responds briefly below to some of the questions on the proposed pilots.

2. Do you support the objectives of the staff proposed pilots? Please provide alternative suggestions for Utility pilots in 2015 if you do not.

Generally, yes.

3. In Section II.C.4 of the staff proposal, Energy Division staff recommends that SCE and SDG&E will both need budgets that are 75-80 percent of PG&E's current Intermittent Resource Management Phase 2 (IRM2) budget (\$2.458 million) to be able to effectively replicate the IRM2 pilot in their territories. Do you agree with that assessment? If not, what would be an appropriate budget for SCE and SDG&E to replicate the IRM2 pilot in their territories? Are there ways to modify the allocation of specific costs of the pilot such that SDG&E and SCE will not need as much as 75-80 percent of PG&E's budget?

No comment at this time.

4. Do you agree with the proposed budgets for the other pilots in the attached staff proposal?

No comment at this time.

5. In D.13-04-017, the Commission authorized SCE to shift \$8.7 million in unspent funds from its Air Conditioner (AC) Cycling Program to fund various improvements to its Demand Response portfolio. It is Energy Division's understanding that SCE has approximately \$8 million in unspent funds in its AC Cycling Program. Do you support shifting remaining unspent funds from SCE's AC Cycling Program to support the pilots described in the staff proposal? The same decision authorized SDG&E to shift \$1.7 million from its 2012-2014 demand response portfolio to fund various improvements to its Demand Response programs. Do you support additional fund shifting from SDG&E's 2012-2014 demand response portfolio to fund the pilots described in the staff proposal?

No; CLECA does not support shifting any money away from A/C cycling unless this funding is indeed surplus.

6. In D.13-07-003, the Commission directed SCE and SDG&E to transition their Peak Time Rebate (PTR) programs to be an opt-in program (in order for participants to be paid a monetary incentive for load reductions) by May 2014. This transition will enable both utilities to save significant incentive funds for the program. Energy Division's May 1, 2013 DR Lessons Learned Report estimated that SDG&E paid \$10.1 million in 2012 PTR incentives to its residential customers, yet 94 percent of the incentives paid yielded no significant load reductions. SCE paid \$27 million in 2012 PTR incentives, and 95 percent of incentives were paid to customers who were not expected to or did not reduce load significantly. Do you support the Commission using the expected savings from the PTR program incentives to fund the pilot activities described in the staff proposal?¹²

CLECA strongly supports shifting money away from PTR; current PTR incentives do not appear to create the intended changes in customer load and issues with free-ridership should be addressed. However, it is our understanding that PTR

¹² OIR, at 21-22.

incentives are funded through the ERRA, not through DR accounts, and thus would not be available to fund DR pilots.

IV. CONCLUSION

Demand response remains a top preferred resource in the loading order and the existing price responsive and reliability demand response programs are and will remain needed to meet California's energy goals; the existing programs should be maintained with two years of bridge funding. Moreover, during these times of transition, policy determinations on complex issues could, if not carefully considered and informed by as much data as possible, lead to significant expenses for very little long-run benefit. Lessons learned from the ongoing integration efforts, and if possible, data from the proposed pilots should be allowed to inform and guide Commission policy determinations on the future of demand response.

Respectfully submitted,

A handwritten signature in black ink that reads "Nora Sheriff". The signature is written in a cursive, slightly slanted style.

Nora Sheriff
Counsel to CLECA

October 21, 2013

Attachment A

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

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**BEFORE THE PUBLIC UTILITIES COMMISSION
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Rulemaking 13-09-011

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

Pursuant to the October 8, 2013 Administrative Law Judge's Ruling and clarification Ruling of October 11, 2013 the California Large Energy Consumers Association¹ (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

¹ 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."²

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."³ 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.⁴

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

² OIR, at 1.

³ ALJ Ruling Calling for Prehearing Conference Statements, at 1.

⁴ 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?”⁵ 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.)

⁵ 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.⁶ Given the ongoing implementation of Commission rate design policy intended to effectuate load shape changes over the next few years,⁷ forecast “benefits” of integration based on that duck curve may be disputable. Other potential factual disputes could occur over “specific roles for

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

⁷ 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.”⁸

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.

⁸ 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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October 14, 2013