

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)

**RESPONSE OF THE
CENTER FOR ENERGY EFFICIENCY AND RENEWABLE TECHNOLOGIES
ON PHASE TWO FOUNDATIONAL QUESTIONS**

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The Center for Energy Efficiency and Renewable Technologies (“CEERT”) respectfully submits this Response to the Phase Two Foundational Questions posed in Attachment One of the Joint Assigned Commissioner and Administrative Law Judge Ruling and Scoping Memo issued in this proceeding on November 14, 2013 (“Scoping Memo”). This Response is filed and served pursuant to the Commission’s Rules of Practice and Procedure and the Scoping Memo.

**I.
INTRODUCTION**

CEERT, a nonprofit public-benefit organization founded in 1990, is a partnership of major environmental groups and private-sector clean energy companies. CEERT advocates for policies that promote global warming solutions and increased reliance on clean supply-side and demand-side resources to meet the energy needs for California and the West.

CEERT’s primary interest in this proceeding is to ensure that any resulting decisions will be based on policies and programs that recognize the value of, and the need for increased reliance on, demand response to meet California’s energy needs. Thus, CEERT clearly supports the Scoping Memo’s confirmation that the purpose of R.13-09-011 is “to enhance demand response programs in meeting the state’s long-term clean energy goals” and that there is value to ensuring “uninterrupted demand response programs during and after the life of this proceeding”

in meeting that goal.¹ CEERT welcomes the commitment in R.13-09-011 to developing a demand response roadmap that will ensure collaboration and coordination between Commission proceedings and between state agencies and the California Independent System Operator (CAISO).²

On October 24, 2013, CEERT appeared at the Prehearing Conference (PHC) in this proceeding and continues its participation today with this Response to the Phase Two Foundational Questions posed in Attachment One of the Scoping Memo. While Attachment One posed questions in three major topic areas (Bifurcation, Cost Allocation, and Back-Up Generators), CEERT's Response here focuses on "Bifurcation" only. CEERT, however, reserves the right to address Cost Allocation and Back-Up Generators in its Reply Comments.

II. CEERT'S RESPONSES TO BIFURCATION FOUNDATIONAL QUESTIONS

Question 1: "In the Order Instituting Rulemaking (OIR), the Commission proposes to bifurcate the current demand response programs into demand-side and supply-side resources. [Reference to Figure 1 (proposed realignment)]. The OIR defines the demand-side programs as customer-focused programs and rates, and supply side resources as reliable and flexible demand response that meets local and system resource planning and operational requirements. Please comment on the terms, demand-side and supply-side resources, and the definitions provided. If you disagree with the terms and/or definitions, please provide your recommended changes and explain why your recommendation is more appropriate."³

Unfortunately, neither the Scoping Memo nor R.13-09-011 provides any detailed policy basis for engaging in this "bifurcation" inquiry in the first place. The Scoping Memo merely states that "the Commission must first determine what is meant by bifurcation and whether there are reasons not to bifurcate."⁴

¹ Scoping Memo, at p. 8.

² R.13-09-011, at pp. 20-21.

³ Scoping Memo, Attachment One, at p. 1.

⁴ Scoping Memo, at p. 9.

Similarly, in R.13-09-011, the Commission simply identifies the following as a key issue in this proceeding: “whether and how to bifurcate current utility-administered, ratepayer-funded Demand Response (“DR”) programs into demand-side and supply-side resources, with the intent of prioritizing demand response as a utility-procured resource, competitively bid into the California Independent System Operator wholesale electricity market.”⁵ The “demand-side” resources are described generally as “customer-focused programs and rates,” with the “supply-side” resources identified as “reliable and flexible demand response that meets system resource planning and operational requirements.”⁶ According to R.13-09-011, in addressing this issue, “[t]he ultimate goal is to enhance the role of demand response programs in meeting the state’s long-term clean energy goals while maintaining system and local reliability.”⁷

However, R.13-09-011 never addresses any policy rationale for why or whether bifurcation would in fact “enhance the role of demand response programs in meeting the state’s long-term clean energy goals.”⁸ Instead, R.13-09-011 describes largely *administrative* concerns regarding potential “tension” between demand-side and supply-side DR in program management and does not provide a fundamental policy basis for making this distinction and even prioritizing between these two potential DR resource types.

CEERT agrees that “an understanding of the qualities that supply-side demand response resources can offer and the correct matching of these resources with the needs of the grid” may help advance “successful program design and implementation” of those resources for that

⁵ R.13-09-011, at p. 2.

⁶ Id.

⁷ Id.

⁸ Id.

purpose.⁹ However, the same is true for any DR resources, which are considered “demand-side,” in terms of reducing the utilities’ demand forecast.

Further, from CEERT’s perspective, the act of “dividing” up DR resources almost assuredly will lead to piecemeal or “siloed” treatment of a Loading Order preferred resource, the availability and reliance on which should be fully embedded in all procurement decisions made by this Commission. In addition, it is an over-simplification, if not a confusing distinction, to bifurcate demand response resources between “customer-side” and “supply-side” DR resources, when, given the bases offered for those distinctions, the division actually appears to more appropriately one between DR resources supplied on a “retail” (utility customer programs) versus “wholesale” (bid into CAISO markets) basis.

Regardless of the labels, *if* the goal is to better match these resources, however defined, with the energy “need,” the first step is *not* through “bifurcation” based on overbroad or oversimplified terminology or even based on the “market” for the resource. Rather, the first step should be to gain a better understanding and clearly define the *attributes* of the various types of DR resources (or the capabilities to be encouraged) to permit regulators, utilities, and third party providers to match those resources with an identified energy need, an effort that should extend to DR resources provided by industrial, commercial, *and* residential customers.

Despite beginning efforts to identify those attributes – including those required for a DR resource to be considered a local capacity resource or to meet flexible capacity requirements – those attributes have *not* been fully and fairly defined in a public process by this Commission or the CAISO. This task is particularly important if the Commission wishes to encourage a transition to bidding DR resources into CAISO wholesale markets. In fact, without these attributes being fairly identified and defined, the result is confusion and uncertainty about DR’s

⁹ R.13-09-011, at p. 8-9.

role in meeting both system and local energy needs and increases concerns that DR may be being unfairly excluded or undervalued for those purposes.

In addition, while DR's role in wholesale markets is important, it is equally important, as the Scoping Memo recognizes, to continue to maintain utility or retail DR programs that have, to date, been the means of expanding this valuable resource, building customer confidence, and understanding of its capabilities in meeting energy needs.¹⁰ Certainly, any "bifurcation" effort should not marginalize or diminish these existing resources.

*Question 2. Are there any potential problems or concerns with the proposed bifurcation or realignment of demand response programs into demand-side and supply-side resources? For example, are there any legal issues or other concerns such as missed opportunities for integration?*¹¹

As stated above, CEERT believes that this Commission – if its goal is to better match demand response resources with current system and local energy needs – should first be examining and defining the attributes and capabilities of the various demand response resources. In fact, bifurcation as proposed by R.13-09-011 in advance of this examination of attributes may fail to adequately recognize the value of all DR resources.

Thus, not all demand response resources are dispatched due to transmission or supply needs, and there can be local distribution reasons to dispatch demand response that would not be under the purview of the CAISO. This circumstance suggests that the Commission should also be considering criteria to determine whether retail demand response programs should be integrated into the wholesale market or not and whether these criteria include demonstrating ratepayer benefits.

¹⁰ Scoping Memo, at p. 8; see also, R.13-09-011, at pp. 15-16.

¹¹ Scoping Memo, Attachment One, at p. 2.

Question 3. The OIR describes an ongoing tension between the supply-side and demand-side requirements for demand response. The OIR states that demand response as resource adequacy resources are held to the same requirements as generation resources for system reliability and economic efficiency. Simultaneously, the needs and technical capabilities of customers and providers should also be considered in program design. How could the proposed bifurcation or realignment of supply-side and demand-side resources be designed to serve both sets of requirements¹²

Please see CEERT's response to Question 1.

Question 4. What role, if any, will the load impact protocol serve in this realignment? Are revisions required? Should the Commission develop separate sets of evaluation criteria and/or processes for the demand and supply sides?¹³

Please see CEERT's response to Question 2.

III. CONCLUSION

CEERT welcomes this opportunity to offer its Responses to the Phase Two Foundational Questions. It is CEERT's position that the Commission has not provided an adequate policy framework or basis in support of the "bifurcation" it proposes in R.13-09-011 *tied to its goal* of enhancing reliance on DR resources. Further, the bifurcation "dividing line" creates two separate categories of DR resources that are overly broad and may lead to undervaluing, excluding, or silo-ing specific DR resources from being fairly considered and relied upon to meet system and local needs.

If the ultimate goal is to enhance reliance on DR resources, the first step should be to publicly and transparently identify the attributes of DR resources and match those attributes with identified energy needs, whether it is to provide a local capacity resource, enhance grid reliability, respond to system emergencies, and/or reduce a utility's demand forecast. Right now, there is simply no clarity in the role of DR in meeting these needs, and, as a result, advances and changes in DR to fill those needs remains mired in confusion. CEERT, therefore,

¹² Scoping Memo, Attachment One, at p. 2.

¹³ *Id.*

urges the Commission to alter its focus on an administrative “bifurcation” construct to the more meaningful task of defining DR attributes and capabilities.

Respectfully submitted,

December 13, 2013 /s/ MEGAN M. MYERS

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