

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
(PHASE TWO)

**THE CONSUMER FEDERATION OF CALIFORNIA RESPONSES TO PHASE TWO
FOUNDATIONAL QUESTIONS**

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The Consumer Federation of California would like to thank the California Public Utilities Commission (the Commission) and the Administrative Law Judge for the opportunity to Comment upon the Order Instituting Rulemaking in Rulemaking 03-09-011.

The CFC is a non-profit 501(c)(4) federation of individual consumer members and organizations that are comprised of California consumers, consumer groups, senior citizen groups, labor groups, community based groups and other organizations.

In the Order Instituting Ratemaking (OIR), the parties were asked to review the Commission's staff proposals and respond to specific questions. We have reviewed the staff proposals. What follows is CFC's response to the questions.

1. BIFURCATION

a. In the Order Instituting Rulemaking (OIR), the Commission proposes to bifurcate the current demand response programs into demand-side and supply-side resources. 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.

Response: At the present time CFC does not object to exploring the concept of bifurcation of Demand Response resources into supply-side and demand-side. This approach seems logical in terms of making a distinction between the benefits accrued to

various market participants. Because different benefits accrue to different participants in different ways on the supply-side and the demand-side, differentiating the two, conceptually, makes perfect sense. This approach could also be prudent in terms of resource adequacy and planning. Also, bifurcation may allow for a stronger focus on end-user involvement.

That said, as Commercial and Industrial customers have been participating in the Capacity Markets, in California, for some time, we are curious about why the use of this specific nomenclature is being advanced at this time and whether these terms would only be applicable to residential consumers, and whether the nomenclature would be ported over to Commercial and Industrial Demand Response programs.

We would also note that ISO New England uses supply-side and demand-side terminology in describing its very successful Commercial and Industrial Demand Response, Capacity Market programs.

CFC understands that bifurcation of Demand Response resources is also designed to facilitate the creation of a competitive procurement (and sale) process for residential Demand Response resources, which, if successful, could provide an economic benefit to California residential electricity consumers. As we move through this rulemaking CFC will focus on benefits to residential electricity consumers. It is important to the CFC that the electricity consumers of California accrue benefits commensurate with those benefits accrued by other market participants.

Finally, to the extent bifurcation facilitates the Commission's goal of making the demand response delivery model less utility-centric, and more accessible to third parties, the CFC would be in support.

However, once we know more about the nuts and bolts of the proposed Demand Response program, we will comment further on whether "bifurcation" benefits residential electricity consumers.

b. 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?

Response: We assume the term “integration” as used in the question means the integration of Demand Response resources into the CAISO wholesale market. We also assume that “legal issues” means a statute, regulation or rule that would impede integration. At this time we are aware of no specific statute, regulation or rule that would ban integration.

However, in California, there are (at least) three state agencies interested and involved in Demand Response with their own authorities and functions in addition to CAISO (i.e., CPUC, CEC, and the California Air Resources Board). Again, while we are currently aware of no specific statute, regulation or rule that would impede integration, issues may arise in this case regarding jurisdiction and the reach of the CPUC, in general.

Case in point would be CAISO’s rules and tariffs. The CFC is not suggesting that CAISO’s current rules and tariffs impede integration, but we suggest that the Commission needs to remain mindful of CAISO’s jurisdiction and its rules and tariffs as we move through this process.

There are of course, a host of other concerns that are not necessarily “legal.” How are these resources to be valued? To whom will the benefits flow? Will the end user / residential electricity consumer reap any benefit, as in rate reductions, as an end result of the commoditizing of Demand Response resources? We should remain mindful of these questions as we explore enhancing Demand Response in California.

At the present time the CFC aware of no “missed opportunities” for integration.

c. 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 requirements?

Response: The Supply-side and demand-side of energy efficiency programs should be treated in a way that allows all market participants, including residential end users, to reap the benefits of conservation in fair and just manner. To the extent that the energy efficiency programs coupled with Demand Response resources results in economic benefits, the various market participants should share in those benefits in a nondiscriminatory manner.

The program will have to assign price and value to various aspects relating to resources and reliability. This will directly impact the monetary benefits that accrue to the various participants. The CFC will remain focused on the valuation of Demand Response resources and its impact on rates, especially regarding how valuation impacts residential end users.

As an example, while Demand Response resources can earn Resource Adequacy credits, there is no price or value directly attached to the credit that is given. If Demand Response resources earn Resource Adequacy credits that are less costly than the actual procurement of generation, shouldn't that savings be valued and shouldn't the residential end user reap some reward? We believe valuation relating to Demand Response resources, and their various applications, is going to be a key challenge moving forward.

As to technical capabilities CFC agrees that the needs and technical capabilities of customers and providers must be considered. As to residential customers, much of what is being suggested would be impossible without specific technical capabilities, like smart meters.

The CFC is concerned that all residential electricity users be treated in an equitable manner. Any program that results in overall savings due to conservation should be shared equally by all residential electricity consumers, whether that specific customer can, or is willing, to participate in a Demand Response program.

CFC believes a program that recognizes and values demand response resources, and its various uses and impacts can balance the needs of the supply-side and demand-side in a way that is equitable to all participants.

d. 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?

Response: Currently Demand Response performance, in the commercial and industrial segments, is measured based on an after the fact analysis using load impact protocols

developed by CPUC for those market segments. The staff report recommends that those protocols can be used to measure performance of a residential Demand Response program.

SCE and SDG&E are currently using the recently developed load impact protocols to measure the performance of their pilot-residential programs.¹ Those protocols require that impacts for non-event based programs be developed for the average weekday and the system peak day for each month for both ex post and ex ante purposes. Thus, it would seem to indicate that the current load impact protocols can be used to measure performance in a residential Demand Response program.

2. COST ALLOCATION

Current policy requires the utilities to identify, in their demand response applications, the rates used for cost recovery of each program and the justification for that rate. What, if any, additional information should the Commission require to ensure equitable cost allocation and why?

Response: The CFC believes any costs associated with implementing Demand Response programs at the residential level should be carefully scrutinized and that only reasonable costs be recognized. This may require some modifications to current reporting requirements.

a. If the Commission bifurcates the demand response programs into demand-side and supply-side, does it need to revise its requirements for cost allocation in order to ensure equitable cost allocation? How and why?

Response: The CFC believes any costs associated with implementing Demand Response programs at the residential level should be carefully scrutinized. Cost allocation must be reasonable. Cost allocation should be reflective of the valuation of Demand Response resources. Some modification to current cost allocation reporting requirements may be required.

b. In resource adequacy procurement, costs are allocated across the LSE's. If the Commission bifurcates demand response programs into demand side and supply side, should costs for supply-side procurement be allocated in the same fashion as resource adequacy procurement? If not, recommend other frameworks?

¹ The load impact Protocols in Appendix 1 to D.08-04-050.

Response: The short answer is yes. Supply-side procurement be allocated in the same fashion as resource adequacy procurement. Implementation of this program will require the various participants to make economic investments. Those who do should be afforded the opportunity to recognize reasonable economic benefits from their investments.

3. BACK-UP GENERATORS

In D.11-10-003, Conclusion of Law No. 5 states, “fossil-fueled emergency back-up generation resources should not be allowed as part of a demand response program for resource adequacy purposes.”

a. If the Commission bifurcates demand response programs, how should the Commission develop rules that are consistent with the D.11-10-003 policy statement?

Response: The CPUC has established, as provided in Decision D.05-01-056, that back-up generation is not a true demand response resource. Simply put, categorizing fossil fuel back-up generation as a Demand Response program for Resource Adequacy purposes renders the Commission’s preferred resource loading order inert.

CFC sees no reason this rule should be lifted or weakened. As to developing rules that are consistent with the D.11-10-003 policy statement, simply develop rules that make it clear fossil fuel back-up generation is not a Demand Response resource. Certainly back-up generation should not be recognized as a Demand Response resource for Resource Adequacy purposes.

That said, the CFC suggests that, through incentives be built into the residential Demand Response program. The Commission could promote the replacement of fossil fuel generation with renewable energy.

b. What are the current laws and regulations regarding back-up generation, including those by the Air Resources Board, local air quality management districts and/or any other related regulatory body?

The California Air Resources Board (“CARB”) regulated diesel back-up generators. Various local air quality management districts regulate back-up generators. There are also federal, EPA, regulations. There are undoubtedly other statutes, rules and regulations at the state and local level.

8. Conclusion

We sincerely hope the Commission will consider our suggestions and we thank the Commission for the opportunity to serve these reply comments.

Respectfully Submitted December 13, 2013

_____/s/_____,

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