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)

THE OFFICE OF RATEPAYER ADVOCATES' REPLY COMMENTS TO PHASE TWO FOUNDATIONAL QUESTIONS

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December 30, 2013

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I. INTRODUCTION

The Office of Ratepayer Advocates (ORA) submits the following reply comments to the foundational questions of the *Joint Assigned Commissioner and Administrative Law Judge Ruling and Scoping Memo* ("Scoping Memo"). The adopted schedule in the Scoping Memo directs parties to reply to parties' responses by December 31, 2013.[1]

II. DISCUSSION

A. Bifurcation

1. The Terms "Demand-Side" and "Supply-Side" Should Be Defined Based On The Purpose Of Bifurcation

Based on the comments received in response to the foundational questions, there are many different perspectives on the purpose of bifurcation of demand response (DR).[2] ORA's recommends bifurcating programs based on how each type is used to avoid procurement of conventional generation. Additionally, within the structure of bifurcation, programs should be distinguished based on their operational dispatch to clearly identify how the programs would be dispatched.

As ORA stated in comments, the terms used to bifurcate DR programs should be defined according to the specific purpose they serve in avoiding procurement.[3] Specifically, demand-side DR programs should be defined as load modifiers that change

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[1] Scoping Memo, p. 10.

[2] The California Independent System Operator Corporation (CAISO), Center for Energy Efficiency and Renewable Technologies (CEERT), California Energy Storage Alliance (CESA), Clean Coalition, California Large Energy Consumers Association (CLECA), Direct Access Customer Coalition (DACC) and Alliance for Retail Energy Markets (AReM) (DACC-AReM), Environmental Defense Fund (EDF), EnerNOC, Inc., Johnson Controls, Inc., and Comverge, Inc. (Joint DR Parties), Marin Energy Authority (MEA), Olivine, Inc., ORA, Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas & Electric Company's (SDG&E), Sierra Club, Stem, Inc. and SolarCity Corporation, The Utility Reform Network (TURN) have provided opening comments addressing the question of bifurcation

[3] ORA's Opening Comments, p. 1.

the load shape and are embedded in the California Energy Commission's (CEC) load forecast that system operators are required to plan for and meet. Supply-side DR programs should be defined as programs that are used as resources to meet the demand forecast and can meet local and system resource planning and operational requirements. These resources must be capable of qualifying for Resource Adequacy (RA) credits to demonstrate that they will be part of a Utility's resource portfolio. Several parties provided similar definitions based on the distinction between demand-side DR embedded in load forecasts and supply-side DR used to meet RA obligations.[4]

ORA also recommended supply-side programs be further distinguished between those that can bid into the CAISO market and those that cannot.[5] This further distinction would identify operationally how programs in each category would be dispatched. Several parties also recommended this method as a basis for bifurcation.[6]

These definitions allow for load modifying programs that reshape the load curve, supply-side programs that bid into and are dispatched through the CAISO market and supply-side programs that are not bid into the CAISO market and are dispatched by the utilities. Bifurcation should not lead to the exclusion of supply-side programs that do not meet the requirements to bid into the CAISO but still meet the Commission's requirements for qualifying as RA resources. All of these programs reduce the need for procurement of conventional resources. It is, however, critical that the process should be transparent for determining how each ratepayer-funded DR resource is accounted for and

[4] Opening Comments of the California Independent System Operator Corporation (CAISO) pp. 2-3, California Large Energy Consumers Association (CLECA) pp. 2-3, Environmental Defense Fund (EDF) pp. 4-7, and San Diego Gas & Electric Company's (SDG&E) pp. 2-3.

[5] ORA's Opening Comments, p. 3.

[6] Opening Comments of DACC-AReM p. 2, Joint DR Parties pp. 3-7, PG&E pp. 3-5, and SCE pp. A-1-A-3.

used to displace resources through the CEC load forecast or in meeting Utilities' Resource Adequacy obligations.

2. The Commission Should Develop DR Product Specifications And Requirements

Once the Commission determines how to bifurcate demand response, it should develop a record on what the needs are for DR and what is actually available to meet those needs. Are there current programs that already meet specific needs or can be adjusted to meet those needs, or should entirely new products be developed? PG&E provided a list of needs for DR that should be considered in the development of current and new programs.[7] As these products are identified or developed, they can be bifurcated to demand-side or supply-side DR and whether or not they should be bid into the CAISO market. Once the portfolio of needed DR products is developed, the Commission can address how these products should be procured.

3. The Commission Should Consider Cost-Effectiveness In The Development Of DR Programs

While DR has the potential to provide a variety of services, cost effectiveness should still be a consideration for whether DR should be developed to provide those services and whether they should be bid into the CAISO. Supply-side demand response that can bid into the CAISO can provide operational benefits but such services could require automation, telemetry and other investments that may be more costly than the benefits of such an approach. Demand-side programs are often less costly because of lower administrative costs and lower incentive payments to customers compared to supply-side programs. Thus, maximizing demand-side programs that provide consistent

[7] PG&E's Opening Comments, pp. 7-8.

response[8] would actually reduce the need for procurement of more expensive supply-side resources.

In considering the use of current programs and the development of new programs, the Commission should continue to consider the cost-effectiveness of programs to achieve a proper balance between demand-side and supply-side programs that is most cost-effective in meeting numerous needs of the grid, both at transmission and distribution level.

4. Load Impact Protocols Are Still Needed For DR

The current load impact protocols are used for the evaluation of current programs to develop ex-ante forecasts and ex-post results that are used in program evaluation and planning. These values are used for the DR that is accounted for in the CEC load forecast and in determining how much DR the utilities can use in meeting their RA obligations. These protocols and evaluations are still needed no matter the method of bifurcation or the method of procurement.

5. The Commission Should Consider Any Jurisdictional Implications In The Procurement And Dispatch of DR

PG&E and SCE have expressed concerns that supply-side DR that is bid into the CAISO market may become FERC jurisdictional and the Commission may lose control over aspects of the programs.[9] Additionally, CLECA has raised the issue of how a CAISO run DR or voluntary preferred resources auction could lead to a FERC-jurisdictional capacity market.[10]

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[8] 2012 Load Impact Evaluation of Pacific Gas and Electric Company's Residential Time-based Pricing Programs, p. 6.

[9] PG&E's Opening Comments, p. 10. And SCE's Opening Comments, pp. A-4 – A-5.

[10] CLECA's Opening Comments, pp. 11-12.

ORA shares these concerns and recommends that the Commission seek to expand the record on jurisdictional issues raised by these parties. FERC's jurisdiction over retail demand response could also impact the Commission's current policy of prohibiting the use of back-up generators (BUGs) in demand response. ORA is extremely concerned about potential jurisdictional conflicts and urges the Commission to carefully consider any jurisdictional issues and impacts in its decisions.

B. Cost Allocation

1. The Commission Should Not Change Its Current Practice Of Allowing Recovery Of DR Program Costs From All Distribution Customers

Parties make various arguments in justifying whether DR program costs should be recovered from utility's bundled customers only (therefore recovered through generation rates) or should be recovered from all customers, including DA and CCA customers (therefore recovered through distribution rates). PG&E argues for cost causation principles that ensure DR program costs are recovered via distribution rates from all customers who either participate in or benefit from the programs.[11] Both DACC and AReM argue that costs associated with utility programs should be recovered through generation rates that are paid by the utilities' bundled customers only.[12] SCE argues for maintaining its current method of recovering costs only from those customers who are able to participate in a given DR program.[13] So, depending on the program, costs are recovered from either the bundled customers or all customers.

As noted in ORA's opening comments, cost recovery should follow whether a given DR program benefits only the utility's bundled customers or helps maintain the reliable operation of the grid as a whole, thereby benefitting all customers on the grid,

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[11] PG&E's Opening Comments, p. 14.

[12] DACC-AReM's Opening Comments, p. 5.

[13] SCE's Opening Comments, p. A-7.

including DA and CCA customers.[14] As noted by PG&E, in all decisions authorizing DR program and budgets, the Commission has approved cost recovery via distribution rates i.e., recovered from all customers). TURN also argues that reliability benefits impact all users of the distribution system, as they reduce system resource adequacy costs and prevent outages affecting all distribution customers.[15] Unless a party is able to show with clear evidence that a DR program benefits only a certain group of customers, the Commission should not change its current practice of allowing recovery of DR program costs from all distribution customers.

ORA, however, agrees with PG&E that additional information is needed to evaluate appropriate DR program cost recovery and ratemaking because in the past, parties have argued cost allocation in different ways.[16] There should be a more qualitative discussion in utilities' applications about each program's benefits and associated cost recovery mechanism to ensure equitable and consistent cost allocation and recovery between different LSEs.

2. Commission Should Reject DACC and AReM's Arguments That Current Cost Recovery Discourages Competition

In support for its cost recovery recommendation to recover costs of utility DR programs from bundled customers only, DACC-AReM argue that the current cost allocation discourages competition and prevents a viable competitive DR market from taking root.[17] Presumably, but for the additional burden of cost sharing of utility DR programs (that also benefit DA and CCA customers), DACC-AReM argue, they could provide DR of their own design to its DA and CCA customers.

[14] ORA's Opening Comments, p. 5.

[15] TURN's Opening Comments, p. 10.

[16] PG&E's Opening Comments, p. 15.

[17] DACC/AReM's E's Opening Comments, p. 6.

The need for establishing a competitive DR market, one that is not based on procurement of DR by Utilities through bilateral contracts, is one of the major policy issues before the Commission. This policy issue is not affected at all by the debate here—about whether the cost of DR programs is allocated to all customers or just the utility bundled customers—as DACC-AReM implies. The CAISO's energy market alone does not provide sufficient incentives for DACC-AReM customers to participate directly in the CAISO's wholesale market.[18] Instead, they can participate in DR through aggregators who compete to provide bilateral contracts with Utilities that offer capacity incentives. The primary issue at play is whether or not DR programs are cost effective and achieve the desired result of reducing overall system costs while improving reliability. The Commission can address the competitive issues raised by DACC-AReM if and when a different DR procurement structure is adopted.

C. Back-Up Generators

1. Commission Should Continue To Reject The Use Of BUGs As Demand Response

The Joint DR Parties consider "counting BUGs for RA is status quo at this point in time" and state that, "D.11-10-003 did not make a blanket pronouncement that BUGs were prohibited for DR, but rather, if the funds are specifically for retrofitting a BUG for the sole purpose of participating in a DR Program, that 'explicit' use of a BUG was prohibited. An 'implicit' use of a BUG, as incidental to DR performance, was not prohibited."[19]

ORA disagrees with this interpretation. The Commission has maintained a longstanding policy that refuses to classify programs that include use of back-up generators (BUGs) as true demand response programs. It has also refused to fund back-up

[18] Joint DR Parties' Opening Comments, p. 5.

[19] Joint DR Parties' Opening Comments, p. 12.

generation through demand response programs and adopted a policy statement that does not allow any use of BUGs, whether explicit or implicit, to count towards RA obligations. Previous decisions state,

D. 05-01-056:

"These two programs are extremely troubling because they are not true demand reduction programs. Instead, they reduce demand on the utility system by shifting load to an onsite generation source. Thus, although they do result in a short term reduction to the grid, there is no net demand reduction occurring as a result of them… We continue to fail to see how a program that increases generation can be characterized as demand response, so we make no changes."[20]

D. 09-08-027:

"As a policy matter, we have already found that subsidizing backup generation with demand response funds is not appropriate; we prefer to reserve these funds for activities that reduce total energy use."[21]

D.11-10-003:

"After reviewing parties' comments, we will adopt as a policy statement the Energy Division proposal that any demand response program, whether operated by an IOU or non-IOU, that uses back-up generation for demand reduction should not count towards RA obligations for any Commission-jurisdictional LSEs. This policy is consistent with the Commission's Vision Statement in D.03-06-032 (as well as in prior decisions in the last three-DR budget cycle

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[20] D. 05-01-056, pp. 47-48.

[21] D. 09-08-027, p. 166

> proceedings). This policy statement applies to the explicit and implicit use of back-up generation for demand response to provide RA capacity.
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> We clarify that our definition of "explicit use" refers to any DR programs that provide financial incentives for customers to retrofit their on-site back-up generation and use it exclusively or mostly to provide demand reduction during a DR event. An example of the "implicit use" would be that the customers signed up for a DR program and own a back-up generation on site. They may or may not use it to provide demand reduction during a DR event."[22]

These previous decisions clearly demonstrate the Commission's rejection of BUGs as DR and should continue to be the Commission's policy with regards to use of BUGs in DR programs.

III. CONCLUSION

In summary, ORA supports more focused definitions for demand-side and supply-side demand response that reflects their purpose and reflects the goals of bifurcation. ORA recommends the development of DR products based on identified needs and requirements. ORA recommends the continued use of cost-effectiveness and load-impact evaluations in the consideration of optimum mix of demand-side and supply-side programs to meet the future needs. ORA urges the Commission to develop a record to consider any potential jurisdictional overlaps between CPUC and FERC on retail DR programs that participate in wholesale markets or are procured through CAISO run auctions. ORA supports the current cost allocation methodology which recovers costs from all benefiting customers and urges the Commission to reject DACC-AReM's arguments that current cost recovery discourages development of a competitive

[22] D. 11-10-003, p. 29.

marketplace for DR. ORA supports the Commission's policy in the rejection of use of BUGs in DR programs.

Respectfully submitted,

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