

**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

**REPLY OF  
THE CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION TO  
RESPONSES TO PHASE TWO FOUNDATIONAL QUESTIONS**

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Pursuant to the November 14, 2013 Assigned Commissioner and Administrative Law Judge's Ruling and Scoping Memo, the California Large Energy Consumers Association<sup>1</sup> (CLECA) submits this Reply to Responses to the Phase Two Foundational Questions.

**I. REPLY**

**A. Comments on Bifurcation**

According to their comments on the Scoping Memo, most parties do not favor the proposed distinction between demand-side demand response (DR) and supply-side DR. Instead, several alternatives were offered. The Office of Ratepayer Advocates (ORA) recommends changing the definitions to "align the requirements of programs that would fall into these two buckets based on the

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<sup>1</sup> 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; some CLECA members are bundled service customers and some are Direct Access customers.

specific purpose they serve.”<sup>2</sup> CLECA shares this focus on the specific purposes of DR and recommends re-thinking the bifurcation proposal; the Commission should consider the alternatives presented in the opening comments, particularly CLECA’s proposed characterization of DR programs by the services they provide. This characterization allows for a clearer determination of when DR needs to be integrated into the California Independent System Operator (CAISO) markets and when it does not.

Unlike most parties, the CAISO supports the proposed bifurcation. The CAISO insists that all supply-side DR resources must be scheduled and dispatched through its own markets: “[a]nother key aspect of supply-side demand response is that it is configured as a supply-comparable resource whose attributes can be modeled and optimized along-side other resource types, ensuring a feasible and efficient dispatch, power flow and market outcome”.<sup>3</sup> This position raises concerns, given the CAISO’s failure to make the case that it needs to control all “supply-side” DR programs and its lack of consideration of the costs of the proposed control.<sup>4</sup> Indeed, CLECA explained in its opening

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<sup>2</sup> ORA Response, at 1; *see also* TURN Comments, at 6 (“TURN agrees with the comments of EnerNOC that it is important to determine the attributes of various demand response products”). CEERT similarly urges an examination of capabilities rather than the proposed bifurcation to address administrative concerns of program management. CEERT Response, at 3-4.

<sup>3</sup> CAISO Response, at 6.

<sup>4</sup> CLECA agrees that CAISO needs to have information from DR aggregators or utilities that the DR is available and will perform when and as needed and it needs to trust that information. DR providers must have an incentive structure, such as steep penalties, to provide assurance that they will respond.

comments that there are only certain purposes for which the CAISO needs to be able to dispatch and control DR, namely ancillary services and flexibility.<sup>5</sup>

By insisting on more expansive levels of control, the CAISO is proposing to impose the costs of integration on all “supply-side” DR programs; this insistence and resulting imposition of greater costs make it less likely that customers currently enrolled in DR programs will be willing to continue their enrollment.<sup>6</sup> Migration should, as PG&E recommends, be the result of “a business decision made by the DR provider, load-serving entity (LSE), utility distribution company (UDC), and customer” based on economics.<sup>7</sup> The CAISO states, however, that it “would oppose a bifurcation policy that results in supply-side demand response being treated as demand-side demand response to avoid supply-side integration into the ISO market.”<sup>8</sup> Nowhere in its comments does the CAISO address the cost burden imposed by this integration; the CAISO similarly ignores the fact that its integration requirements (and attendant costs) for settlement and telemetry are the most stringent in the country and are not required elsewhere. PG&E notes there may be simpler ways to integrate DR<sup>9</sup> which should definitely be explored.

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<sup>5</sup> CLECA Response, at 8-9 (concluding that only DR providing ramping/load following and ancillary services must be bid into the CAISO markets and dispatched by the CAISO).

<sup>6</sup> SCE explains that “the migration of utility programs into the wholesale markets may result in a difficult transition for IOU DR participants and ultimately have a negative effect on program enrollment, retention, and customer satisfaction.” SCE Response, at A-5.

<sup>7</sup> PG&E Response, at 4.

<sup>8</sup> CAISO Response, at 10.

<sup>9</sup> PG&E Response, at 10.

The CAISO's position is that only it has the ability to "ensure a security-constrained economic dispatch and unit commitment solution."<sup>10</sup> Unfortunately, the CAISO cannot and does not actually do this, since it does not have perfect information. As an example, CLECA explained in its opening comments that the CAISO commits fossil-fired generation out of merit order at minimum load so that the generation can be ramped quickly in case of the loss of a network element; this results in both additional costs and GHG emissions compared to using DR for such contingencies.<sup>11</sup> The CAISO also insists on procuring resources to meet its own load forecast rather than accepting the forecasts it receives from scheduling coordinators for load. As a result, the CAISO makes conservative decisions that increase both costs and GHG emissions.

Furthermore, the CAISO sidesteps entirely the fact that the utilities use DR programs to address distribution system reliability problems; accordingly, the CAISO cannot have exclusive control—the utilities must also have control and be able to communicate such use of DR to the CAISO.

The CAISO has simply not made the case that all DR other than pricing programs must be under its control or that the attendant costs must be incurred in the name of reliability.

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<sup>10</sup> CAISO Response, at 11. The CAISO asserts that it, "as the balancing area authority, is the only independent entity that has full visibility and oversight of the bulk power system." CAISO Response, at 10.

<sup>11</sup> CLECA Response, at 6, footnote 5.

## B. Cost Allocation

The CAISO proposes two alternatives for the allocation of the costs of utility DR programs.<sup>12</sup> It first suggests ensuring that “utility demand response cost allocation is assigned only to those ratepayers who are demand response participants”.<sup>13</sup> This makes no sense, since all ratepayers benefit even if they do not individually participate in the programs; indeed, as the CAISO itself states: “all types of demand response can lower demand, and therefore, bend the curve on wholesale market prices to the benefit of all consumers.”<sup>14</sup> The CAISO next suggests that these costs only be allocated to the “bundled ratepayers who benefit from the utility’s expenditures on demand response programs” but provides no indication as to how to determine who benefits. More importantly, reliability DR provides system benefits that have a positive impact on service to all electricity consumers regardless of their generation supplier. Additionally, all of these consumers can participate in utility DR programs (except dynamic pricing rate options) regardless of their generation supplier. The CAISO’s first two proposed allocation approaches should be rejected.

As an alternative, the CAISO proposes that “utilities offer rate-based demand-side resources and third-party demand response providers offer competitive supply-side demand response service to commercial and industrial customers.”<sup>15</sup> This approach should also be rejected. It appears that in the guise of supporting “competitive” DR markets, the CAISO has decided that the

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<sup>12</sup> We note that the references to “rate-based” DR on pages 12 and 13 of the CAISO comments are incorrect since there are few DR assets that are in rate base. Rather, the programs have annual expenses.

<sup>13</sup> CAISO Response, at 12.

<sup>14</sup> CAISO Response, at 12. This is not the only benefit of DR.

<sup>15</sup> CAISO Response, at 13.

utilities should get out of the DR business, at least for larger customers. CLECA disagrees. There is no reason why commercial and industrial customers should be denied participation in utility DR programs if they prefer them to aggregator programs.

DACC and AReM assert, again, that DR costs “should be recovered through generation rates that are paid by the utilities’ bundled customers”.<sup>16</sup> This allocation approach, like the CAISO’s proposals, should be rejected unless modified to include DA and CCA load. DR is not generation. It does not just defer or avoid generation costs, but also can defer and avoid transmission and distribution (T&D) costs, which affect all customers. Allocating DR costs on an equal percentage of revenue basis with generation revenue imputed for DA and CCA customers may be an option, but the argument that only bundled customers receive any benefit from utility DR programs is not reasonable. DA and CCA customers can and do participate in utility DR programs, with the exception of dynamic pricing.<sup>17</sup> DACC/AReM comment that “[w]hen customers who may otherwise elect service through third-party DR programs nevertheless still have to pay for the utility programs”.<sup>18</sup> They fail to mention, however, that all third-party DR Programs available today are funded through utility aggregator contracts.

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<sup>16</sup> DACC/AReM Opening Comments, at 5-6.

<sup>17</sup> Whether dynamic pricing is a DR program is taken up here, but it is an open question.

<sup>18</sup> DACC/AReM, at 7.

### **C. CESA comments**

CESA's comments reiterate its argument that energy storage can and should be able to participate in any and every market or utility program. "In light of the extensive suite of resource options available to address DR needs, CESA recommends that both demand side and supply side definitions of DR be inclusive of energy storage's ability to provide two-way power flow to the local load or to the grid."<sup>19</sup> Storage is not DR, although customers providing DR could and should be able to use storage if it is cost-effective. However, DR incentives should not be diverted directly to support storage.

### **D. Back-Up Generation (BUG)**

The Joint DR Parties include in their comments the entire Conclusion of Law No. 5 in D. 11-10-003, which references rules that may be adopted in future resource adequacy (RA) proceedings; they also include the text discussion to clarify the context of the Commission's policy statement.<sup>20</sup> The Joint DR Parties explain that implementation of new rules by this Commission now is not ripe.<sup>21</sup> CLECA agrees and reiterates the key point made by the Joint DR Parties:

It is also important to acknowledge 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.

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<sup>19</sup> CESA Comments, at 4.

<sup>20</sup> Joint DR Parties Comments, at 10-11.

<sup>21</sup> Joint DR Parties Comments, at 11-12. Additionally, the utilities do not have data on the use of back-up generation. See PG&E Comments, at 17; SCE Comments, at A-9; SDG&E Comments, at 10. See also Olivine Comments, at 3 ("Maintaining records of BUGs and or their usage is not directly within a utility's mandate").



An “implicit” use of a BUG, as incidental to DR performance, was not prohibited.<sup>22</sup>

The regulation of BUGs falls not to the Commission but to agencies responsible for air quality, and the web of air quality regulations is not limited to state and local air quality agency requirements.<sup>23</sup> Federal air quality regulations govern as well.<sup>24</sup> It seems that the use of BUGs is sufficiently regulated already by multiple agencies.

FERC also appears to have an established policy on the use of BUGs: PG&E states that FERC policy permits use of BUGs in conjunction with DR in FERC-jurisdictional capacity markets, such as PJM, NYISO and ISO-NE.<sup>25</sup> Should the Commission set directives on the use of BUGs here, if the directives were to conflict with any of these other agencies’ regulations, jurisdictional questions arise, as noted by PG&E.<sup>26</sup> CLECA recommends that instead of embarking on development of new rules on the use of BUGs in this docket, the Commission should recognize the regulation by multiple other agencies as sufficient. If need be, the Commission could address the BUG issue in the RA docket, as stated in D.11-10-003.

## **II. CONCLUSION**

Based on the opening comments of most parties, the Commission should reconsider its proposed bifurcation of DR into “demand-side” and “supply-side” as well as the assumption that all “supply-side” DR should be integrated into the

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<sup>22</sup> Joint DR Parties Comments, at 12. In addition, an issue was raised whether DR using BUGS should qualify for RA.

<sup>23</sup> C.f. SCE Comments, at A-9, and Joint DR Parties Comments, at 13-16.

<sup>24</sup> Joint DR Parties Comments, at 13-14.

<sup>25</sup> PG&E Comments, at 17-18.

<sup>26</sup> PG&E Comments, at 17-18.

CAISO's markets. The Commission should be wary of making major changes in DR programs without taking into account the costs of those changes and the impact on the participating customers. Regarding cost allocation, the Commission should be clear about what costs are deferred or avoided by DR programs and for whom, as well as the actual nature of those costs. Finally, continued recognition of the federal, state and local air emissions regulations that govern the use of back-up generation should lead the Commission in this regard.

Respectfully submitted

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

Nora Sheriff

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