

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 REPLY TO PHASE TWO
FOUNDATIONAL QUESTION RESPONSES**

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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 13-09-011.

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), dated September 19, 2013, the parties were asked to review the Commission's staff proposals and respond to specific questions. We reviewed the staff proposals and, on October 21, 2013, CFC responded to the questions presented.

In the Scoping Memo, dated November 14, 2013, the parties were asked to respond to several "foundational questions," regarding a number of threshold issues in this complex matter. CFC responded to those several questions on December 13, 2013.

This document is a reply the responses of other parties to the Phase Two foundational questions provided in the Scoping Memo, dated November 14, 2013.

We note that on December 09, 2013, a Proposed Decision issued. The proposed decision would allow bridge funding for the 2015-2016 demand response programs operated by Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company. The stated purpose of allowing the bridge funding was to ensure program continuity of existing programs while the California Public Utilities Commission proceeds with its review and analysis to enhance the role of demand response in meeting

California's resource planning needs and operational requirements.

1. BIFURCATION

a. Definitions

We identified no party that strenuously objected to exploring the concept of bifurcation of Demand Response resources into supply-side and demand-side.

As we noted in previous comments, ISO New England uses supply-side and demand-side terminology in describing its very successful Commercial and Industrial Demand Response, Capacity Market programs. We suggest the Commission instruct staff to conduct study of these programs, if it has not already done so, or if staff has not already conducted such a study.

The CFC understands that bifurcation of Demand Response resources is intended 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 well as other benefits to the state.

As we move through this rulemaking the CFC will continue to 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.

While the CFC did not object to bifurcation or the use of the terms "supply-side" and "demand-side" in its initial response, we agree with many of the comments from other parties to this proceeding suggesting that, for a number of important reasons, the definitions of these terms need to be made more specific than those suggested by the Commission. As DR resources take on a number of forms and impact markets, market participants, and resource planning, in a number of ways, CFC believes the analysis of whether a DR resource is supply-side resource or demand-side resource should be based on the specific use of the DR resource, on the "operational attributes" of the DR resource in question. CFC suggests that how the DR is used, how it functions, should be used to determine whether the DR resource is supply-side or demand-side.

Here is an example: As we all know CAISO must maintain the reliability of the electricity grid. This requires a balancing of supply and demand, a balancing of the “yin” of *supply* resources against the “yang” of forecasted *demand* for electricity. Load-modifying DR programs used in forecasting demand would be considered demand-side resources as those DR resources modify demand. Where DR resources are used as an actual supply resource, i.e., as “energy” available to balance net load, or put another way, where those DR resources act as a substitute for energy generated (energy which would have had to have been produced by a conventional generator), those DR supply resources should be considered supply-side resources. Identification of the various uses (or impacts) of DR resources, analysis of the actual operational attributes of the DR resource, might be helpful in making more clear the definitions of supply-side resources and demand side resources.

b. Potential Problems.

As CFC and some of the other parties pointed out, there are (at least) four state agencies interested and involved in Demand Response with their own authorities and functions. Those would be, CAISO, CPUC, CEC, and the California Air Resources Board. On the federal level FERC is not only interested but may, as some of the parties point out, lay jurisdictional claim to certain aspects of Demand Response resources. 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.

CFC believes in designing the various DR mechanisms, ranging from the DR programs themselves, to the mechanism relating to aggregation to the various mechanisms that will allow for integration of these resources into the CAISO market, great care must be taken to see to it that playing field remains level and care should be taken to allow for equal access for all interested parties. Indeed, as it is the stated intent of the Commission to encourage third-party participation in enhancing DR in California, great care must be taken to create mechanisms that are fair and balanced.

That said, CFC will remain focused on how DR resources are valued. As pointed out by several of the parties, DR resources provide several kinds of “value.” Some value is direct (DR resources bid into the CAISO market) others not so direct (ancillary value). The Commission should try to identify all of the various ways DR resource add value. There may be cases where

the monetary value is hard to determine (curtailment of greenhouse gasses) in other cases the actual monetary value can be more readily identified (the price paid for DR resources.)

Setting aside the “up front” monetary benefit to the consumer in curtailing usage during peak periods, our research indicates that the “savings” enjoyed by certain entities can flow back to the end user. This is certainly the case with large commercial DR programs in the Northeast. That said, in implementing residential DR programs, the Commission must explore all avenues available in an effort to see to it that some of the DR resource value flow back to end users. Whether this takes the form of rate relief, or rebates, every effort should be made to see to it that consumers reap some real, tangible value for the DR resources they provide.

CFC believes that the danger of “missed opportunities” for integration is diminished where the DR programs and integration mechanisms provide equal incentives for all the players and is heightened where the value of DR resources accrues to only a few players.

c. Resource Adequacy Resources As Generation Resources

CFC shares the concerns voiced by others that only those DR resources that can be bid into the CAISO market are the only kind of resources that can be considered “supply-side.” As stated above DR resources take on a number of forms and effect markets, market participants, and resource planning in a number of ways. Where these DR resources add value, the persons or entities supplying the DR resources should not be ignored simply because valuation of these resources may present a challenge.

The CFC is concerned that all residential electricity users be treated in an equitable manner. Any program that results in overall “savings” or “value” attributable to DR resources provided by consumers, (other than the direct benefit of curtailing usage) should be shared equally. How that is to be achieved is another matter entirely.

d. Load Impact Protocols

The staff report recommends that the current protocols can be used to measure performance of a residential Demand Response program. However, this will have to be studied.

2. COST ALLOCATION

The methodologies currently used by the Commissioner to allocate the costs of Demand Response Program are fair and equitable and should not be changed at the present time. The Commission should be cautious in responding to comments that advocate substantial changes to the current allocation methodology.

a. Revision of Cost Allocation Requirements

CFC does not believe it is necessary for the Commission to change cost allocation methodologies at the present time.

b. RA Cost Allocation

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.

However, as was pointed out by other parties, the Commission should be wary of investments in DR that are not properly planned, properly executed and do not result in program improvements.

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. BUG Rules Consistent with the D.11-10-003 Policy Statement

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.

That said, as the CFC and other parties suggested, through incentives be built into the residential Demand Response programs the Commission could promote the replacement of fossil fuel generation with renewable energy, storage or other non-fossil fuel generation.

b. Current Laws and Regulations

The CFC has no further comment on this at the present time.

4. BRIDGE FUNDING

Even though the funding for the programs for 2015 and 2016 has been tentatively approved, the amount of funding has yet to be determined. CFC believes a close look at *previously approved funding* should be a major focus in calculating as the amount of *future funding* is explored.

According to TURN, a review of monthly demand response reports shows the utilities engaged in the demand response pilot programs have used only a fraction of authorized funding. If this is true, and we have no reason to think it is not, it must be a focus as funding is calculated later on in this proceeding.

5. THE NEED FOR MORE PILOT PROGRAMS

CFC remains concerned about continuing pilots that don't seem to be producing the expected or predicted results. And, CFC is unclear as to what the Commission believes is going to be accomplished by continuing all three, underperforming, pilot programs. Perhaps the Commission should focus on one utility and one pilot program in order to focus on what works and what doesn't.

While the major California utilities have been running Demand Response pilots and Demand Response programs for years, the results have been mixed. Third Party Aggregators in other parts of the country seem to have been more successful and have played key roles in education and outreach and managing Demand Response programs. CFC suggests a closer look at the methodologies and experiences of these third party aggregators could be helpful. And, in truth, curtailed usage is not part of the core business of IOUs.

That said, perhaps, the Commission may want to consider allowing a third party aggregator to administer a pilot program post-2015 or in parallel to existing programs. In order to do that, of course, design of such a pilot program would have to be completed well in advance of implementation. This focused pilot should involve only one or two devices (e.g. air-conditioning, and/or water heating).

While this suggestion may not be feasible at the present time, it would seem that something needs to be done in terms of improving the pilot programs. CFC believes that because the pilot programs as they are being administered right now are not providing the expected results some modification of these programs, or the introduction of new programs running in parallel, should be explored.

6. Conclusion

We thank the Commission for the opportunity to serve these reply comments.

Respectfully Submitted December 31, 2013

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