

**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)

**MARIN CLEAN ENERGY OPENING COMMENTS ON  
PROPOSED DECISION ADDRESSING FOUNDATIONAL ISSUE  
OF THE BIFURCATION OF DEMAND RESPONSE PROGRAMS**

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In accordance with Rule 14.3 of the California Public Utilities Commission (“Commission”) Rules of Practice and Procedure, Marin Clean Energy (“MCE”) submits the following comments on the Proposed Decision Addressing Foundational Issue of the Bifurcation of Demand Response Programs (“Proposed Decision” or “PD”).

**I. MCE supports the PD’s approach to bifurcation, as conditioned by assurances that bifurcation will not undermine the diversity and value of demand response.**

As discussed in MCE’s comments on Phase Two Foundational Questions, the concept of bifurcation should not be an issue as long as the categorization of programs does not result in stranding, marginalizing or devaluing demand response (“DR”) resources. Bifurcation may turn out to be a useful tool for administering DR programs, but it should not distract from the more important objective of maintaining a regulatory environment that supports and encourages new and innovative approaches to DR.

There is language in the PD suggesting that the Commission understands this. The PD bifurcates the current demand response portfolio into two categories, “load modifiers” and “supply resources.” The PD at the same time reiterates that:

[T]he Commission goals are to improve the efficiency of demand response and increase the use of all demand response programs –

both those that are bid into the CAISO energy markets and those that are not.<sup>1</sup>

In response to parties that have raised concerns that bifurcation could result in siloing or devaluing resources, the PD acknowledges that such concerns are “valid,” but finds them to be “addressable.”<sup>2</sup> The PD does not elaborate, however, and so the test of this assurance will be in the Commission’s administration of DR programs going forward. MCE encourages the Commission to take care in implementing its bifurcation proposal to ensure all eligible DR resources (regardless of categorization) have a place in the IOUs’ portfolio and are valued appropriately.

It will also be very important that this decision on bifurcation not delay or undermine the expansion of DR beyond the “utility-centric” model and reform of cost allocation policies that currently inhibit DR program development by community choice aggregators (“CCAs”) and harm CCA customers. The latter is discussed more specifically below.

## **II. The PD appropriately identifies DR program equity as a priority.**

The PD focuses exclusively on bifurcation and so does not address cost allocation, which the November 14, 2013 Scoping Memo identified as another “foundational issue” in this Phase Two proceeding.<sup>3</sup> However, the PD indicates that one of the “next steps” in this phase of the proceeding will be a ruling that will “ask questions so that we may begin to formulate how the Commission can address *party concerns regarding demand response program equity...*”<sup>4</sup> MCE assumes that this reference to DR program “equity” includes cost allocation, but urges the Commission to be more explicit by adding the following sentence on page 23: “With respect to cost allocation the Commission will invite proposals for addressing cost allocation policies and

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<sup>1</sup> PD at 6-7.

<sup>2</sup> PD at 12.

<sup>3</sup> See Joint Assigned Commissioner and Administrative Law Judge Ruling and Scoping Memo at 9.

<sup>4</sup> PD at 23 (emphasis added).

practices that may have an inequitable impact on non-IOU LSEs or otherwise undermine our objective of increasing the use of demand response resources.” The final decision should also include a new conclusion of law addressing this intention.

It is critical that the Commission focus on reforming DR cost allocation as soon as possible in this proceeding. Otherwise the Commission’s new “vision” for DR will be built on an inherently unfair and discriminatory foundation. As discussed in the Phase Two responses by MCE and other parties, the current practice of allowing the investor-owned utilities to recover DR program costs through distribution rates is fundamentally unfair to other LSEs. It results in CCA customers paying for programs that they are not eligible for, and also inhibits CCAs from developing a resource portfolio that includes DR resources. MCE looks forward to working with the Commission in this Phase Two proceeding to reform cost allocation so that *all* ratepayers are treated fairly and *all* LSEs can develop and expand the use of DR resources on a level playing field.

**III. The Commission should consider the role of non-IOU LSEs in developing any DR “auction mechanism”.**

The PD conceptually agrees with the California Large Energy Consumers Association (“CLECA”) suggestion that the Commission should develop a utility-run auction for bidding DR into the California Independent System Operator markets in order to avoid potential jurisdictional issues.<sup>5</sup> According to the PD, a proposal for this auction mechanism will be introduced and parties will have an opportunity to comment on the auction mechanism and its viability as a tool to increase the amount of demand response bid into the CAISO wholesale market.<sup>6</sup> MCE does not take a position on the auction concept at this point, but urges the Commission staff working on this concept to include consideration of the role of non-utility

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<sup>5</sup> See PD at 8-9, 22-23.

<sup>6</sup> Id. at 22-23.

LSEs in developing the DR auction proposal. MCE staff would be happy to meet with Commission staff to discuss issues and concerns.

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Respectfully submitted,

By: \_\_\_\_\_ /s/

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## **PROPOSED CONCLUSION OF LAW**

Add new Conclusion of Law 9: “It is reasonable to address cost allocation issues and other party concerns regarding demand response program equity in this proceeding.”