

**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

**OPENING COMMENTS ON THE PROPOSED DECISION
ADDRESSING FOUNDATIONAL ISSUES OF THE
CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION**

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Summary of Recommended Changes

CLECA respectfully recommends modification of the Proposed Decision to reflect the record and support its findings of fact and conclusions of law.

- Ordering Paragraph 1 should be modified to adopt the concept of bifurcation rather than actual bifurcation of existing demand response programs.
- Ordering Paragraph 4 should be deleted.
- The Proposed Decision should be revised to recognize that current rules prevent double counting of demand response for resource adequacy purposes and that there is no immediate need for actual bifurcation of existing demand response programs.
- Several findings of fact and conclusions of law in the Proposed Decision should be further revised to recognize the need for and to set a process for developing the facts necessary to support a decision on actual bifurcation of demand response programs and for their potential integration into wholesale markets.

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Pursuant to Rule 14.3 of the California Public Utilities Commission's (Commission's) Rules of Practice and Procedure, the California Large Energy Consumers Association¹ (CLECA), submits these comments on the Proposed Decision (PD).

I. INTRODUCTION AND SUMMARY

Policy issues must be informed by facts, otherwise the policy determinations risk being unreasonable or arbitrary or both. Misguided policy determinations uninformed by fact can have detrimental consequences for ratepayers and the reliability of the grid. Key policy determinations should not be made in the absence of supporting factual evidence. The PD's substantive order on categorization of existing demand response (DR) programs into its new bifurcation model, however, fails to meet this requirement. The Public Utilities Code requires more; the law mandates "separately stated, findings

¹ 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. CLECA has been an active participant in Commission regulatory proceedings and Commission Demand Response Programs since 1987.

of fact and conclusions of law by the Commission on all issues material to the order or decision.”² Further, the decision must be supported by the findings,³ and the findings in the decision must be “**supported by substantial evidence in light of the record as a whole.**”⁴

The PD requires modification to meet these mandates. It should be revised to reflect the record in its findings of fact and conclusions of law; Ordering Paragraph 1 should be modified to adopt the concept of bifurcation and Ordering Paragraph 4 should be deleted; the PD should be further revised to set a process for developing the facts necessary to support a decision on bifurcation of demand response (DR) programs and for their potential integration into wholesale markets.

The PD rightly recognizes that the utilities should continue to control the dispatch of the Base Interruptible Program (BIP) and other DR programs to address distribution disturbances; the PD acknowledges that the California Independent System Operator (CAISO) should not have sole control over DR programs; this aspect of the PD should not be changed.

II. THE PD REQUIRES MODIFICATION PRIOR TO ADOPTION

The purpose of this phase of the rulemaking is to decide “whether and how to bifurcate” current and future demand response programs.⁵ The PD overstates the record support for bifurcation,⁶ deems bifurcation appropriate, and then proceeds to bifurcate existing DR programs. While it may be appropriate for this PD to answer the

² PUCode §1705.

³ PUCode §1757(a)(3).

⁴ PUCode §1757(a)(4) (emphasis added).

⁵ Order Instituting Rulemaking, at 1.

⁶ See *generally*, respective comments raising concerns regarding bifurcation of: Joint DR Parties (Enernoc/Comverge/Johnson Controls); Southern California Edison Company; Pacific Gas & Electric Company; San Diego Gas & Electric Company; Olivine; Clean Coalition; CEERT; CLECA; and Sierra Club.

question “whether” to bifurcate, answering “how” requires a record basis. The PD, however, decides how to bifurcate existing programs without a record, and orders that bifurcation; this is premature and not supported by evidence; this aspect of the PD requires changing.

A. Lack of Record Support for the PD’s Bifurcation of Existing Programs Renders It Unreasonable and Arbitrary

There is an insufficient record for the ordered bifurcation of existing programs to be reasonable; indeed, the dearth of analysis of the existing programs renders the ordered bifurcation arbitrary. The law requires Commission decisions to be supported by findings of fact⁷ and for those findings to be supported by “substantial evidence in light of the whole record.”⁸ There is not substantial evidence in the record, however, on the existing programs. There has been no process to evaluate the attributes of the existing DR programs. The criteria for deciding which programs should be placed in Supply Resources or which in Load Modifiers are unclear; indeed, the proposed definitions for the categories have not been adopted prior to the proposed bifurcation.⁹

In setting the definitions, the PD footnotes a list of parties who commented on the definition of Supply Resource.¹⁰ Of the parties listed, only ORA addressed existing programs.¹¹ A single table in one party’s comments does not make a record. Indeed, ORA’s reply comments appeared to envision a further process:

⁷ PUCODE §1757(a)(3).

⁸ PUCODE §1757(a)(4).

⁹ See PD, at 18 (proposing as definitions: “Load Modifier demand response is a resource that reshapes or reduces the net load curve. Supply Resource demand response is a resource that can be scheduled and dispatched into the CAISO energy markets, when and where needed.”)

¹⁰ PD, at 18.

¹¹ See CAISO Comments, at 6; see *also* ORA Comments, at 2; see *also* PG&E comments, at 3; see *also* Sierra Club Comments, at 4; see *also* SCE Comments, at A-2; see *also* Stem, Inc/Solar City Comments, at 3.

it [the Commission] should develop a record on what the needs are for DR and what is actually available [including in terms of current programs] to meet those needs ... as products are identified or developed, they can be bifurcated to demand-side or supply-side DR and [it can be determined] whether or not they should be bid into the CAISO market.¹²

The characteristics of existing DR programs must be examined prior to their actual bifurcation. Similarly, PG&E stated that the categorization of existing programs should take place “**after** the definitions for supply-side and demand-side are finalized”.¹³ “The decision of what DR programs (or parts of programs) are deemed supply-side rather than demand demand-side **should not** be pre-determined by this process.”¹⁴

Notably, as the PD acknowledges, PG&E specifically and clearly stated that the decision on whether to engage in the ISO market should be a business decision made by various entities, including the customer.¹⁵ Regardless, the PD assigns existing DR programs to either the Load Modifier or Supply Resource category in Table 2 and Ordering Paragraph 4.¹⁶ This is premature and fails to comply with the statutory requirements. There is insufficient record support for the categorization of existing programs; the PD should be revised to modify Ordering Paragraph 1 and delete Table 2 and Ordering Paragraph 4.

B. The PD Should Be Revised to Recognize the Need for a Cost-Benefit Analysis of Integrating DR into CAISO Markets

¹² ORA Reply Comments, at 3; *see also* Sierra Club Reply Comments, at 1 (“As a conceptual matter, we recommend that bifurcation be based on the characteristics of demand response resources, not on conclusions about how the Commission should treat future demand response services – and we caution against deciding important policy issues through any definitions that are adopted at this early stage.”); *see also* CEERT Reply Comments, at 2.

¹³ *See* PG&E Comments, at 4 (emphasis added).

¹⁴ *Id.* (emphasis added).

¹⁵ PG&E Comments, at 4 (“The decision on what DR programs (or parts of programs) are deemed supply-side rather than demand-side should not be predetermined by this process, but should be a business decision made by the DR provider, load-serving entity (LSE), utility distribution company (UDC), and customer”).

¹⁶ *See* PD, at 19, Table 2 and Ordering Paragraph 4; *see also* PD, Ordering Paragraph 1 (ordering the actual bifurcation of existing programs).

The PD acknowledges the many concerns raised about bifurcation and integrating DR into the ISO's markets¹⁷ but concludes that these concerns should not stand in the way of moving forward.¹⁸ Moving forward appears to include integrating many existing DR programs into the ISO's markets with little supporting justification or analysis of costs and benefits. The PD concludes with a reference to a future ruling: "the ruling will ask questions so that we may begin to formulate ... the amount of demand response necessary to make the CAISO energy markets successful."¹⁹ Such questions are premature and based on unfounded assumptions regarding the merits of participation in such markets. As PG&E explained,

The Commission should not take as a matter of faith that DR "optimized" in the CAISO market as a supply-side resource is significantly more valuable than DR that is "optimized" by the IOUs and other LSEs in their own dispatch models.²⁰

The PD should be revised to defer determinations on the actual bifurcation of existing programs and their potential integration into ISO markets; these determinations should follow and be informed by the development of an evidentiary record on the critical questions of fact raised in various parties' comments, including the key questions on costs and benefits.²¹ Without such a record, it is difficult to see how a Commission

¹⁷ PD, at 7-8.

¹⁸ The PD simply states that each of these concerns "must be resolved prior to full implementation of any new vision for demand response." PD, at 8, 10.

¹⁹ PD, at 23; see also PD, at 24, proposed Finding of Fact 12 "More demand response must be bid into the CAISO markets to make it successful."; see also above discussion regarding premature and unsupported bifurcation of existing programs in Table 2 and Ordering Paragraphs 1 and 4. CLECA also questions when the CPUC's responsibility morphed from ensuring just and reasonable rates and balancing environmental considerations to needing to ensure CAISO energy markets' success.

²⁰ PG&E Reply Comments, at 13-14 ("no evidence has yet been presented demonstrating that the incremental value gained by optimizing DR as a supply-side resource in the wholesale market, compared to DR that is dispatched outside of the CAISO's optimization, outweighs the cost of doing so.").

²¹ See, e.g., Sierra Club Reply Comments, at 7 (summarizing some open questions of fact on integration and stating that to "determine whether these potential advantages, disadvantages and barriers are real and how to address them, the Commission will need to draw on empirical evidence offered in this proceeding").

decision could be supported by findings²² that are “supported by substantial evidence in light of the whole record.”²³

The PD acknowledges the parties’ concerns regarding the costs of integrating DR programs into the ISO’s markets, but it makes no provision for the development of a record analysis of those costs compared to expected benefits. The PD’s references to prior Commission policy statements calling for integration of DR into CAISO markets²⁴ do not obviate the present need for such a record; developing the requisite record will require workshops – at a minimum – and more likely testimony and evidentiary hearings to address these concerns before a final decision can reasonably be made on integration.

Further, in its deferring the problem of the high costs of integrating DR into the wholesale markets, the PD only partially quotes PG&E when it says that PG&E pointed out low-cost options for integration.²⁵ PG&E also pointed out the possibility of lower-cost visibility of utility DR programs for the CAISO to **avoid** the need for integration; PG&E’s proposal is not only to lower integration costs but also to avoid the need for integration and thus the incurrence of those costs.²⁶

Despite its lack of evidence or analysis, the PD indicates that integration into ISO markets is the primary feature of the Supply Resources category. This is premature and may undermine existing DR programs. As ORA suggested:

supply-side programs [should] be further distinguished between those that can bid into the CAISO market and those that cannot. This further distinction would

²² PUCode §1757(a)(3).

²³ PUCode §1757(a)(4).

²⁴ See PD, at 22.

²⁵ See PD, at 7-8.

²⁶ See PG&E Comments at 12 (listing ways for the CAISO to better incorporate consideration of demand side DR into its operational processes); see *also* *Id.*, at 13 (listing ways to potentially reduce integration costs).

identify operationally how programs in each category would be dispatched. ... 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.²⁷

The PD indicates that there is no intention to devalue existing DR programs.²⁸ CLECA interprets the term devalue to mean undermine. While parties have cautioned against integration,²⁹ there has been no analysis of the costs and risks for customers of participation in DR programs bid into the ISO's markets. If the Commission's intent is indeed for the existing DR programs listed as Supply Side to be bid into ISO's markets, there is no evidence as to whether this will change the programs' operations; nor is there evidence on whether such changes will be acceptable to customers. If the changes don't work for customers, how will this not undermine existing DR programs? In addition, any decision to shift some DR programs into the ISO markets should be informed by the lessons learned from the early integration efforts to be undertaken this summer and from next year's pilots. Without the benefit of those lessons learned to inform integration (ideally leading to reduced costs and simpler ISO processes), there is a real risk that customers may be lost.

C. Double Counting of DR in RA is Already Avoided by the Current Rules, and Not a Reason or Justification for Bifurcation.

²⁷ ORA Reply Comments, at 2 (emphasis added); see also PG&E Comments, at 10 ("Prematurely forcing all existing DR into a new, riskier and more complex model (i.e., supply-side DR) could inhibit DR growth and innovation, and even diminish the size and value of the DR portfolio.")

²⁸ PD, at 6 ("However, as has been echoed by several parties during this proceeding, the Commission will insure that we do not devalue current demand response programs."); see also PD at 7 ("As we stated in the OIR, "there is no intention to diminish the value of retail demand response, but rather to take advantage of the strengths of different demand response programs.")

²⁹ See Olivine Comments, at 4 ("Integrating an entire DR program can lead to effort wasted in incorporating groups of customers that are not, nor ever will be, a good fit for the requirements of the wholesale market."); see also SCE Comments, at A-4 and A-5 ("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.")

The PD does not recognize that existing rules preclude double counting of DR for RA counting purposes. It should be modified to include that recognition; this should lead to deletion of the justification that bifurcating DR is needed to avoid double counting. The PD states at page 18 that “Furthermore, we find that categorization of the programs must occur in order to prevent resource adequacy double counting problems.” It also says

However, we also take into consideration the statement made by the CAISO that “a resource adequacy double counting problem occurs if demand response is not clearly classified as either a supply-side or demand-side resource.” No party disputed this statement.³⁰

The ISO itself, however, stated plainly that

This “add-back” ensures that the resource adequacy requirement and the load-serving needs are based on the proper peak load amount and, importantly, **that there is no double counting of capacity.**³¹

If these protocols did not exist there would be a risk for double counting.³² The load protocols do exist, however, and Commission and ISO rules specifically preclude double counting with the Load Impact Protocols; these protocols develop the RA numbers for DR and prevent DR programs and customers from being counted twice for RA within an IOU portfolio.³³ As there is no issue of double counting under the current RA rules, a “bifurcation” decision is not needed to prevent it.

D. The Reference to Load Following and “minute-by-minute” Dispatch Misstates Current Reality and DR’s Purpose; It Should Be Changed

The PD’s Finding of Fact 7 states:

³⁰ PD at 19.

³¹ CAISO Opening Comments, at 8 (emphasis added).

³² *Id.* (“In other words, if the load impacts of supply-side demand response were to added back into the CEC load forecast, then supply-side demand response would be double counted for resource adequacy purposes, once for its load modifying affect and twice as a supply-side resource adequacy qualifying resource.”)

³³ See generally D.08-04-050.

There are two purposes for demand response programs: 1) to meet the state's long-term energy goals including those for renewable and low greenhouse gas emitting resources and 2) to maintain both system and local reliability by relying on load-following resources bid into the energy markets and dispatched on a minute by minute basis with preferable resources.

Page 17 of the PD states:

The second purpose of demand response is to maintain both system and local reliability by relying on load-following resources bid into the energy market and dispatched on a minute by minute basis with preferable resources. To support this, TURN indicates that demand response has primarily been used for reliability purposes.³⁴

There is no basis or support in the record for this Finding of Fact 7 (or the related discussion in the PD at page 17) that DR should be bid into the ISO markets so that it can be dispatched on a minute-by-minute basis. No evidence has been provided that DR can or should be configured as a load-following resource that can be dispatched on a minute-by-minute basis. Equally important, the ISO has no product definition for DR or any other resources to provide load following and, indeed, it has no one-minute markets. There is likewise no provision in the ISO tariff for DR to qualify for regulation, where a resource can be adjusted on a less-than one-minute basis. Indeed, there is no final decision on how DR can qualify to provide flexibility, if that is the intention of this statement.

The PD cites TURN's statement that DR has been used for reliability purposes in support of this claim. "To support this, TURN indicates that demand response has primarily been used for reliability purposes."³⁵ However, TURN's statement is a summary of the fact that there are reliability DR programs, like BIP and air conditioner cycling, that have reliability triggers. TURN's statement has nothing to do with load-

³⁴ PD, at 17.

³⁵ PD, at 17.

following or minute-by-minute dispatch and should not be relied upon as support for the PD's statement or finding of fact. Finally, how would the load modifying DR resources meet this new purpose?

Unlike these misstatements, SCE explained DR's purpose well:

The purpose of DR is to provide an incentive for customers to alter the timing or level of demand or consumption when wholesale electricity prices are high or when the electric system has potential reliability issues.³⁶

The PD should be revised to delete the statement on page 17 referencing load following and minute-by-minute dispatch and modify finding of fact 7.

E. The Commission Must Ensure Just and Reasonable Rates and Encourage Preferred Resources Such As Demand Response Not the Success of CAISO's Markets

There is no support for Finding of Fact 12 ("More demand response must be bid into the CAISO markets to make it successful") or Conclusion of Law 7 ("It is reasonable to continue to analyze, in Phase 3 of this proceeding, the issue of how much demand response should be bid into the CAISO's market *to ensure viability of the market.*" (emphasis added)). There is no record basis for the conclusion that bidding DR into the ISO energy markets is necessary for "successful" energy markets. Indeed, there is no definition of what a successful energy market is or any support for a finding that the current market is not successful or that the current market requires DR in order to ensure its viability.

There is no evidence that if supply-side resources are withheld from the ISO's markets, they cannot be optimized or that they do not contribute to price formation. There are ISO market prices, when little or no utility DR is bid into the ISO's markets. Furthermore, the ISO's markets do not perfectly optimize all resources and that will not

³⁶ SCE Comments, at A-2.

change, even if some DR is bid into the ISO's markets. The ISO's exceptional dispatch reports demonstrate hundreds of departures from its market optimization every month.³⁷ The PD states that no one challenged the concept that bidding DR into the wholesale markets will support optimization or price discovery. PG&E, however, challenged that concept by arguing that DR that is not in the wholesale market can contribute to optimization:

The CAISO asserts that demand-side DR cannot "contribute to price formation in the wholesale market." (CAISO Comments, p.10.) This view does not consider that demand-side DR programs can be included in a LSE's day-ahead load bid if the LSE is planning to dispatch the program. The CAISO day-ahead pricing will then implicitly factor in the demand-side DR as part of the load bid. Also, the IOUs, through the current spread sheet notification procedures, inform the CAISO of when and where load will be dropped thru DR. This allows the CAISO to adjust its load forecast and thus optimize its unit commitment and dispatch to the best available information.³⁸

Equally important, CLECA raised serious concerns about the ISO markets' ability to ensure a security-constrained economic dispatch and unit commitment solution or to achieve the optimal dispatch.³⁹ The PD states this comment was disconcerting.⁴⁰ This suggests that the Commission has not adequately evaluated the operation of the ISO's markets. As a group of indicated suppliers stated in a recent FERC filing, "Natural gas-fired generators have seen large portions of their thermal generation fleets dispatched out of merit, including during the natural gas curtailment event in February 2014."⁴¹

³⁷ CAISO monthly exceptional dispatch reports are required by FERC orders in ER08-1178 and available online at: <http://www.caiso.com/Documents/Reports%20and%20bulletins/Market%20reports/Exceptional%20dispatch%20reports/Exceptional%20dispatch%20reports%202013>.

³⁸ PG&E Reply Comments, at 14-15.

³⁹ CLECA reply comments at 4.

⁴⁰ PD, at 20.

⁴¹ See Indicated Suppliers "Emergency Request for Temporary Waiver and Shortened Comment Period", in Docket No. ER14-____-000, filed at FERC March 4, 2014, at 9. These suppliers further state, "When generators' offers do not reflect their actual natural gas costs, erroneous dispatch decisions will inevitably follow, with the result that an already tight supply situation is exacerbated by generators being

Any reasonable determination of how optimal dispatch would or would not be affected by the introduction of DR into those markets requires delving into questions of fact. PG&E stated in its comments that there is no evidence that there is a benefit from bidding DR into the ISO wholesale markets.⁴²

F. The PD Should Be Revised to Accurately Reflect CLECA’s Position on the Auction Concept

There is no evidence in support of the concept of an auction to procure DR resources. In its proposal to pursue an auction for DR, the PD misstates CLECA’s position. The PD states:

CLECA recommends that the Commission develop a utility-run voluntary preferred resources auction in order to avoid the jurisdictional issue and CLECA suggests that the Commission develop a reverse auction approach similar to the Renewable Auction Mechanism (RAM), which would rely on a market mechanism compatible with FERC’s rate-setting in wholesale markets but avoids or eliminates the jurisdictional issue.⁴³

CLECA, however, never supported the use of an auction to procure DR resources.

What CLECA said was:

Figure 1 in Attachment One to the Scoping Memo states that supply-side DR will increasingly be acquired through a competitive capacity procurement mechanism. The use of a competitive capacity procurement mechanism may have some appeal because it implies that lower-cost services will be procured first, helping to control costs; this could be similar to the procurement of smaller renewable resources through the Renewable Auction Mechanism (RAM).⁴⁴

If there is a desire to procure DR through some sort of competitive mechanism and to avoid providing an opening for a FERC-jurisdictional capacity market that will undermine state jurisdiction, it should not be run by the CAISO.⁴⁵ [and]

required to operate at minimum load and needlessly consuming natural gas. This also results in increased emissions.” *Id.*, at 20.

⁴² PG&E Reply Comments, at 14-15.

⁴³ PD, at 8-9.

⁴⁴ CLECA Comments, at 10.

⁴⁵ *Id.*, at 12.

An approach similar to RAM *may* work for some types of DR services; it warrants serious consideration as a more-viable market mechanism for DR procurement that preserves CPUC jurisdiction, as opposed to a CAISO-run auction.⁴⁶

These comments make it clear that CLECA said that “if” the Commission wanted to engage in competitive procurement and to avoid FERC jurisdictional issues, a RAM-type auction “may work” for “some” DR programs. The PD goes well beyond this to state incorrectly that CLECA has recommended such an auction. The PD should be modified to accurately state CLECA’s position.

G. The Vision of the Future in Figure 1 Should Be Informed By the Present in Eastern Markets

The proposal reflected in Figure 1 to bid all Supply Resource DR into ISO markets except for rates appears to attempt to equate DR with generation bid into ISO energy markets.⁴⁷ With this vision, the PD also goes farther than virtually every other ISO or RTO except for ISO-NE. Where this equivalence is attempted, it is linked to FERC-jurisdictional centralized capacity markets and minimum offer price rules that work to the detriment of preferred resources. Indeed, demand response in eastern markets run by other independent system operators has decreased. It is reportedly down from a peak of 15,000 MW to 13,000 MW in the spring of 2012 in PJM, a roughly one third decrease in ISO New England last summer and in NYISO, down from a 2010 peak of over 2,000 MW to half that last year.⁴⁸ The Commission should be cognizant of these contractionary demand response trends in Eastern ISO markets as it seeks to “increase and expand” demand response here in California.

⁴⁶ Id, at 13 (emphasis added).

⁴⁷ See PD, at 4, Figure 1 “Future: Increased and Expanded Participation in CAISO Energy Market”.

⁴⁸ See “Has Demand Response in the Northeast Peaked?” with P. Langbein, PJM, and B. Feldman, Navigant, in Demand Response Dialogue with PJM, recorded March 6, 2014 by Peak Load Management Alliance, available online at: <http://www.peaklma.org/?page=DRDialoguePJM>.

III. THE PD'S CONCLUSION THAT UTILITIES NEED CONTROL OVER DEMAND RESPONSE PROGRAMS SHOULD NOT BE CHANGED

A. Utilities Must Retain Control Over DR to Address Distribution Disturbances

The PD also recognizes the fact that the utilities dispatch DR for distribution-level reliability needs. "CLECA also notes that the Utilities use demand response program to address distribution system reliability problems, thus highlighting the importance that the CAISO cannot have exclusive control of demand response."⁴⁹ For years, the utilities have been able to use DR to assure distribution-level reliability. This should not now change. The PD correctly concludes that the ISO must not have exclusive control of DR. Rather, the utilities and the ISO must coordinate and communicate their activities so that DR can continue to be used for system, local, and distribution-level needs.

IV. CONCLUSION

For all of the foregoing reasons, the PD should be modified as recommended herein prior to its adoption.

Respectfully submitted,



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⁴⁹ PD, at 20.

APPENDIX
PROPOSED CHANGES TO
FINDINGS OF FACT AND CONCLUSIONS OF LAW
(deletions ~~stricken through~~; insertions underlined)

Findings of Fact

FOF1. Parties ~~were generally supportive~~ raised multiple concerns regarding of the idea of bifurcation.

FOF 7. There are two purposes for demand response programs: 1) to incent changes in the timing or level of demand or consumption in response to wholesale electricity prices ~~meet the state's long-term energy goals including those for renewable and low greenhouse gas emitting resources~~ and 2) to incent changes in the timing or level of demand or consumption to help maintain both system and local reliability by relying on load-following resources bid into the energy markets and dispatched on a minute by minute basis with preferable resources.

FOF 8. Risk of ~~A resource adequacy double counting problem~~ is addressed by current Commission Rules ~~occurs if demand response is not clearly classified as either a supply side or demand side resource.~~

FOF 11. The Commission should help to ensure the success of demand response programs ~~the CAISO energy markets.~~

FOF 12. ~~More demand response must be bid into the CAISO markets to make it successful.~~

FOF13. There is an insufficient record to address ~~are plausible solutions to the CAISO integration cost concerns~~

FOF14. The cost concerns should not deter us from moving forward with adopting definitions for bifurcation.

FOF 17. There are several policy issues regarding demand response resource adequacy and bifurcation that must be addressed before actually bifurcating existing programs but these do not create a barrier to adopting the principle of and definitions for bifurcation now.

FOF 19. No party flatly opposes CAISO market integration if the integration is proven to be cost-beneficial.

NEW FOF: There is an insufficient record on the costs and benefits of integrating demand response programs into CAISO markets to determine if the integration would be cost-beneficial.

Conclusions of Law

COL 1. It is reasonable to approve the concept of bifurcation of demand response programs.

COL 6. It is reasonable to continue to rely on current rules ~~categorize the current demand response programs~~ to avoid the double counting problem.

COL 7. It is reasonable to continue to analyze, in Phase III of this proceeding, the issues of whether and how much demand response should be bid into the CAISOs market and the associated costs and benefits to ensure viability of demand response ~~the market~~.

Ordering Paragraphs

Ordering Paragraph 1 “The principle of bifurcation of ~~current~~ demand response programs into load modifier and supply resource is adopted.

Ordering Paragraph 4 should be deleted in its entirety.