

**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)

**OPENING COMMENTS OF PACIFIC GAS AND ELECTRIC COMPANY
(U 39 E) ON THE PROPOSED DECISION OF ADMINISTRATIVE LAW
JUDGE HYMES ADDRESSING FOUNDATIONAL ISSUE OF THE
BIFURCATION OF DEMAND RESPONSE PROGRAMS**

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I. INTRODUCTION

Pursuant to Rule 14.3 of the Commission’s Rules of Practice and Procedure, Pacific Gas And Electric Company (PG&E) submits its opening comments on the Proposed Decision (PD) of Administrative Law Judge Hymes Addressing Foundational Issue of the Bifurcation of Demand Response Programs dated February 21, 2014, in Phase 2 of this OIR.^{1/}

PG&E shares the Commission’s goal of improving the efficiency and deployment of demand response (DR) programs, without diminishing the value of DR in the categories of Load Modifiers or Supply Resources. (PD at 1, 6-7.) PG&E’s goals in this OIR include successful bifurcation of DR to support prioritizing DR as a utility-procured resource and the development of DR that can be competitively bid into the California Independent System Operator (CAISO) energy markets. PG&E also recognizes the importance of DR in other circumstances, such as supporting local reliability, which the Commission has noted in the OIR questions. (PD at 3.) However, the PD takes action prematurely that should not occur before further investigation of unresolved issues and the development of a robust evidentiary record.

II. SUMMARY OF RECOMMENDED CHANGES

For the reasons discussed in this pleading, the PD requires the following modifications:

^{1/} The Commission has categorized this proceeding as “rate setting”, OIR, Ordering Paragraph 5. The Commission decision will need to be supported by substantial evidence in light of the whole record. PUC § 1757 (a) (4).

1. Existing IOU DR programs should not be sorted into the Load Modifier or Supply Resources categories without evidence. Ordering Paragraph (OP) 1 should be modified and OP 4 should be deleted and replaced with a new ordering paragraph to establish needed next steps.
2. The PD mischaracterizes PG&E's comments on CAISO market integration costs and must be corrected.
3. Other operational issues must be investigated to avoid unintended consequences such as customer dissatisfaction and discontinuation in DR programs.
4. The definitions of Load Modifier and Supply Resources for DR need to be placed in better context.
5. The PD must be modified to state that there is no Resource Adequacy double counting problem for DR.
6. The PD has no evidencing basis for treating the CAISO wholesale market's success as dependent on the amount of wholesale DR bid into that market.
7. The PD should be modified to recognize and value additional uses of DR for various purposes.
8. The PD mischaracterizes the California Large Energy Consumers Association (CLECA) comments to support developing a DR Auction. That proposal should be deleted.

III. THE PD ERRS BY ASSIGNING EXISTING UTILITY DR PROGRAMS TO THE NEW BIFURCATION CATEGORIES NOW, WITHOUT ANY EVIDENCE.

Phase 2 was established to begin reviewing foundational issues. (*Joint Assigned Commissioner and Administrative Law Judge Ruling and Scoping Memo*, November 11, 2013, p. 8-9. (ACR).) For Phase 2, the ACR posed questions for parties to address concerning bifurcation, cost allocation and back-up generators. (ACR, Attachment One.) The bifurcation questions are about developing definitions of DR categories, identifying legal issues and general concerns associated with bifurcation, resource adequacy, the needs of customers, and addressing the DR Load Impact Protocols. (ACR, Attachment one, at 1-2.) These questions, however, do not suggest that Phase 2 would take the further step of sorting the utilities' existing DR programs into newly-created categories. Nevertheless, the PD goes beyond the Phase 2 scope and questions identified in the ACR when it declares that five existing DR programs are Load Modifiers, and six other DR programs are Supply Resources.^{2/} (PD at 19, and OP 4.) The PD

^{2/} The Load Modifiers are Critical Peak Pricing, Time of Use rates, Permanent Load Shifting, Real Time Pricing and Peak Time Rebates. The Supply Resources are Aggregator Managed Programs,

takes this additional step in the total absence of any evidence to inform its results. The lack of any evidentiary support for the PD's division of existing DR programs into Load Modifiers or Supply Resources is a serious legal flaw. Without evidence, the Commission endangers its ability to make decisions that will serve its goals of improving the efficiency and deployment of all DR programs, maintaining the value of DR, and enhancing its role in "meeting California's long-term energy goals while maintaining system and local reliability." (PD at 16.)

The OIR and PD state that the intent in this proceeding is "to take advantage of the strengths of different demand response programs." (OIR at 15, PD at 7.) Yet the record does not contain any evidence on the strengths of the different existing DR programs, or other matters related to them that could affect their classification and operation in a new bifurcation paradigm arising from the OIR. Without such evidentiary information, the classification in OP 4 and at page 19 is arbitrary, premature and likely to be counter-productive.

The PD also acknowledges several concerns regarding the impact of bifurcation that must be addressed prior to implementation of any new vision for DR. (PD FOF 13-18, PD at 7-10.) These issues include policies regarding resource adequacy (RA), jurisdiction and market integration costs that "need to be reviewed and addressed following any adoption of bifurcation in order to coordinate and implement the new vision for demand response." (PD at 7.) The PD at page 8 states "...the Commission must continue to explore ways to decrease CAISO market integration costs prior to full implementation of any new vision for demand response". This again points to actions that need to be taken prior to implementation. The assignment of DR programs to the categories is premature and should not occur until after these open issues are resolved.

PG&E does not disagree with the PD's position that the need to address policy issues regarding RA and bifurcation further does not create a barrier to adopting bifurcation. (PD FOF 17.) However, PG&E disagrees with going further and assigning existing utility DR programs to

Demand Bidding Program, Capacity Bidding Program, Air Conditioner Cycling, Agricultural Pumping Interruptible and Base Interruptible Program.

the new bifurcation categories without any evidentiary basis and without conclusively addressing the outstanding issues. This implementation step should not occur until: 1) the pending policy issues are addressed and resolved, and 2) an evidentiary record is developed to inform the methodology by which DR resources should be allocated to the Commission's new bifurcated categories, based on the resolution of the pending policy issues. Once these steps are taken, the utilities would present (probably in the November 2015 DR application for 2017) their proposals for how their programs should be treated given the new bifurcation categories, and the assignment of the programs would be based on evidence and informed decision making. Since more experience will be valuable (e.g. costs and complexity may be reduced) and circumstances will change (e.g. DR technology, customer experience with DR, needs of the grid, etc.) Flexibility must be retained to change and refine DR under the bifurcation paradigm.

Because the issues identified in the PD have not yet been resolved, it is premature for the IOUs' existing DR programs to be categorized as Load Modifiers or Supply Resources. Therefore, OP 1 should be modified to remove the reference to current DR programs, and OP 4 and the related discussion in the PD must be deleted.

IV. REPLACE OP 4 WITH AN OP IDENTIFYING NEEDED NEXT STEPS TO REDUCE THE COST AND COMPLEXITY OF INTEGRATING DR LOAD MODIFIERS AND SUPPLY RESOURCES INTO THE CAISO MARKETS .

As noted in the discussion on OP 4, there is several issues identified that need more investigation before deciding how to categorize existing or new DR programs. It would therefore be most productive to have an OP identifying the key outstanding issues and establishing a process to resolve them to help move forward with bifurcation in an efficient, well-informed manner. There are several issues that were identified in the PD Findings of Fact (FOF) that must be resolved before bifurcation can be implemented:

1. The potential siloing or devaluation of demand response programs (FOF 2)
2. Integration costs (FOF 13, 14, 20)
3. Jurisdictional issues of bifurcation (FOF 15)
4. Resource adequacy issues (FOF 17, 18)
5. The amount of demand response that must be bid into the CAISO market (PD at 20)

PG&E suggests the following replacement OP:

New OP 4: An evidentiary record must be developed on the following issues before existing DR programs can be categorized:

1. How to ensure that all DR programs are appropriately valued;
2. The cost of integrating existing and new DR programs into the CAISO market;
3. Jurisdictional issues associated with bifurcation;
4. Resource adequacy issues (to be addressed in the RA proceeding); and
5. The contribution of DR to a successful CAISO market.

Once an evidentiary record is developed on each of these issues and any others that may arise, the Commission can then use this information to establish a process and plan for resolving these issues, and move forward with bifurcation in a timely manner.

V. THE PD MISSTATES PG&E'S COMMENTS ON CAISO MARKET INTEGRATION COSTS.

The PD errs in its use of PG&E's comments on CAISO market integration costs to support the PD's position that concerns with integration costs should not deter moving forward with bifurcation. (PD at 8, FOF 13.) The PD cites a statement in PG&E's December 13, 2013 Response to the ACR (PG&E Response). (PD at 8.) PG&E's Response discussed possible ways for demand-side DR to provide greater visibility to the CAISO without having to bid into the CAISO market.^{3/} The language in PG&E's Response referenced by the Commission states,

Integrate some simple, low-cost telemetry or some other method for providing visibility to the CAISO for demand-side DR so that the CAISO has real-time visibility of the dispatched demand-side DR. This approach would eliminate the cost of full integration with the CAISO but it would provide the CAISO with full visibility of dispatched DR.

(PG&E Response, p.12.) It is clear that PG&E was referring to demand-side DR in this instance. Furthermore, PG&E clearly stated that these were suggestions meant only to "get the dialogue going." In its December 31, 2013 Reply Comments to the Phase 2 Foundational Questions, the CAISO provided no direct response to PG&E's suggestions, and did not comment on their economic or technical feasibility. Thus, the Commission cannot assume, based on the existing

^{3/} The title of that section is, "Changes to CAISO Procedures and LSE Procedures for Demand-Side DR so that Demand-Side DR is More Easily Captured and Better Reflected in the CAISO Load Forecast and Operations."

record, that a sufficiently low-cost solution would be feasible to justify moving any existing DR programs into the CAISO market. Much more information, developed in an evidentiary record, is needed on the question of costs to integrate existing DR programs into the CAISO market, as well as the technology, equipment and systems required.

VI. OTHER OPERATIONAL ISSUES REQUIRE THAT IMPLEMENTATION OF BIFURCATION SHOULD NOT OCCUR YET.

As stated above, it is premature to move forward with implementing bifurcation until the key outstanding issues can be addressed. Otherwise, there is a danger of creating unintended outcomes that can negatively impact existing DR program participation. The danger of prematurely bifurcating existing DR programs is identified by Olivine, in language which the PD quotes: “[R]elying too heavily on an approach that stresses all-or-nothing program integration without taking into account the deeper variables that makes for wholesale market compatibility will lead to unnecessary effort and missed opportunities.” (PD at 21.) Given Olivine’s expertise, this warning should carry a great deal of weight. No effort has yet been made by the Commission to identify or address the “deeper variables” that Olivine alludes to. Until this work occurs, the Commission should not apply the PD’s bifurcation definitions to existing utility DR programs. As a matter of principle, the Commission should make all options for DR participation available for customers to maximize DR participation. The Commission must also preserve flexibility for the utilities and other stakeholders to adapt their programs under bifurcation, as costs and complexity change, and retail customers make their preferences known.

Conclusion of Law (COL) 7 in the PD states, “[I]t is reasonable to analyze, in Phase III of this proceeding, the issue of how much demand response should be bid into the CAISO's market to ensure viability of the market.” Without a reasonable understanding regarding the extent of this need, there is no basis for determining the resources that would be needed in the DR supply resource category. Yet, by defining which existing utility programs are Supply Resources (which must presumably bid into the CAISO market), the PD has already *de facto* determined an amount of DR subject to bidding into the CAISO market. As the Commission has

implicitly acknowledged when it identified this as a Phase 3 issue, there is nothing on the record to support the categorization of the existing DR programs in OP 4.

One of the PD's overall goals is to increase the amount of all types of DR. (PD at 2, 6.) However, the Commission has no evidence to determine if requiring existing DR programs be bid into the CAISO market is consistent with this goal. In earlier pleadings in this proceeding, the utilities and non-utility DR providers stated that most participants in the existing DR programs will be unwilling to be subject to the must-offer obligations of a CAISO market product.^{4/} These customers are likely to discontinue their participation in DR programs if the program they are participating in is forced into the CAISO market. Before categorizing the existing utility DR programs as supply resources, the Commission needs an evidentiary record to establish whether requiring the programs to be bid into the CAISO market will, or will not, meet the needs of the participating customers, and whether it will be feasible with technology resources available to them on a sufficiently economic basis. If it is found that participating in a DR program that must be bid into the CAISO market will not meet customers' needs and will cause them to discontinue their participation, then other options should be made available for them to continue participating in DR. Demand response customers should be able to select from DR programs that best meet their needs rather than being forced to bid in the CAISO market as their only option to participate in a DR program.

VII. THE DEFINITIONS OF LOAD MODIFIER AND SUPPLY RESOURCE DR SHOULD BE CLARIFIED AND PLACED IN CONTEXT.

The PD's proposed definitions of Load Modifier and Supply Resource DR lack specificity and are susceptible to misinterpretation and confusion. The Commission should clarify these definitions to clearly indicate their operational requirements.

^{4/} PG&E Response, p. 10; PG&E December 31, 2013 Reply to Scoping ACR, p. 6; Southern California Edison Company (SCE) December 13, 2014 Response to Scoping ACR, p. A-5; California Large Energy Consumers Association (CLECA) December 23, 2014 Response to Scoping ACR; EnerNOC Inc. December 31, 2013 Reply to Scoping ACR, pp. 5-6.)

The PD defines Load Modifier DR as “resources that reshape or reduce the net load curve”, and Supply Resource DR as “resources that can be scheduled and dispatched into the California Independent System Operators [sic] energy markets, when and where needed.” (PD OP 2 and OP 3) Neither definition is clear. For example, both types of DR reshape the net load curve because they are, by definition, load-based resources. This is evident when the energy market clears at a load that is lower than what it would otherwise have been in the absence of either type of DR resource. Also, both types of DR currently are dispatched when and where needed. PG&E dispatches some of its current programs at the substation level which is a much more granular level than what is required in the CAISO market. Since the definition for Supply Resource DR indicates resources that can be scheduled and dispatched into the CAISO market, it is not clear if this means Supply Resource DR would always be required to bid into the CAISO market, or if the DR resource simply must be capable of bidding into the market.

The Commission should develop simple definitions that clearly differentiate between the two types of DR under bifurcation, while recognizing that the two types will have many similarities. For clarity, the DR resource definitions should reflect their requirements vis-à-vis the CAISO market. This is necessary so the IOUs understand the requirements of their DR programs, as well as their value in the RA context. The current RA proceeding is addressing the specific case for DR that is bid into the CAISO market, so it is important that the definitions in this Decision are consistent with the RA structure for DR currently being established.

As PG&E has highlighted in recent pleadings, there will be instances in which the IOUs will want to dispatch Supply Resource DR outside of the CAISO market in order to address a reliability issue that the CAISO market may not recognize, for instance a distribution-level condition, or a gas supply problem affecting generation capacity availability. (PG&E December 13, 2013 Response to ACR, pp.4-5.) The definitions should not reduce the flexibility for operating the existing DR programs.

PG&E offers two definitions that meet these criteria. They are simple and focus on the primary differentiating factor between the two types of DR – whether or not they are required to bid into the CAISO market. PG&E’s proposed definitions modify OP 2 and OP 3:

*OP 2: Load modifiers are defined as resources that are not required to participate, in whole or in part, in the California Independent System Operator markets as supply (i.e. **Not** participating as Proxy Demand Response (PDR) or Reliability Demand Response Resource (RDRR), Non-Generation Resource (NGR) or Participating Load (PL)). ~~Reshape or reduce the net load curve.~~*

OP 3: Supply ~~Resources~~ are defined as resources that are required to participate in the California Independent System Operator markets as supply (i.e. Participating as Proxy Demand Response (PDR) or Reliability Demand Response Resource (RDRR) or Participating Load (PL)). ~~Can be scheduled and dispatched into the California Independent System Operator’s energy markets, when and where needed.~~

To maintain consistency, COL 5 should be revised as follows:

COL 5: It is reasonable to adopt the following definitions for bifurcating the demand response programs: Load Modifier demand response is not required to participate in the California Independent System Operator markets as supply, ~~reshapes or reduces the net load curve~~ and Supply Resource demand response is required to participate in the California Independent System Operator markets as supply. ~~Can be scheduled and dispatched into the CAISO market, when and where needed.~~

VIII. THERE IS NO RESOURCE ADEQUACY DOUBLE COUNTING PROBLEM FOR DEMAND RESPONSE.

There is no basis for the PD to cite a risk of DR being double-counted for RA purposes, to support bifurcation. (“[W]e find that categorization of the programs must occur in order to prevent resource adequacy double counting problems.” (PD at 18.)) FDF 8 reflects this misunderstanding: “A resource adequacy double counting problem occurs if demand response is not clearly classified as either a supply side or a demand side resource.” COL 6 repeats the misconception: “It is reasonable to categorize the current demand response programs to avoid the double counting problem.”

FOF 8 and COL 6 are solely based on the December 13, 2013 Response of the CAISO to the Phase 2 Foundational Questions in the ACR where the CAISO states, “First, as described

earlier, there is a resource adequacy double counting problem if demand response is not clearly classified as either a supply-side or demand-side resource.” (CAISO Response, p.10) In the same pleading, the CAISO also states, “[I]f the load impacts of supply-side demand response were not added back into the CEC load forecast, then supply-side demand response capacity **would be** [emphasis added] double counted for resource adequacy purposes, once for its load modifying affect and twice as a supply-side resource adequacy qualifying resource.” (CAISO Response, p.8) This passage does not state that double counting has ever, or is now occurring. In fact, the practice of adding back DR event data into the California Energy Commission's (CEC) load forecast for DR programs that the CEC treats as “supply resources” is still in effect. Thus, as the CAISO’s pleading indicates, there is no double counting.

Double counting DR is further prevented by Commission rules prohibiting customers from participating in a DR resource being bid into the wholesale market while also participating in another DR program. In OP 7 of D.12-11-025, the Commission stated, “Demand response providers are prohibited from enrolling a customer in the California Independent System Operator’s market who is already enrolled with another demand response provider.” In OP 8 of D.12-11-025 the Commission stated, “Demand response providers are prohibited from enrolling customers in a demand response service where the load is bid into the California Independent System Operator’s market if that customer is already enrolled in a Utility event-based demand response program.” All of these rules assure no double counting between the resources of different demand response providers.

This requirement is also reflected in OP 4 of D.10-06-002, “Any Direct Access customers enrolled in an Investor-Owned Utility demand response program must withdraw from the Investor-Owned Utility demand response program before engaging in direct bidding through a third-party.” So, there are already several mechanisms in place to ensure there is no double counting of DR Resource Adequacy capacity.

In addition, other rules also prevent double counting any DR resource. The calculation of the load impacts of DR programs for which there is dual participation is addressed in the Load

Impact Protocols that were approved in D.08-04-050. In particular, Protocol 24 addresses issues of estimating impacts for DR portfolios, one of which is interactions between DR resources when triggered under similar conditions. In compliance with the Protocols, PG&E estimates both the *program-specific* as well as *portfolio-adjusted* ex ante load impacts. The program specific ex ante load impacts of a given DR resource are the load reduction available when all the program participants are called. The portfolio-adjusted ex ante load impacts, on the other hand, are the load reductions available when the dually-enrolled participants are accounted for, such that there is no double-counting of impacts when resources are aggregated. Generally speaking, when resources are called simultaneously, the portfolio-adjusted ex ante impacts of the dual participants are attributed to the capacity program in which they participate, consistent with Ordering Paragraph 30 of D.09-08-027 (upheld by OP 9 of D.12-04-045). The portfolio-adjusted load impacts are used to determine the RA value of each program. Given all the mechanisms above, double counting of DR RA capacity is prevented.

To justify implementing bifurcation to avoiding double counting DR, the PD also cites the failure of any party to dispute the CAISO's assertion that, "a resource adequacy double counting problem occurs if demand response is not clearly classified as either a supply-side or demand-side resource." (PD at 19.) Yet the CAISO indicated in its December 13 response to the ACR, that there currently is no double counting issue because the CEC continues to add back the load impacts of DR programs. Hence other parties did not need to dispute the CAISO's statement since the CAISO essentially negated the statement with the CEC discussion. The Commission should not adopt this assertion about a very important issue, but should develop an evidentiary record. There has been no factual showing of DR being double counted and therefore, the PD errs in assuming that a problem exists.

The PD should be modified to eliminate COL 6 and revise FOF 8 to read:

FOF 8: A resource adequacy double counting problem *is precluded by current CPUC, CAISO and CEC rules.* ~~occurs if demand response is not clearly classified as either a supply side or demand side resource.~~

IX. THERE IS NO BASIS FOR ASSERTING THAT THE CAISO WHOLESALE MARKET'S SUCCESS DEPENDS ON THE AMOUNT OF WHOLESALE DEMAND RESPONSE BIDDING INTO THE MARKET.

The PD's attempt to link the success of the CAISO market to the amount of DR bid into the market is not supported by evidence and is an issue for Phase 3 hearings. No definition of a successful market has been described and no showing has been made that the current CAISO market is unsuccessful. Until the definition of a successful market is developed and the optimal amount of DR participating in the CAISO market is determined, FOF 12 should be removed and COL 7 should be modified.

FOF 12 states, "More demand response must be bid into the CAISO markets to make it successful." The apparent basis for this statement is a statement made by the CAISO that "if Supply Resources are withheld from the market, they cannot be optimized and do not contribute to price formation in the wholesale market." (PD at 19.) However, no linkage has been established between more DR being bid into the CAISO market and a successful CAISO market. In fact, in the last two CAISO Annual Reports and the two most recent CAISO Department of Market Monitoring Reports, there was no mention of a market failure caused by the absence of DR in the wholesale market. Furthermore, the CAISO's claim is unsupported.

The PD claims that no party disputed the CAISO's statement, but PG&E did dispute it in its December 31 Reply Comments to the ACR. In its Reply, PG&E explained that "the incremental value of bidding DR into the wholesale market as supply is small relative to dispatching it as a demand-side resource." (PG&E Reply, p.13.) PG&E also pointed out that "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." (PG&E Reply, pp. 13-14.) Because this additional value has not been quantitatively, let alone qualitatively determined, and because its value to the overall success of the CAISO market has not been shown, it does not justify requiring existing DR programs to be bid into the CAISO market.

Later, the PD speaks to ensuring the “success” of the CAISO energy markets and “in order to do so, more demand response must be bid into the market.” (PD at 20) PG&E supports the Commission’s desire to ensure that the CAISO’s market is successful. Yet, nowhere is the term “successful” defined. If the CAISO market is not successful, how can it be determined that the absence of DR is in fact what is causing the CAISO market to not be successful? In fact, the Commission admitted that it did not have enough information to determine how much DR should be bid into the market, stating, “At this time, we do not have enough information to determine how much demand response must be bid into the market in order to make it successful.” (PD at 20). If the Commission has not defined what a “successful” CAISO market looks like, has not affirmed that the absence of DR is a barrier to the CAISO market’s success, and has not determined how much DR should be bid into the CAISO market, then it is not clear how the Commission can declare that more DR must be bid into the CAISO market to make it successful. There is simply no evidence in the record to support reaching a conclusion at this time. As the PD recommends, this issue should be analyzed in Phase 3 of this proceeding. Until then, the PD should be revised to eliminate FOF 12. In addition, COL 7 should be revised as follows:

COL 7: It is reasonable to continue to analyze, in Phase III of this proceeding, the issue of how much demand response should be bid into the CAISO’s market ~~to ensure viability of the market.~~

X. THE PD SHOULD BE REVISED TO AVOID FORECLOSING BETTER UNDERSTANDING AND ADDITIONAL USES OF DR FOR DIFFERENT PURPOSES.

FOF 7 is unnecessarily limiting in its description of the purposes for DR programs. This FOF defines two purposes of DR: 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^{5/}. (PD at 16-17) The PD's first

5/ Although the PD at footnote 57 refers to the OIR at 8 for this purpose, the OIR at 8 does **not** have this purpose.

purpose of DR generally sounds reasonable, but the first purpose is also true for other resources. There is no evidence to link this purpose to bifurcation. The FOF is unsupported.

The PD's statement of the second purpose is not supported by the record and is overly narrow, prescriptive and problematic. At no point in this proceeding has any party, including the CAISO, asserted that all DR should be capable of minute-by-minute load following (or even more particularly "dispatched on a minute to minute basis *with preferable resources*"). Furthermore, other types of existing resources in the CAISO market are incapable of following load or being dispatched on a minute-by-minute basis, with preferable resources. If the Commission wants DR that can provide load following capability in the future, this issue should be investigated in Phase 3 of this proceeding. Until the question of load-following DR capability is resolved, OP 7's reference to "load-following resources" as a purpose of DR programs is not supported by any evidence, and prematurely sets "load-following" as a required capability for DR programs. Moreover, referring to "load-following" and "minute-by-minute" dispatch for DR programs creates a presumption against non-load-following DR, which is contrary to the PD principle that "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." (PD at 7) Therefore, FOF 7 should be deleted.

XI. THE PD ERRS IN DEPENDING ON THE CLEA'S COMMENTS TO SUPPORT DEVELOPING A DR AUCTION

In its discussion of jurisdictional issues, the PD cites language submitted by CLECA in response to the ACR. The PD characterizes CLECA as recommending a utility-run voluntary preferred resources auction in order to avoid the jurisdictional issue, and that development of a reverse auction approach (similar to the procurement of smaller renewable resources through the Renewable Auction Mechanism (RAM)) relying on a market mechanism compatible with FERC's rate-setting in wholesale markets would avoid or eliminates the jurisdictional issue. (PD at 8-9.) The PD actually misconstrues CLECA's comments. In fact, CLECA was arguing

against the creation of a RAM-like DR auction because of the complexity of using such a mechanism to procure a potentially broad array of DR products. CLECA stated,

Perhaps most importantly, this concept of an auction raises a litany of issues that have previously arisen regarding the FERC-jurisdictional nature of capacity markets. Stakeholders have claimed that a “capacity” market is required for DR. Certainly its value has historically been based on avoided capacity costs. Furthermore, the compensation for DR available through CAISO energy and A/S markets would be inadequate to motivate customer load changes. However, if some form of capacity payment is required, why should that not continue to be provided through utility program incentives? These utility programs are clearly state-jurisdictional.”

(CLECA December 13, 2013 response to ACR, pp.11-12.) It is clear that CLECA never recommended that the Commission create a DR auction. Given that this is the basis for the Commission’s proposal to create a DR auction, the Commission should first develop a record to support this idea before moving forward with creating a DR auction. Such a record should examine the efficiency and effectiveness of the current regime of IOU program-based procurement, including RFPs for bilateral contracts. FOF 24 and COL 8 should be deleted.

XII. CONCLUSION

The PD needs substantial revisions to avoid jumping to conclusions and taking action without an evidentiary record, and to correct mischaracterizations of CLECA and PG&E. The Commission should require evidentiary hearings to fully consider the resource adequacy, jurisdictional and cost-of-integration issues before deciding which utility DR programs should be labeled as a Load Modifier or Supply Resource. Only with a full record that includes input from the IOUs, the DR community, the CAISO and other parties can the Commission make a reasoned and well-informed determination. In the ACR, the need for hearings was acknowledged. (ACR, p.4.) That need must be satisfied before undertaking the implementation steps that the PD prematurely attempts.

The Commission should modify the PD as proposed by PG&E, and make the changes to the FOF, COL and OPs contained in the Attachment to this pleading.

**Appendix of Proposed Changes to Ordering Paragraphs,
Conclusions of Law and Findings of Fact**

Proposed Changes to Ordering Paragraphs

Proposed modification to OP 1

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

Proposed modification to OP 2

OP 2: Load modifiers are defined as resources that are not required to participate in the California Independent System Operator markets as supply (i.e. **not participating as Proxy Demand Response (PDR) or Reliability Demand Response Resource (RDRR), Non-Generation Resource (NGR) or Participating Load (PL)).** ~~reshape or reduce the net load curve.~~

Proposed modification to OP 3

OP 3: Supply ~~Resources~~ are defined as resources that are required to participate in the California Independent System Operator markets as supply (i.e. participating as Proxy Demand Response (PDR) or Reliability Demand Response Resource (RDRR) or Participating Load (PL)). ~~can be scheduled and dispatched into the California Independent System Operator's energy markets, when and where needed~~

Proposed modification to delete the PD's OP 4 and replace it with a new OP

OP 4 ~~Current demand response programs are bifurcated as such:~~

Bifurcation of Demand Response Programs	
Programs that are Load Modifiers	Programs that are Supply Resources
<p>Critical Peak Pricing (CPP) Time of Use (TOU) Rates Permanent Load Shifting (PLS) Real Time Pricing (RTP), and Peak Time Rebate (PTR)</p>	<p>Aggregator Managed Programs (AMP) Demand Bidding Program, (DBP), Capacity Bidding Program (CBP), Air Conditioner (AC) Cycling, Agricultural Pumping Interruptible (API), and Base Interruptible Program (BIP)</p>

OP 4: An evidentiary record must be developed on the following issues before deciding whether existing DR programs should be categorized under the bifurcation definitions:

- *How to ensure that all DR programs are appropriately valued.*
- *The cost of integrating existing and new DR programs into the CAISO market.*
- *Jurisdictional issues associated with bifurcation.*
- *Resource adequacy issues and their resolution in the RA proceeding.*
- *The contribution of DR to a successful CAISO market.*

Proposed Changes to Conclusions of Law

COL 5: It is reasonable to adopt the following definitions for bifurcating the demand response programs: Load Modifier demand response *is not required to participate in the California Independent System Operator markets as supply, reshapes or reduces the net load curve* and Supply Resource demand response *is required to participate in the California Independent System Operator markets as supply. Can be scheduled and dispatched into the CAISO market, when and where needed.*

COL 7: It is reasonable to continue to analyze, in Phase III of this proceeding, the issue of how much demand response should be bid into the CAISO's market ~~to ensure viability of the market.~~

~~COL 6. It is reasonable to categorize the current demand response programs to avoid the double counting problems.~~

~~COL 8. It is reasonable to explore the idea of a demand response auction mechanism in this proceeding.~~

Proposed Changes to Findings of Fact

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

FOF 8: A resource adequacy double counting problem *is precluded by current CPUC, CAISO and CEC rules.* ~~occurs if demand response is not clearly classified as either a supply side or demand side resource.~~

~~FOF 7. There are two purposes for demand response programs: 1) to meet the state's long term energy goals including those for renewable and lower 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.~~

~~FOF 24. The recommendation of a demand response auction mechanism is a good starting point for exploration and discussion.~~