

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)

**REPLY COMMENTS OF THE
CENTER FOR ENERGY EFFICIENCY AND RENEWABLE TECHNOLOGIES ON
PROPOSED DECISION ON BIFURCATION OF DEMAND RESPONSE PROGRAMS**

March 18, 2014 MEGAN M. MYERS
Attorney for the

Center for Energy Efficiency and
Renewable Technologies

Law Offices of Sara Steck Myers
122 – 28th Avenue
San Francisco, CA 94121
Telephone: (415) 387-1904
Facsimile: (415) 387-4708
Email: meganmmyers@yahoo.com

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)

**REPLY COMMENTS OF THE
CENTER FOR ENERGY EFFICIENCY AND RENEWABLE TECHNOLOGIES ON
PROPOSED DECISION ON BIFURCATION OF DEMAND RESPONSE PROGRAMS**

The Center for Energy Efficiency and Renewable Technologies (CEERT) respectfully submits these Reply Comments on the Proposed Decision Addressing Foundational Issue of the Bifurcation of Demand Response Programs (Proposed Decision) issued in this proceeding on February 21, 2014. These Reply Comments are timely filed and served pursuant to Article 14 of the Commission's Rules of Practice and Procedure and the instructions accompanying the Proposed Decision.

**I.
CEERT AGREES WITH THE OPENING COMMENTS OF MULTIPLE PARTIES
THAT DEMONSTRATE THAT THE COMMISSION DOES NOT HAVE THE
RECORD AND HAS NOT RESOLVED ISSUES REQUIRED TO IMPLEMENT
BIFURCATION OF DEMAND RESPONSE RESOURCES AT THIS TIME.**

As stated in its Opening Comments, CEERT believes it is premature for the Commission to decide to proceed now with bifurcation of demand response (DR) programs. CEERT agrees with the Opening Comments of multiple parties that share the view that there are issues regarding bifurcation that should be resolved prior to implementation of bifurcation. At the least, the Proposed Decision should not be issued without eliminating Ordering Paragraph 4, which prematurely bifurcates and categorizes programs as load modifiers or supply resources and without identifying a specific process for addressing bifurcation concerns related to coordination between this Commission and the California Independent System Operator (CAISO).

A. CEERT Agrees with Multiple Parties that There Are Numerous Outstanding Issues that Must be Resolved Prior to Implementation of Bifurcation.

In its Opening Comments, CEERT argued that “[n]o evidence or policy rationale has been presented in the Proposed Decision that reflects that bifurcation of DR programs is the best method to enhance DR in California.”¹ Similarly, the Joint DR Parties correctly argued in their Opening Comments that “[t]he process to date in this Rulemaking, however, has *not* included a review and analysis of current DR programs or a discussion as to whether or how to bifurcate them,” as directed by the Order Instituting Rulemaking (OIR).² In addition, CEERT agrees with the California Large Energy Consumers Association (CLECA) that “[t]here 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.”³

CEERT also argued in its Opening Comments that “the number of critical issues left unresolved or vague by the Proposed Decision is proof enough that a decision by the Commission authorizing bifurcation of DR Program is simply premature.”⁴ This same view was expressed in the Opening Comments of the Joint DR Parties, as follows:

“[T]he Proposed Decision should be withdrawn in favor of a final decision on bifurcation and the categorization of DR programs, as either load modifiers or supply-side resources, being made only after needed underlying analysis of the issues associated with integrating DR resources into the wholesale market, which is required to support such a direction, is undertaken.”⁵

As CLECA correctly stated, the Proposed Decision “should be further revised to set a process for developing the facts necessary to support a decision on bifurcation of demand

¹ CEERT Opening Comments, at p. 6.

² Joint DR Parties Opening Comments, at p. 6.

³ CLECA Opening Comments, at p. 3.

⁴ *Id.*, at p. 7.

⁵ Joint DR Parties Opening Comments, at p. 3.

response (DR) programs and for their potential integration into wholesale markets.”⁶ Similarly, Pacific Gas and Electric Company (PG&E) contended:

“[I]t 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.”⁷

CEERT, CLECA, the Joint DR Parties, PG&E, and Southern California Edison Company (SCE) believed that there are outstanding issues regarding bifurcation that must be addressed.⁸ CEERT’s Opening Comments, along with those of the parties identified above, highlighted the flaws in the Proposed Decision that must be corrected prior to the Commission proceeding with bifurcation. For example, CLECA correctly noted in its Opening Comments that the Proposed Decision “makes no provision for the development of a record analysis of those costs compared to expected benefits.”⁹ PG&E’s Opening Comments also discussed the issues identified in the Proposed Decision “that must be resolved before bifurcation can be implemented” and must address siloing of DR programs, integration costs, jurisdictional issues, RA issues and the amount of DR bid into the CAISO market.¹⁰ SCE further claimed that the Proposed Decision’s finding that “more DR ‘must be bid into the CAISO markets to make it successful,’ is not supported by the record.”¹¹

Even parties, like Environmental Defense Fund (EDF), whose comments supported the Commission’s intention to bifurcate, voiced concerns about the current Proposed Decision.¹² In fact, EDF asked the Commission to augment the Proposed Decision by “1) including more

⁶ CLECA Opening Comments, at p. 2.

⁷ PG&E Opening Comments, at p. 6.

⁸ CEERT Opening Comments, at pp. 6-7; CLECA Opening Comments, at p. 6; the Joint DR Parties Opening Comments, at p. 2; PG&E Opening Comments, at pp. 4-5; and SCE Opening Comments, at p. 4.

⁹ CLECA Opening Comments, at p. 6.

¹⁰ PG&E Opening Comments, at p. 4.

¹¹ SCE Opening Comments, at p. 4.

¹² EDF Opening Comments, at p. 1.

information on proceeding process; 2) noting key elements that should be incorporated into a bifurcated approach; and 3) ensuring, at a foundational level, that load modifying demand response is correctly valued, forecasted, and encouraged.”¹³

B. CEERT, Like Numerous Other Parties, Ask that the Commission Modify The Proposed Decision to Eliminate Ordering Paragraph 4.

CEERT, CLECA, the Joint DR Parties, PG&E, SCE, and the Sierra Club strongly urge the Commission to, at the least, modify the Proposed Decision to eliminate Ordering Paragraph 4, which categorizes current DR programs as Load Modifiers and Supply Resources.¹⁴ Sierra Club correctly expressed its concern that the Proposed Decision “may prematurely assign certain programs to a particular DR category before the factual and legal record necessary to support such categorization is developed.”¹⁵ CEERT agrees with this conclusion as well as PG&E’s statement that evidentiary information does not exist to support the categorizations in Ordering Paragraph 4 and “[w]ithout such evidentiary information, the classification in [Ordering Paragraph] 4 and at page 19 is arbitrary, premature and likely to be counter-productive.”¹⁶

C. If the Commission Decides to Proceed with Adopting a Policy of Bifurcation, in Addition to Eliminating Ordering Paragraph 4, the Proposed Decision Must be Modified to Identify a Process for Evaluating all Bifurcation Issues.

CEERT, in its Opening Comments, argued that “any authorization of bifurcation by the Commission should be conditioned on a commitment to hold public workshops, in cooperation with the CAISO, focused on addressing all outstanding bifurcation issues and the process for resolving those issues.”¹⁷ CEERT agrees with the Joint DR Parties’ recommendation “that the Commission [must] hold a workshop at which parties can identify the issues and discuss the best

¹³ EDF Opening Comments, at pp. 1-2.

¹⁴ CEERT Opening Comments, at pp. 8-10; CLECA Opening Comments, at p. 4; the Joint DR Parties Opening Comments, Appendix A, at p. 3; PG&E Opening Comments, at pp. 2-4; SCE Opening Comments, at p. 2; and Sierra Club Opening Comments, at pp 1, 3-5.

¹⁵ Sierra Club Opening Comments, at p. 1.

¹⁶ PG&E Opening Comments, at p. 3.

¹⁷ CEERT Opening Comments, at p. 9.

way to resolve them, including developing a timeline whereby identified obstacles will be resolved.”¹⁸ This “next step” is critical and further endorsed by EDF, which correctly noted:

“[The] Commission could sponsor workshops on how to structure the bifurcation an on how to best value, forecast and align mechanisms. Workshops could provide a valuable tool in structuring the bifurcation and resolving the remaining issues laid out in the PD.”¹⁹

II. CONCLUSION

The Opening Comments of many parties, including CEERT, make it clear that there are numerous outstanding issues pertaining to bifurcation that must be resolved prior to its implementation and that a Proposed Decision adopting bifurcation, even as a policy, is premature. If the Commission decides to proceed with bifurcation, CEERT and other parties believe that the Proposed Decision, at the least, must be modified to eliminate Ordering Paragraph 4, which prematurely categorizes current DR programs without any evidence to support that decision, to identify steps for addressing parties’ concerns and evaluation of issues, including holding a much-needed workshop on these issues.

Respectfully submitted,

March 18, 2014 /s/ MEGAN M. MYERS _____

Megan M. Myers
On Behalf of CEERT

Megan M. Myers
Attorney at Law
Law Offices of Sara Steck Myers
122 – 28th Avenue

San Francisco, CA 94121
Telephone: (415) 994-1616

Facsimile: (415) 387-4708

Email: meganmmyers@yahoo.com

¹⁸ Joint DR Parties Opening Comments, at p. 10.

¹⁹ EDF Opening Comments, at p. 7.