

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)

**THE OFFICE OF RATEPAYER ADVOCATES' REPLY COMMENTS ON  
PROPOSED DECISION ADDRESSING FOUNDATIONAL ISSUE OF THE  
BIFURCATION OF DEMAND RESPONSE PROGRAMS**

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## I. INTRODUCTION

The Office of Ratepayer Advocates (ORA) submits the following reply comments on the Proposed Decision (PD) of Administrative Law Judge Kelly A. Hymes dated February 21, 2014 addressing the foundational issue of bifurcation of demand response (DR) programs. The PD bifurcates the current Commission-regulated demand response programs into two categories: 1) load modifiers and 2) supply resources. Parties, including ORA, submitted comments on the PD on March 13, 2014.<sup>1</sup> Comments ranged from the need for modification of definitions for the program categories<sup>2</sup> to recommendations for a defined process to implement bifurcation.<sup>3</sup> ORA's comments urged the Commission to elaborate on whether, how and when the PD's bifurcation and categorization of current DR programs will be incorporated into Resource Adequacy (RA) and Long Term Procurement Planning (LTPP) proceedings to avoid stranding any current ratepayer investments in DR programs.<sup>4</sup>

## II. DISCUSSION

### A. Classification Of DR Programs Should Be Preliminary And Dependent On The Resolution Of Issues In Phase 3.

Ordering Paragraph (OP) 4 of the PD assigned current DR programs into the two categories: load modifiers or supply resources.<sup>5</sup> Multiple parties objected to this

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<sup>1</sup> Parties that submitted comments included the California Independent System Operator (CAISO), Center for Energy Efficiency and Renewable Technologies (CEERT), California Energy Storage Alliance (CESA), Clean Coalition, California Large Energy Consumers Association (CLECA), Environmental Defense Fund (EDF), EnerNOC, Inc., Johnson Controls, Inc., and Comverge, Inc. (Joint DR Parties), Marin Clean Energy (MCE), Olivine, Inc. (Olivine), Pacific Gas And Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E) and Sierra Club.

<sup>2</sup> CAISO (p. 3), Clean Coalition (p. 4), Olivine (p. 3), PG&E (p. 9), SCE (p. 3), SDG&E (p.iv) and Sierra Club's (p. 2) comments provided edits to the definitions for load modifiers and/or supply resources.

<sup>3</sup> CEERT (p. 5), Clean Coalition (p. 4), EDF (p. 3), Joint Parties (p. 3), Olivine (p. 4), PG&E (p. 4), SCE (p. 4) and Sierra Club (p.1) made comments on whether and how to implement bifurcation.

<sup>4</sup> ORA Comments, p. 1.

<sup>5</sup> PD, p. 27.

classification as there are pending issues that must be resolved before applying bifurcation to current programs. PG&E stated that assigning existing DR programs to bifurcation categories 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.”<sup>6</sup> The Joint Parties further recommended that the Commission withdraw the PD and “not issue a decision regarding bifurcation and the categorization of the DR Programs... until needed, underlying analysis of the issues associated with integrating DR resources into the wholesale market has concluded in Phase Three of this proceeding.”<sup>7</sup>

The PD identifies several issues of concern, including the costs of CAISO energy markets integration, jurisdiction, and resource adequacy qualifications.<sup>8</sup> The PD is unclear about how the resolution of these issues would impact the assignment of DR programs to bifurcation categories and whether the assignment of current DR programs to just these two categories is appropriate. Until these issues are analyzed in Phase 3, classification of DR programs should only be preliminary and dependent on resolution of concerns in Phase 3.

**B. The Commission Should Hold Workshop(s) To Discuss Issues To Be Resolved In Phase 3.**

Several parties recommended workshops to discuss Phase 3 issues that require resolution, those discussed in the PD and others identified by various parties.<sup>9</sup> ORA supports this recommendation. Workshops would allow stakeholders to discuss issues directly and develop a better understanding of the impacts and requirements of

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<sup>6</sup> PG&E Comments, p. 4.

<sup>7</sup> Joint Parties Comments, p. 2.

<sup>8</sup> PD, p. 7.

<sup>9</sup> CEERT Comments, p. 9; Clean Coalition Comments p. 5; Joint Parties Comments, p. 10.

bifurcation. For example, the CAISO disagrees with arguments that its settlement process and telemetry requirements are expensive and burdensome<sup>10</sup>, which impacts the ability of DR programs to participate in the CAISO wholesale markets. This issue is essential in determining whether current DR programs can meet the requirements of a supply resource under the PD's bifurcation definition in a cost effective manner.

ORA is particularly concerned whether all existing DR programs would be accounted for in one of the two branches of bifurcation. For example, OP 4 classifies the Demand Bidding Program (DBP) as a supply resource.<sup>11</sup> However, as this is a voluntary program with no penalty for nonparticipation, it is uncertain that the program would meet the requirements of a supply resource program. If it cannot meet the requirements, and get RA credit, it is unclear what will happen to the program. Would it continue to be funded by ratepayers and classified as a load modifier? If so, would the Commission work with the California Energy Commission (CEC) to include the program in the load forecast as a load modifier? Discussion of such issues in a workshop, rather than only in a PD commenting process, would better inform all stakeholders and the Commission.

**C. New RA Requirements Based On Bifurcation Should Not Be Adopted For DR Programs Until Phase 3 Issues Are Resolved. Furthermore, Cost Effectiveness Should Be Considered Before Modification Of DR Programs To Meet New RA Requirements.**

As discussed in ORA's opening comments, ORA's main concerns about the PD stem from 1) ratepayers' exposure to potential stranded investments in current DR programs and 2) whether ratepayers would be funding any DR programs in the future that do not qualify and receive appropriate credit either as a load modifier in the CEC load forecast or as a supply resource in a RA proceeding.<sup>12</sup> As discussed above, a whole host

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<sup>10</sup> CAISO Comments, p. 4.

<sup>11</sup> PD, p. 27.

<sup>12</sup> ORA Comments, p. 2.

of issues need to be resolved - some of the issues are already acknowledged in the PD as issues that must be resolved prior to full implementation of any new vision for DR. Other parties' comments suggest there may be additional issues that the Commission needs to resolve as well. SDG&E, for example, emphasizes that supply resources need to be able to integrate into CAISO markets in a cost effective manner.<sup>13</sup> ORA understands the issues raised could be addressed in the next phase(s) of this OIR and would need more time. ORA can wait for resolution in the next phase(s) of this OIR but agrees with CLECA that key policy determinations should not be made in the absence of supporting factual evidence.<sup>14</sup>

Because the PD does not elaborate on the practical effect of bifurcation on the Commission's on-going RA and LTPP proceedings, ORA's immediate concern is the PD's impact on the requirements being considered for IOU's 2015 RA compliance year in the Rulemaking (R.) 11-10-023. As discussed in ORA's opening comments, the Energy Division's (ED) proposals for the calculation of the qualifying capacity (QC) and effective flexible capacity (EFC) for storage and supply-side DR for 2015 specifies that all supply side-DR resources must have the capability to offer into CAISO markets – via economic bids or by self-scheduling – under CAISO's Must Offer Obligation (MOO) in order to qualify for RA.<sup>15</sup> Many of the same issues identified in this proceeding will need to be resolved before DR supply resources can meet the new RA requirements in the ED's proposal. If transition of current DR programs to meet the new RA requirements is not completed by 2015, some of the ratepayer investments in current DR programs could become stranded. The Commission should not let this happen and provide clarity on this issue. The Commission should carefully coordinate its timelines for resolving the issues identified in this proceeding with the timelines for adopting any new RA requirements for

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<sup>13</sup> SDG&E Comments, p. iv.

<sup>14</sup> CLECA Comments, p. 1.

<sup>15</sup> ORA Comments, p. 4.

the currently ratepayer-funded DR programs. The Commission should also consider cost effectiveness before requiring the modification of current DR programs to meet any new RA requirements. How should currently-funded DR programs classified as supply resources be treated if they cannot be modified in time to meet any new RA requirements or if they cannot be modified cost effectively at all?

### III. CONCLUSION

ORA looks forward to the resolution of issues regarding bifurcation in Phase 3 of the proceeding and supports workshops to facilitate discussion and a greater understanding of the impacts of bifurcation. Until issues are resolved, classification of current DR programs as load modifiers or supply resources should only be preliminary. Additionally, new RA requirements for DR programs based on bifurcation should not be adopted before it is clear how bifurcation would affect DR in the RA and LTPP proceedings. The Commission also needs to consider the cost effectiveness of modifying existing DR programs to meet the definition of supply resources and new RA requirements.

Respectfully submitted,

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