

**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)

**COMMENTS OF CALPINE CORPORATION ON
SETTLEMENT AGREEMENT**

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Pursuant to Rule 12.2 of the California Public Utility Commission (“Commission”) Rules of Practice and Procedure and the July 31, 2014 Administrative Law Judge’s email ruling, Calpine Corporation (“Calpine”) provides the following comments on the Settling Parties’ motion for adoption of Settlement Agreement.¹ Specifically, Calpine opposes those portions of the Settlement Agreement addressing how Demand Response (“DR”) programs will be counted for Resource Adequacy (“RA”) purposes and that would delay the integration of DR into the California Independent System Operator’s (“CAISO”) markets.

I. INTRODUCTION

If adopted in its current form, the Settlement Agreement would establish interim statewide DR goals,² retain the current valuation used to calculate system and local RA through

¹ See *Settlement Agreement Between and Among Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas and Electric Company, California Independent System Operator Corporation, Office of Ratepayer Advocates, The Utility Reform Network, California Large Energy Consumers Association, Consumer Federation of California, Alliance for Retail Energy Markets, Direct Access Customer Coalition, Marin Clean Energy, EnerNOC, Inc., Comverge, Inc., Johnson Controls, Inc., Olivine, Inc., Sierra Club, Environmental Defense Fund, Clean Coalition, and EnergyHub/Alarm.com on Phase 3 Issues*. The above noted parties to the Settlement Agreement are collectively referred to as the “Settling Parties.”

² Settlement Agreement at 12.

2019,³ create Demand Response Auction Mechanism (“DRAM”) pilot auctions,⁴ and keep the current three-year DR program budget cycle in place for another more cycle (2017-2019).⁵

Calpine was an active participant in the settlement negotiations and appreciates the efforts undertaken by all the parties during more than two months of settlement negotiations to develop a better understanding of the many complex issues that must be resolved in this proceeding. Calpine, however, was unable to join the Settlement Agreement because the settlement is inconsistent with important Commission policies and precedent. Specifically, the Settlement Agreement would grandfather the RA counting of DR programs until 2020 *without any consideration of their actual contributions to reliability*. As discussed below, retaining the current RA counting of DR could put reliability at risk and increase ratepayer costs.

In addition, the Settlement Agreement ignores the Commission’s policy objective to “prioritize demand response as a utility-procured resource, competitively bid into the California Independent System Operator wholesale electricity market.”⁶ By failing to require increased DR participation in the CAISO markets, the Settlement Agreement disregards the Commission’s goal to increase bidding of DR into the CAISO market, which “has been an objective of the Commission since the initiation of Rulemaking 07-01-041 in 2007.”⁷

To ensure that DR policy is consistent with reliability objectives, the Settlement Agreement should be revised to require that the RA counting rules for DR be periodically updated to reflect the CAISO’s evolving policies on how non-conventional resources are counted toward reliability objectives, rather than freezing current counting rules until 2020. In addition, to ensure the most economically efficient dispatch of resources, Calpine recommends the

³ Settlement Agreement at 18.

⁴ Settlement Agreement at 24-30.

⁵ Settlement Agreement at 30-31.

⁶ D.14-03-026, mimeo at 23.

⁷ D.14-03-026, mimeo at 27 (Finding of Fact No. 18).

acceleration of the direct participation of DR in CAISO markets, potentially through a greater role for DRAM than contemplated by the Settlement.

II. PORTIONS OF THE SETTLEMENT AGREEMENT ARE INCONSISTENT WITH COMMISSION POLICIES AND CONTRARY TO THE PUBLIC INTEREST

A. Maintaining the Current Method for Counting DR for Satisfying RA Requirements Compromises Reliability and Increases Ratepayer Costs

Established Commission policy provides that “[d]emand response as Resource Adequacy resources should be held to the same requirements as generation resources for system reliability and economic efficiency.”⁸ The Commission has also found that DR has “not [been] as reliable and useful as expected.”⁹ Despite this clear policy and finding, the Settlement Agreement would allow for “the current valuation used to calculate the system and local resource adequacy credits for the [Investor Owned Utilities’ (“IOUs”)] existing DR programs” to be retained until 2020.¹⁰

Both the Commission and the CAISO have recognized the limited value of some current DR programs towards meeting reliability needs. For example, in this proceeding, the Commission’s Order Instituting Rulemaking refers to a recent staff report that found that DR programs “were not utilized to their full [RA] capacity even during extremely hot weather conditions” and that some DR programs had a potentially large ‘free-ridership’ problem where 85% - 94% of total incentives were paid to customers without providing significant load reduction.¹¹ The Commission recognized that part of the problem with these DR programs is that they “are not bid into the CAISO market or subject to its Must Offer Obligations and penalties for non-performance” and that they “have very limited visibility and dispatchability to

⁸ *Order Instituting Rulemaking to Enhance the Role of Demand Response in Meeting the State’s Resource Planning Needs and Operational Requirements* (“OIR 13-09-011”), R.13-09-011 at 9.

⁹ OIR 13-09-011 at 7.

¹⁰ Settlement Agreement at 14.

¹¹ OIR 13-09-011 at 7.

the CAISO's grid operator."¹² As a result, the Commission concluded that "California needs [DR] to have supply-side operational characteristics and capabilities in order to meet the State's future system and market needs."¹³

Similarly, the CAISO discounted existing DR resources in determining the resources that could be used to meet long-term local reliability requirements.¹⁴ The CAISO has also begun to articulate the types of DR resources (and other non-conventional resources) that it will count in its TPP. The characteristics of most existing DR programs generally do not meet the CAISO's needs with respect to response time, duration, and availability.¹⁵ If the CAISO is unwilling to count specific DR programs towards meeting reliability requirements for planning purposes, then the same programs are unlikely to address reliability requirements in the year- and month-ahead RA procurement time frames and should not count towards RA requirements.

If DR is counted toward meeting RA capacity obligations, but is not held to the same performance requirements as other RA resources, reliability could be compromised, and the CAISO and/or Load Serving Entities may be forced to procure additional capacity beyond the capacity necessary to meet RA obligations in order to maintain reliability. The net effect is increased costs for ratepayers.

Finding a balance between accommodating preferred resources, such as DR, and maintaining reliability with respect to both performance requirements and RA counting is something the CAISO and the Commission have done before. For example, Maximum Cumulative Capacity buckets have historically been used to prevent excessive reliance on energy-limited resources to satisfy RA obligations. In addition, recently approved flexible RA

¹² OIR 13-09-011 at 8.

¹³ OIR 13-09-011 at 8.

¹⁴ CAISO/Millar, RT 350:1-352:13 (August 9, 2014 in the LTPP 12-04-013).

¹⁵ See <http://www.aiso.com/documents/paper-non-conventionalalternatives-2013-2014transmissionplanningprocess.pdf>.

rules define flexible RA categories that similarly permit but limit reliance on resources that are restricted in terms of availability and energy to satisfy flexible RA requirements.

The Commission has already decided that DR bifurcation will be implemented beginning with the 2017 DR program year.¹⁶ Thus, there is no justification, and the Settlement Agreement does not offer one, for delaying use of a more accurate treatment of DR resources for RA purposes until 2020. Delaying a more accurate accounting of DR's contributions towards meeting RA requirements nullifies an important purpose of the bifurcation that will be implemented in 2017 and is inconsistent with the Commission's established policy that DR as a RA resource should be held to the same requirements as generation resources for system reliability and economic efficiency.¹⁷

To ensure the Settlement Agreement is consistent with Commission policies and the public interest, the Commission should reject the portion of the Settlement Agreement that would perpetuate the current RA counting of DR until 2020. At a minimum, the Commission should require that the local RA counting rules for DR be periodically updated to reflect the CAISO's evolving policies on how for non-conventional resources contribute to meeting reliability requirements.

B. The Settlement Ignores the Commission's Policy to Accelerate DR Integration into the CAISO Markets

The Commission has repeatedly stated that the purpose of this rulemaking is to increase the amount of DR integrated into the CAISO market. Most recently, the Commission emphasized:

As we previously stated, one of the reasons the Commission is moving forward with the bifurcation of demand response programs is to 'prioritize demand response as a utility-procured resource,

¹⁶ D.14-03-026 mimeo at 2.

¹⁷ OIR 13-09-011 at 9.

competitively bid into the California Independent System Operator wholesale electricity market.’¹⁸

Increased participation of DR in the CAISO markets is important for at least two reasons. First, it provides the CAISO with DR that it can dispatch efficiently in combination with other resources in its markets. Second, by enabling DR to set clearing prices, it assures that all resources receive appropriate price signals when DR is dispatched.

As the Commission Staff found, the IOUs have dispatched DR when it was not needed, or not dispatched it when it was actually needed.¹⁹ This inefficient dispatch of DR can result from forecast error, which is exacerbated when DR is dispatched outside the CAISO markets. For example, two instances of the inefficient dispatch of DR that occurred last summer in the PJM²⁰ demonstrate the significant magnitude of potential costs (in these two incidents almost \$44 million) that can result from a same-day forecast error, even when DR is integrated into clearing price markets.²¹ These costs are likely to be compounded when DR is dispatched outside of markets administered by the system operator and based on forecasts that may reflect less complete information than the system operator’s.

In addition to economic inefficiencies, DR resources that are not fully integrated into CAISO markets create operational challenges, particularly during stressed system conditions when rapid and efficient use of these DR resources is most important. As the CAISO explains, “continuing to coordinate and dispatch emergency demand response programs during stressful

¹⁸ D.14-03-026, mimeo at 23.

¹⁹ Chapter 7 of *Lessons Learned From Summer 2012 Southern California Investor Owned Utilities’ Demand Response Programs* (May 1, 2013). A copy is available at: http://www.cpuc.ca.gov/NR/rdonlyres/523B9D94-ABC4-4AF6-AA09-DD9ED8C81AAD/0/StaffReport_2012DRLessonsLearned.pdf.

²⁰ The PJM (Pennsylvania-New Jersey-Maryland Interconnection) is a Regional Transmission Organization (“RTO”). It is part of the Eastern Interconnection grid operating an electric transmission system serving all or parts of Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia and the District of Columbia.

²¹ Exh. CPC-2/Barmack, Reply Testimony of Calpine Corporation at 5 (May 22, 2014).

operating conditions through phone calls and email with third parties is not a productive, efficient, or convenient way to manage critical resources.”²² These challenges will only be exacerbated as the operating environment becomes increasingly complex as more variable resources come online.

Despite the Commission’s efforts to expedite the participation of DR in the CAISO markets, the Settlement Agreement only provides that the IOUs will “seek to increase cost-effective Supply Resources as barriers to CAISO market integration are overcome.”²³ The Settlement Agreement sets no specific goals or timelines for increasing DR participation in the CAISO markets. In addition, it significantly reduces the role of DRAM, a vehicle for procuring Supply-Side Resource DR, from the primary means of securing Supply-Side Resources DR, as originally contemplated by Energy Division Staff DRAM Proposal, to a modestly sized pilot.²⁴

III. CONCLUSION

Calpine urges the Commission to reject those portions of the Settlement Agreement that (1) perpetuate the flawed status quo counting of existing DR programs towards meeting RA requirements; and (2) limit the amount of Supply-Side DR Resources that are to be integrated into the CAISO markets. At a minimum, Calpine recommends the local RA counting rules for DR be periodically updated to reflect the CAISO’s evolving policies regarding how non-conventional resources contribute to reliability requirements, rather than freezing current counting rules until 2020. In addition, Calpine recommends the acceleration of the direct

²² Exh. ISO-03/Goodin, Testimony of John Goodin on Behalf of the California Independent System Operator Corporation at 9 (May 6, 2014).

²³ Settlement Agreement at 19.

²⁴ See Attachment B to the 4/2/2014 Joint Assigned Commissioner and Administrative Law Judge Ruling and Revised Scoping Memo Defining Scope and Schedule for Phase Three, Revising Schedule for Phase Two and Providing Guidance for Testimony an Hearings, Energy Division Staff *Demand Response Auction Mechanism Proposal* at 1.

participation of DR in CAISO markets, potentially through a greater role for DRAM than contemplated by the Settlement Agreement.

/s/

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