

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE  
STATE OF CALIFORNIA**

Order Instituting Rulemaking Regarding  
Policies and Protocols for Demand Response,  
Load Impact Estimates, Cost-Effectiveness  
Methodologies, Megawatt Goals and  
Alignment with California Independent System  
Operator Market Design Protocols

Rulemaking 07-01-041  
(January 25, 2007)

**REPLY COMMENTS OF THE CALIFORNIA INDEPENDENT SYSTEM  
OPERATOR CORPORATION ON THE PROPOSED DECISION ON PHASE  
FOUR DIRECT PARTICIPATION ISSUES**

The ISO urges the Commission to fashion the PD to enable the broadest, earliest participation by providers and retail customers in 2010, through PDR. Federal and state policy is aligned on this point. FERC's Order No 719 directs RTO/ISO implementing activities such as the ISO's PDR product, and the PD acknowledges that immediate and broad direct participation promotes California's Energy Action Plan.<sup>1</sup> The ISO believes that the PD can facilitate broadest and earliest participation by stating not only what is permitted but also what participation the PD does not prohibit in 2010.<sup>2</sup> Some decision commentators, such as SCE, PG&E, and, apparently, DRA, raise the concern that there may be cost shifting or "undercollection" consequences if DRP direct bidding of DA customers begins in 2010.<sup>3</sup> But the logic of their argument to wait says this: (1) we must start with the *presumption* that DRP bidding of DA customers does in fact result in undercollection or cost shifting because we *assume* that it raises all of the same issues as retail Direct Access (DA) in energy service and (2) so, therefore, the Commission must *hold off* for now until either the (i) the presumption is disproven or

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<sup>1</sup> PD at p. 16, citing to Energy Action Plan II.

<sup>2</sup> For example, were the PD to state that "nothing in the PD *prohibits*" such DRP activity, then it is clear that the PD has not decided jurisdictional issues now and has deferred Commission consideration of that issue until a later time.

<sup>3</sup> DRA's comments imply that DRA opposes DRP direct bidding outside of IOU DR programs for 2010, whether the DRP portfolio is made up of IOU customers and DA customers or DA customers alone.

(ii) all “undercollection” issues are resolved. In other words, the burden of proof is on the DRPs and direct bidding mechanism to first show that it *does no harm* despite the fact that 2010 participation will be *de minimus* when compared to overall market activity, and could not possibly be harmful enough to warrant an “all stop” approach. The ISO urges the Commission to weigh the cost concerns against the benefits to be gained from a trial effort in 2010, which necessarily must be limited in scope (in terms of scope and MW penetration), because time is so short. The potential for harm warned about is outweighed by the benefits to be gained from *an interim period* of direct bidding activity in 2010, and this will actually sharpen the issues that the Commission will be evaluating *in parallel*.

Some parties are arguing that even limited 2010 activities must await intense scrutiny of all the potential cost consequences surrounding the choice of a DA customer (whose LSE is not the utility) to participate *for an interim period of approximately three months* in a DRP program, simply because it is not the IOU’s DR program. If the Commission accepts this argument, it sends the signal that California has no certain entry date for DRP participation and meaningful progress and penetration of demand response in the California IOU service territories. The ISO’s concern is that the direct participation analysis may become unnecessarily undercollection-centric.

#### **I. Status of the ISO’s PDR Product**

Rather than issuing an order on the PDR Tariff last week, FERC sent a letter to the ISO seeking further information on the PDR market design.<sup>4</sup> The April 16 letter requests ISO response within 30 days. Because answering the questions does not require extensive effort, the ISO expects to answer in less than 30 days. FERC will have 60 additional days

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<sup>4</sup> The letter, which asked the ISO three questions, can be accessed on the FERC’s website for Docket ER10-765 at [http://elibrary.ferc.gov/idmws/File\\_list.asp?document\\_id=13809153](http://elibrary.ferc.gov/idmws/File_list.asp?document_id=13809153). FERC had calendared the matter on its April 15 calendar as agenda item E-15; see commission calendar posted on FERC website at <http://www.ferc.gov/EventCalendar/Files/20100408161745-CA04-15-010.pdf>.

to consider the amendment, putting the anticipated PDR product launch in July 2010, instead of May. While this is a delay, it does not preclude the opportunity for a limited quantity of demand response to have meaningful participation within the available time in 2010.

## **II. The ISO Rejects the Premise of SCE’s Argument that Direct Participation Equates to Direct Access, and Opposes SCE’s Request to Prohibit All Bidding Outside of IOU Pilots in 2010**

SCE asks the Commission to shut down all 2010 direct participation, except what will come through the IOU pilots, “whether through IOUs, ESPs, or third-party DRPs.<sup>5</sup>” Even if one sets aside the jurisdictional issues raised by the Joint Parties, the Commission must first look at the potential harm that SCE seeks to avoid, and the extent of such potential harm, and, next, weigh it against the potential benefits of 2010 direct participation and the corresponding harm in waiting--namely the potential commercial harm to ESPs, DRPs and retail customers if 2010 activity is banned, and the potential harm to the public interest and process in waiting another year.<sup>6</sup>

The claimed harm is potential undercollection and cost shifting if communications and settlement issues are not first resolved.<sup>7</sup> This must be weighed against the *benefits* (cost benefits and market experience gained) of direct participation, not in a vacuum, but in the context of those anticipated 2010 direct bidding activities.<sup>8</sup> Party estimates from last

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<sup>5</sup> SCE’s Opening Comments, at p5.

<sup>6</sup> The jurisdictional issues are discussed in the Comments of the Joint Parties at pp. 3-10, maintaining that the PD seeks to regulate DRPs before it establishes that it has jurisdiction to do so. The ISO noted in its Opening Comments that the ISO does not read the PD to prohibit DRP solicitation of DA customers. The ISO reads the PD discussion of authority over consumer protection to speak what the ISO refers to as “cross-cutting” issues, in this context, where a DRP might seek to sign up bundled customers in a DRP program. In such case, the ISO reads the PD as looking to jurisdiction over the activity of *bundled customers*, not the activity of the DRP: “[n]o party disputes that the Commission has authority over the potential impacts of direct bidding on consumer protection *for utility customers*. (PD at p. 9) The PD then discusses the potential where a DRP seeks to solicit a bundled customer to unenroll in an IOU DR Program to join the DRP program. (PD at pp. 9-10.)

<sup>7</sup> SCE Comments at pp 4-5.

<sup>8</sup> For example, in 2007, The Brattle Group analyzed the benefit from demand response in PJM’s market and found that annual benefits from 3% load reduction in the top 100 hours in 5 of PJM’s load zones resulted in a

year are that 2010 participation will be on the order of *less than 100 MW*. This will take place primarily over the summer season—a period of *probably not more than three months*, and it will be spread statewide, over the three IOUs, on an ISO-controlled grid with a peak coincident demand of approximately *50,270 MW*.<sup>9</sup> Viewed in this context, it is not outrageous to characterize the claim of loss as “noise.” Putting this activity in sharper detail, it has been the consensus of PDR stakeholders that the largest MW value of 2010 activity will be through *IOU DR programs bidding IOU bundled customers*. So the focus of SCE’s concern in terms of potential MW value from DRP activity that could trigger cost issues--is even smaller than 100 MWs.

SCE also cites the need for UDC approval under the PDR Tariff Amendment as a reason to hold off DRP direct participation for 2010 until the Commission adopts various rules.<sup>10</sup> The ISO disagrees, because the ISO believes that the UDC’s role in the approval process is ministerial in nature, and that it should be very manageable for the UDC to carry out in 2010 for 2010 activities, given the anticipated PDR volume this summer.<sup>11</sup>

### **III. The ISO Supports Modification but Not Deletion of PD’s Requirement to Include DRPs in 2010 Pilot Activities**

The ISO is sympathetic with PG&E’s statement that it may not be feasible at this point in time to include non-PG&E DRPs in any 2010 pilot, but it disagrees with PG&E’s request to delete Finding of Fact No. 3 entirely. The ISO recommends modifying it to state that the IOU’s should solicit and incorporate third party DRPs *to the extent feasible*,

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savings of \$138 to \$281 million. A link to the study is found here:

<http://www.brattle.com/documents/UploadLibrary/Upload367.pdf>

<sup>9</sup> See e.g., See discussion of the size of the ISO-controlled grid in terms of peak coincident size at pp 10-11 of the Joint Motion of the ISO, CLECA, DRA, PG&E, SCE, SDG&E, TURN, *et. al* for Adoption of Settlement, filed February 22, 2009 in Phase 3 of this proceeding, accessible on the Commission’s website at <http://docs.cpuc.ca.gov/efile/MOTION/114111.pdf>.

<sup>10</sup> SCE comments at p. 5.

<sup>11</sup> The ISO would only expect a PDR registration to be rejected by the UDC, and returned to the DRP, if 1) the service account number for the customer to be enrolled in a Proxy Demand Resource is invalid, and/or 2) the service account is already enrolled in a retail DR program that would make that service account ineligible to participate as a resource for PDR.

and modifying Ordering Paragraph 5 to include a requirement that the IOUs tier 2 advice letter include explanation of what efforts the IOU has undertaken to incorporate third party DRPs into their 2010 pilot activities, and if they have not, to include a discussion of why this was not feasible.<sup>12</sup>

**IV. The Commission Should Provide a Clear Path Forward for Resolving Outstanding Issues so that Direct Participation of Demand Response can Occur by Summer 2011**

The ISO agrees with PG&E's point that "[t]he Commission must modify the PD to accelerate the timetable for the next phase of the proceeding if the Commission wants to allow non-IOU DRPs to participate in CAISO market directly by summer 2011. A March 2011 resolution of the next phase, as set forth in the PD, will not allow sufficient time for a summer 2011 implementation." The ISO urges the Commission to set a timetable that results in a Commission decision by the end of October 2010.

Dated: April 20, 2010

Respectfully submitted,

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<sup>12</sup> **Recommended change to FOF No. 3:** The IOUs should solicit and incorporate third-party DRPs into their PDR pilots, to the extent feasible, as a way to gain experience with real time DRP/LSE interaction. **Recommended change to Conclusion of Law No. 5:** Additional concluding sentence: These filings shall include discussion of whether the pilot programs have solicited or incorporated third party DRPs, and if not, why it was not feasible for the IOU to do so.

**CERTIFICATE OF SERVICE**

I hereby certify that on April 20, 2010 I served, on the Service List for Proceeding R.07-01-041, by electronic mail and United States mail, a copy of the foregoing

REPLY COMMENTS OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION ON THE PROPOSED DECISION ON PHASE FOUR DIRECT PARTICIPATION ISSUES

Executed on April 20, 2010 at  
Folsom, California

*Jane Ostapovich*

Jane Ostapovich,  
An employee of the California Independent  
System Operator