

CLECA Appeal of PRR 1280, submitted by	Company	Date Submitted
Nora Sheriff, 415-227-3551 nsheriff@buchalter.com	CLECA (California Large Energy Consumers Association)	Nov. 23, 2020

Summary

The California Large Energy Consumers Association (CLECA) hereby appeals the Proposed Revision Request (PRR) 1280, a Business Practice Manual (BPM) change, initially submitted on August 27, 2020, with a requested effective date of October 30, 2020. Referencing Tariff Sections 40.7.a.i and ii (on evaluation), and 40.10.5.3 (on flexible RA), the initial proposed change stated, in relevant part, “In reviewing RA plans for compliance, the CAISO accepts LRA-provided credits against compliance obligations for the LRA’s jurisdictional LSEs provided the credits net to zero.”¹ The initial proposal and the final change delete the following:

The CAISO understands that the CPUC may provide, on a quarterly basis, updated obligations/credits for their jurisdictional LSEs due to load migration or other factors. Where the CPUC provides such updates, the CAISO will incorporate the updated obligations/credits into the LSEs’ monthly requirements as soon as feasible.²

The final change states, “In reviewing RA plans for compliance, the CAISO accepts LRA-provided adjustments to the compliance obligations for the LRA’s jurisdictional LSEs *provided the adjustments do not create a net reduction of the RA capacity provided and shown to the CAISO or a net reduction in the LSEs’ compliance obligations.* ... The CAISO will not process adjustments in CIRA without such a demonstration of the net neutral impact.”³ As CAISO staff

¹ Revised_PRR1280(1): BPM for Reliability Requirements, Version 50, at 27. (RA is Resource Adequacy; LRA is Local Regulatory Authority; LSE is Load Serving Entity; CPUC is California Public Utilities Commission).

² Id, at 28. The long-standing crediting practice has worked for decades; there is no compelling reason to change it so abruptly now, especially given the serious reliability challenges facing the grid in the coming years.

³ BPM for Reliability Requirements Version 50_LRA-Adjustments (2), at 27 (emphasis added). (CIRA is Customer Interface for Resource Adequacy)

explained, “If LRA credits do no net to zero, then all of the credits would be rejected.”⁴ On October 30, 2020, the CAISO adopted the PRR and the BPM change, essentially determining unilaterally that system Demand Response (DR) resources do not count for RA.

CLECA opposes and appeals this PRR and BPM change on the following grounds:

- the CAISO Board did not approve an all-encompassing requirement for all DR to be shown on supply plans (rather than credited by the LRA); it just required "slow" Proxy Demand Resource (PDR) to be shown on supply plans;
- the PRR is not necessary for any other PDR, nor is it necessary for Reliability Demand Response Resources (RDRR), as demonstrated in the August and September 2020 heat storms, yet it risks reliability and negative impacts to our climate goals;
- the PRR contravenes the State's Loading Order and Public Utilities Code section 454;
- the PRR is not ministerial in nature, and this abrupt change could have a material impact on rates; accordingly it should be a tariff filing submitted for agency approval;
- the PRR wrongly, without coordination with the CPUC, would reverse the LRA’s current RA crediting and counting practices for DR, a preferred resource, impacting the Base Interruptible Program (BIP), which performed very well in the August and September heat storms and prevented additional blackouts.

This appeal should be granted and the PRR denied. The CAISO should direct staff to work with the CPUC and stakeholders in the CPUC RA proceeding; once addressed there, the CAISO should, per state law and its tariff, use the LRA’s criteria for crediting and counting for DR.

Previous Comments on PRR

Please see CLECA’s prior reply comments; all parties appear to oppose this BPM change.

⁴ PRR1280_Initial_Comments_Matrix, CAISO Response (available here: https://bpmem.caiso.com/Lists/PRR%20Comments/Attachments/1914/PRR1280_Initial_Comments_Matrix.pdf).

Reasons for Appeal

The CAISO should reconsider and reverse its adoption of PRR 1280 because: the CAISO Board did not approve this action nor did the underlying abbreviated stakeholder proceeding focus on it; it is not necessary and would risk reliability and negatively impact California's carbon emissions reductions goals; it violates California's Loading Order by unjustly and unreasonably discriminating against DR and treating preferred DR resources differently;⁵ the PRR is not ministerial in a nature but a substantive, abrupt change that could lead to a material impact on rates and thus should be submitted as a Federal Energy Regulatory Commission (FERC) tariff filing; and the PRR impermissibly negates the CPUC's explicit jurisdiction over RA counting and crediting practices, flouting state law and contravening the CAISO's own tariff.

Board Approval and Stakeholder Process Only Addressed "Slow" PDR

The CAISO Board approved tariff changes for financial settlements associated with the exceptional dispatch of slow PDR.⁶ As CAISO staff admits, that approval and vote "do not speak to the crediting issue."⁷ In the underlying stakeholder process, the Final Proposal limited the supply plan showing requirement to the slow PDR to be dispatched per its new methodology.⁸ Indeed, the Final Proposal explicitly recognized that "where this [supply plan showing] issue will ultimately reach decision" for other demand response resources is "within the CPUC's RA

⁵ This undue discrimination also gives rise to issues of unjust and unreasonable treatment which would be litigated before FERC.

⁶ Board of Governors, July 22, 2020 Decision of Slow Demand Response and Proxy Demand Resources Proposal, Motion Number: 2020-07-G2 (available here: <http://www.caiso.com/Documents/DecisiononSlowDemandResponseandProxyDemandResourcesProposal-Motion-July2020.pdf>).

⁷ PRR1280_Initial_Comments_Matrix, CAISO Response (available here: https://bpmcm.caiso.com/Lists/PRR%20Comments/Attachments/1914/PRR1280_Initial_Comments_Matrix.pdf).

⁸ CAISO PDR RA Clarifications, dated April 21, 2020, at 13 ("for the CAISO to have visibility into which [slow PDR] DR resource IDs are resource adequacy and available for the CAISO **to be exceptionally dispatched through its proposed methodology**, they must be shown on supply plans.")(emphasis added).

proceeding.”⁹ The proposed methodology for slow PDR accordingly only required those slow PDR resources to be shown on the supply plan. As explicitly acknowledged by CAISO staff to the CAISO Board, the crediting issue is to be addressed in the CPUC’s RA proceeding.¹⁰

This issue is squarely before the CPUC and should not be pre-judged by a codified BPM change set solely by CAISO staff and opposed by all parties and the CPUC as the LRA. An expedited BPM change that results in such significant impacts is not transparent, open decision-making; the abbreviated PRR process relied upon here¹¹ chills debate and precludes both a collaborative approach to determining the merits of a proposal as well as the established, truth-seeking function of administrative litigation before the CPUC. Moreover, the PRR would needlessly risk reliability and result in negative impacts to California’s climate goals.

The PRR Needlessly Risks Reliability and Negative Impacts to California’s Goals

The PRR is not necessary for any other PDR or for RDRR, as the current procedures, which have operated for years, provide CAISO with knowledge of and ability to dispatch available DR resources. Critically, the CAISO was able to use these procedures to successfully

⁹ CAISO PDR RA Clarifications, dated April 21, 2020, at 13.

¹⁰ Mark Rothleder Statement, July 22, 2020, to CAISO Board of Governors (the CPUC “deferred the ultimate decision whether these resources need to be shown to be counted or whether they could be credited – we weighed in on that very clearly in that proceeding, and yet they have not made a decision consistent with our recommendation. They have deferred that and they’ve deferred that to later this year in track 4, and like I said earlier, probably not a decision until early next year. I don’t think that we should wait for that to occurring to proceed to do what we said we would do to support predispatch of demand response [“Slow” PDR]. I think that the thing that’s left hanging out there is how will we consider –uh- being that DR may not be shown but only credited through CPUC counting – what will we do – and I’ll say this, we do have some discretion, we exercise that discretion, however, exercising that discretion needs to be balanced with the risk to reliability when you’re relying on resources that are not operational and not shown to us. I think that risk increases so we have to balance that discretion with that operational risk.”) **Notably, after 7 days of BIP events during the 2020 heat storms with grid-saving performance, day after day, continued claims of “operational risk” or “risks to reliability” associated with BIP should be disregarded and, indeed, strongly discouraged.**

¹¹ The PRR went from initial filing to approval in just over 60 days, and the revised BPM appeal process for PRR 1280 deviates significantly from the normal course, with shortened response times and elimination of the appellant’s reply brief and stakeholders’ responsive briefs. Cf. Appeal Process for PRR 1280 (available here: <https://bpmcm.caiso.com/Lists/PRR%20Details/Attachments/1280/PRR%201280%20RA%20Credits%20BPM%20appel%20and%20Open%20Issues%20Timeline.pdf>) with Business Practice Manual Proposed Revision Request Appeal Process (available here: <http://www.caiso.com/Documents/BusinessPracticeManualChangeManagementAppealProcess.pdf>).

deploy DR resources during the recent August and September heat storms. During those heat storms, DR was called between 4-9 pm, and BIP/RDRR performed day after day after day, for 7 days. Notably, the majority of the BIP load is continuous, industrial manufacturing, which generally is not weather-sensitive and is available all hours of the year. BIP resources dependably helped reduce rolling blackouts in the energy crisis, were used by CAISO to resolve grid emergencies in 2014 and 2017 and were used by PG&E for local transmission emergencies in 2017, 2018, and 2019. BIP also responded successfully to a CAISO call in an SCE local capacity area in 2019 and 2020. BIP is highly reliable, with a long, strong history of performance.¹² Thus, the PRR is not needed now, and it actually risks wrongly discounting reliable, proven DR, i.e., BIP.

Further, as CLECA explained previously, the CAISO has still not resolved the barriers its own rules create if DR were required to be on supply plans. In the CPUC's Supply Side Working Group, parties developed a proposal to resolve the must offer obligations of DR resources that vary due to weather, but the CAISO rejected the proposal.¹³ Instead, CAISO staff sought application of an Effective Load Carry Capability (ELCC) methodology to count DR's qualifying capacity; however, the faulty DR ELCC study performed by E3 would devalue DR by about 50%.¹⁴ Both the supply plan requirement and the flawed ELCC counting approach would devalue DR and jeopardize the future of DR programs if implemented as proposed.

Notably, DR is a carbon-free resource, and the CPUC's express goal for DR is to "assist the state in meeting its environmental objectives ... and enable customers to meet their energy

¹² As BIP is RDRR, its use is not triggered by economic market conditions, but rather by system reliability conditions; accordingly, any potential concerns that past BIP performance may not be indicative of future BIP performance due to changed market economics would be misguided.

¹³ See Supply Side Working Group, CPUC R.13-09-011 (June 2019) Final Report at 29-30.

¹⁴ CAISO, Energy Storage and Distributed Energy Resource 4, (May 27, 2020) E3 Presentation: Demand Response ELCC, at slide 14 (available here: <http://www.aiso.com/InitiativeDocuments/E3Presentation-EnergyStorage-DistributedEnergyResourcesPhase4-May27-2020.pdf>).

needs at a reduced cost.”¹⁵ Many BIP participants are Emissions-Intensive, Trade-Exposed (EITE) entities;¹⁶ state agencies actively seek to keep these EITE entities within California and avoid leakage due to California’s Cap-and-Trade Program, as leakage would harm the State’s emissions reductions goals.¹⁷ If these carbon-free DR resources were devalued per this PRR, and the CAISO undertook backstop procurement, it is most likely that that CAISO procurement would be for fossil-fueled resources.¹⁸ This would regrettably and unnecessarily increase actual emissions, in addition to harming state policy goals to avoid leakage and reduce emissions. Critically, state law also compels the CAISO to “conduct its operations consistent with applicable state and federal laws and consistent with the interests of the people of the state.”¹⁹

The CAISO should recognize the ongoing supply constraints, DR’s critical role in maintaining reliability during the recent heat storms, and the potential for these negative impacts.

The PRR Undermines California’s Loading Order and California Law by Unduly Discriminating Against Demand Response, a Preferred Resource

The PRR contravenes state law and policy on the Loading Order which prefers energy efficiency and DR over all other resources.²⁰ While CAISO staff claims equal treatment of

¹⁵ CPUC D. 16-09-056, at 44-45.

¹⁶ The CLECA members all participate in BIP to help offset the high cost of electricity in California and to help maintain their industrial operations in the state; almost all CLECA members are EITE entities.

¹⁷ *See, e.g.*, CPUC D. 20-10-002 (ordering continuation of the provision of industry assistance to EITE entities); *see also* California Air Resources Board Allowance Allocation to Industrial Facilities (available here: <https://ww2.arb.ca.gov/our-work/programs/cap-and-trade-program/allowance-allocation/allowance-allocation-industrial>) (citing the state policy goal “to minimize emissions leakage while preserving incentives to maintain efficient production within California. Emissions leakage can occur when production moves out-of-state, so there appears to be a reduction in California’s greenhouse gas (GHG) emissions, but the production and emissions have been simply relocated”).

¹⁸ CLECA knows of no Capacity Procurement Mechanism procurement by the CAISO for carbon-free resources.

¹⁹ P.U. Code §345.5 (this statutory section continues with requirements that the CAISO “reduce, to the extent possible, overall economic costs to the state’s consumers ... minimizes cost impact on ratepayers ... [and] operates in furtherance of state law regarding consumer and environmental protection.”)

²⁰ *See* P.U. Code §454.5(c)(i) (“The electrical corporation shall first meet its unmet resource needs through all available energy efficiency and demand reduction resources that are cost effective, reliable, and feasible”).

resources, wind and solar are not subject to RAAIM, but the DR resources would be.²¹ Such discriminatory treatment is unwarranted, undue, and would be a basis for a challenge on grounds of unjust and unreasonable results at FERC. At a time of active calls for more DR due to the anticipated continued challenges to grid reliability over the next several years, the PRR could lead to the inappropriate discrimination against and discounting of long-standing, proven DR.

As the PRR Is Not Ministerial in Nature and Results in Potential Material Rate Impacts, a FERC Tariff Filing Is Required

FERC requires that operational changes with potential rate impacts and which are not ministerial in nature must be submitted as a tariff filing for FERC approval.²² Here, about 1,500 MW of DR that serve as system resources could be discounted by the CAISO pursuant to this BPM change, requiring duplicative, needless procurement to replace those preferred, carbon-free resources.²³ This will materially impact rates. Accordingly, the new requirement is not appropriate for the BPM; rather, it should be in a tariff filing submitted to FERC for approval.

The PRR Wrongly Infringes on the CPUC's Statutory Authority to Set RA Requirements, in Violation of the CAISO's Tariff

California state law is clear: the CPUC holds the statutory authority to set RA requirements. PU Code §380 provides:

*The **commission**, in consultation with the Independent System Operator, **shall establish resource adequacy requirements for all load serving entities ... [and] establish or maintain existing demand response products and tariffs ... that can meet or reduce an electrical corporation's resource adequacy requirements, as***

²¹ PRR1280_Initial_Comments_Matrix, CAISO Response (available here:

https://bpmcm.caiso.com/Lists/PRR%20Comments/Attachments/1914/PRR1280_Initial_Comments_Matrix.pdf).

²² Midwest Indep. Trans. Sys. Operator, Inc., 98 FERC ¶ 61,137, at 61,401 (2002), clarification granted, 100 FERC ¶ 61,262 (2002) (“It appears that the proposed Operating Protocols could significantly affect certain rates and services and as such are required to be filed pursuant to Section 205”).

²³ CPUC Staff Comments on CAISO's Business Practice Manual Change PRR-1280 (Sept. 15, 2020), at 2.

determined by the commission.²⁴

The CPUC has not adopted a requirement for a supply plan showing²⁵ (nor has it set a 20-minute response time as an eligibility criterion for demand response resources to serve as Local RA resources, a tangentially related topic).²⁶ Yet the CAISO's BPM change would abruptly reduce the LRA's crediting of RA based on a new CAISO staff criterion, imposed via a BPM change, of required inclusion of all DR on supply plans; as detailed above, this new criterion was never vetted in a full stakeholder process nor adopted by either the CAISO Board or the CPUC.

The CAISO's tariff is clear: "The CAISO *shall use the criteria provided by the CPUC or Local Regulatory Authority to determine* and verify, if necessary, *the Qualifying Capacity of all Resource Adequacy Resources.*"²⁷ However, here, a CAISO BPM change would result in a de facto disregard for the LRA's counting and crediting of DR, leading to CAISO backstop procurement.²⁸ This untenable result violates state law and the CAISO's own tariff.

Relief Requested

CLECA respectfully requests that the CAISO reverse the adoption of PRR 1280 and defer the issue until after the CPUC has addressed it in the ongoing RA proceeding. After that, the CAISO should engage in a stakeholder process to align its compliance evaluation and implementation of LRA adjustments with the CPUC's and other LRA RA requirements.

²⁴ P.U. Code §380(a), (b) (emphasis added).

²⁵ See generally, Rulemaking 17-09-020.

²⁶ See CPUC Decision 15-06-063, at 34-38; see also CPUC Decision 17-06-027, at 22; see also CPUC Decision 18-06-030, at 46-48; see also CPUC Decision 19-06-026, at 52.

²⁷ http://www.caiso.com/Documents/Section40_ResourceAdequacyDemonstrationForAllSchedulingCoordinators_as_of_Jun3_2015.pdf (emphasis added).

²⁸ The CAISO staff response to initial comments claims on the one hand: "The PRR relates to aspects of the RA program that are within the CAISO's tariff authority. LRAs may set their planning reserve margin and establish qualifying capacity methodologies. Nothing about PRR1280 intrudes on LRAs' ability to exercise their authority on those matters." Yet in the same response, CAISO staff states, "If LRA credits do no net to zero, then all of the credits would be rejected." PRR1280_Initial_Comments_Matrix, CAISO Response.