

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

**California Independent System            )       Docket No. ER18-\_\_\_\_-000  
Operator Corporation                    )**

**PETITION OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR  
CORPORATION FOR LIMITED TARIFF WAIVER**

The California Independent System Operator Corporation (CAISO) petitions for a limited tariff waiver to exempt certain demand response resources from the local and system Resource Adequacy Availability Incentive Mechanism (RAAIM) provisions in Section 40.9 of the CAISO tariff, thereby exempting such resources from the requirement to bid during CAISO’s availability assessment hours.<sup>1</sup> The Commission’s October 24, 2017, order in Docket No. ER17-2263 invited the CAISO to file a limited tariff waiver petition for affected demand response resources, while denying without prejudice a broader tariff waiver request.<sup>2</sup> The particular demand response resources the CAISO seeks to exempt from the must-offer availability assessment are affected demand response resources participating in the California Public Utilities Commission’s (CPUC) Demand Response Auction Mechanism (DRAM) with delivery

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<sup>1</sup> In effect, this limited waiver will exempt affected demand response in manner that is similar to the existing exemptions for Variable Energy Resources and Combined Heat and Power Resources pursuant to Section 40.9.2(b)(1) of the CAISO tariff. The affected demand response resources will continue to bid into CAISO markets during the hours designated by the CPUC in its Decision 10-06-036 for the term of this waiver unless modified sooner by a resource adequacy decision to align affected demand response with the applicable availability assessment hours.

<sup>2</sup> *Cal. Indep. Sys. Operator Corp.*, 161 FERC ¶ 61,088, at P 35 (2017), issued in Docket No. ER17-2263-000 (October 24 Order). The CAISO submits this petition for limited tariff waiver pursuant to Rule 207 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.207. References to sections herein are references to sections of the CAISO tariff unless otherwise stated.

obligations between April 2018 through October 2018, and April 2019 through October 2019. The subset of affected DRAM resources will be identified by the CPUC based upon its knowledge of the underlying contractual obligations between the demand response provider and the relevant investor-owned utility. The CAISO requests that the Commission grant this petition for limited waiver prior to April 1, 2018 in order to give demand response providers certainty regarding their RAIM obligations.

This petition for limited tariff waiver is consistent with the Commission's guidance in its October 24 Order. Due to a lack of alignment between the CAISO tariff provisions governing the periodic update of availability assessment hours and the qualifying capacity values underlying certain CPUC programs, demand response resources that have already made commitments to provide resource adequacy capacity in 2018 and 2019 may be unable to satisfy availability targets in the CAISO tariff and business practice manual (BPM). The affected demand response resources constitute less than 0.6 percent of all resource adequacy resources that provide local and/or system resource adequacy capacity.

The DRAM resources that are the subject of this waiver have made binding commitments through CPUC programs to provide resource adequacy capacity in 2018 and 2019 based on qualifying capacity values that differ from the availability assessment hours recently updated by the CAISO. The DRAM resources made these binding commitments based on the CPUC's resource adequacy assessment hours, which have not yet been updated to be consistent with the CAISO's availability assessment hours. As a result, the underlying

demand resources are designed to provide capacity during the period from 1:00 p.m. to 6:00 p.m. The underlying demand resources cannot be readily modified and these DRAM resources may therefore be unable to provide capacity during the updated availability assessment hours. This could cause demand response providers to violate contractual obligations to California investor-owned utilities, which require such resources to bid during the CAISO's applicable availability assessment hours.

The CAISO's proposed remedy is narrowly tailored to address this problem. The availability assessment hours applicable to other resources will not be affected by this waiver. The term of the proposed waiver is also limited to the 2018 and 2019 resource adequacy compliance years. This will allow the CAISO to work with the CPUC to ensure that its programs for procuring demand response resources to provide resource adequacy capacity beginning in 2020 will reflect qualifying capacity values that complement the availability assessment provisions of the CAISO tariff.

This waiver should have no undesirable consequences. Because the affected demand response resources constitute no more than 0.6 percent of all resource adequacy resources, this waiver will not significantly reduce the overall capacity available during hours of highest anticipated system need during the months of April through October in 2018 and 2019. As such, the CAISO does not expect this waiver to adversely affect reliability or increase costs significantly. In addition, affected demand response resources have indicated that they may terminate contracts if this waiver is not granted, thereby reducing the total

amount of resources available to the CAISO. Thus, subjecting the affected resources to the updated availability assessment hours during those months could prevent consumers from realizing the full range of additional benefits from increased participation of demand response resources in CAISO markets.

For these reasons, the Commission should grant this petition for limited tariff waiver.

## **I. Background**

### **A. Tariff Provisions for Establishing Availability Assessment Hours Applicable to Resources Supplying Local and/or System Resource Adequacy Capacity**

Section 40.9 of the CAISO tariff sets forth terms and conditions for assessing local and system resource adequacy capacity. This assessment involves using availability assessment hours – a concept that the CAISO and stakeholders originally developed as part of the CAISO’s standard capacity product and then retained when the CAISO implemented RAAIM.

Prior to the start of each resource adequacy compliance year, the CAISO establishes and publishes in the BPM the availability assessment hours applicable to resources providing local and/or system resource adequacy capacity for each month of the year.<sup>3</sup> Section 40.9.3.1(a)(2) of the CAISO tariff states that these availability assessment hours will be a defined set of five consecutive hours for each month that:

- (A) correspond to the operating periods when high demand conditions typically occur and when the availability of resource adequacy capacity is most critical to maintaining

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<sup>3</sup> CAISO tariff section 40.9.3.1(a)(1); CAISO tariff appendix A, definition of “Resource Adequacy Compliance Year.”

system reliability;

- (B) vary by season as necessary so that the coincident peak load hour typically falls within the five-hour range each day during the month, based on historical actual load data; and
- (C) apply to each trading day that is a weekday and not a federal holiday.

The CAISO published in the BPM for Reliability Requirements the following availability assessment hours for resources providing local and/or system resource adequacy capacity for each month of the 2017 resource adequacy compliance year: for January through March, November, and December, the availability assessment hours are 4:00 p.m. to 9:00 p.m.; and for April through October, the availability assessment hours are 1:00 p.m. to 6:00 p.m.<sup>4</sup>

#### **B. CAISO Proceeding to Establish Availability Assessment Hours for 2018**

On April 11, 2017, the CAISO issued a market notice pursuant to the CAISO tariff and the BPM for Change Management that announced Proposed Revision Request (PRR) No. 986, to establish availability assessment hours for the upcoming 2018 resource adequacy compliance year and to list those hours in the BPM.<sup>5</sup> The CAISO subsequently issued additional market notices and held meetings regarding PRR No. 986 (and other PRRs) that followed the regular PRR procedures for the CAISO and stakeholders to review and discuss

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<sup>4</sup> Business Practice Manual for Reliability Requirements, Version 33, at 99, available at <https://bpmcm.caiso.com/Pages/BPMDetails.aspx?BPM=Reliability%20Requirements>.

<sup>5</sup> See CAISO tariff sections 22.11.1.1 and 22.11.1.4; BPM for Change Management, sections 2.3 and 2.4.3. PRR No. 986 was entitled "Update Resource Adequacy Availability Incentive Mechanism Assessment Hours." The April 11 market notice and the other market notices discussed in this waiver petition are available at <http://www.caiso.com/Documents/BPMChangeManagementProposedRevisionRequestsPosted041117.html>.

proposed revisions to the BPMs.<sup>6</sup>

On June 6, 2017, the CAISO held a web conference to review the study methodology and proposed determination of availability assessment hours for the 2018 resource adequacy compliance year.<sup>7</sup> The web conference included a CAISO presentation on the study methodology and related data projected through 2020. The CAISO initially proposed that, for January through March, November, and December of 2018, the availability assessment hours for resources providing local and/or system resource adequacy capacity would continue to be 4:00 p.m. to 9:00 p.m. However, the CAISO proposed to revise the availability assessment hours applicable from April through October of 2018 so that they too would be 4:00 p.m. to 9:00 p.m.<sup>8</sup>

Some stakeholders supported the proposal, but the CPUC Staff and certain other stakeholders submitted comments raising serious concerns.<sup>9</sup> Although the CAISO considers all of the comments it received, the CPUC Staff's

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<sup>6</sup> See market notices issued April 18, 2017 (announcing BPM change management web conference held on April 25, 2017 and listing PRR No. 986 as a discussion item for the web conference), available at [http://www.caiso.com/Documents/BPMChangeManagementWebConferenceApril25\\_2017.html](http://www.caiso.com/Documents/BPMChangeManagementWebConferenceApril25_2017.html); May 2, 2017 (announcing a further stakeholder comment period regarding PRR No. 986 that would end on May 16, 2017), available at <http://www.caiso.com/Documents/BPMChangeManagementProposedRevisionRequestsPosted050217.html>; and May 16, 2017 (announcing BPM change management web conference held on May 23, 2017 and listing PRR No. 986 as a discussion item for the web conference), available at [http://www.caiso.com/Documents/BPMChangeManagementWebConferenceMay23\\_2017.html](http://www.caiso.com/Documents/BPMChangeManagementWebConferenceMay23_2017.html). See also CAISO tariff section 22.11.1.5; BPM for Change Management, section 2.4.5 (describing PRR process regarding proposed BPM revisions).

<sup>7</sup> See market notice issued May 25, 2017 (announcing June 6 web conference and requesting stakeholder comments by June 5, 2017), available at [http://www.caiso.com/Documents/Determination\\_2018AvailabilityAssessmentHours\\_WebConference060617.html](http://www.caiso.com/Documents/Determination_2018AvailabilityAssessmentHours_WebConference060617.html).

<sup>8</sup> CAISO presentation, *2018 Annual Review of Availability Assessment Hours* (June 6, 2017), available at [http://www.caiso.com/Documents/AgendaandPresentation\\_2018AnnualReviewofAvailabilityAssessmentHoursJun6-2017.pdf](http://www.caiso.com/Documents/AgendaandPresentation_2018AnnualReviewofAvailabilityAssessmentHoursJun6-2017.pdf).

<sup>9</sup> The submitted comments are available at <https://bpmcm.caiso.com/Pages/default.aspx>, under the link for PRR 986.

comments were particularly significant because the CPUC resource adequacy program procures a substantial portion of the resource adequacy capacity needed to ensure safe and reliable operation of the CAISO controlled grid. As part of the CPUC resource adequacy program, the CPUC establishes the methodology used to determine the qualifying capacity of each resource, *i.e.*, the amount of a resource's capacity that can count toward satisfying a load-serving entity's resource adequacy requirement.

The CPUC Staff expressed concerns that the proposal to revise the availability assessment hours for 2018 might be problematic for certain demand response resources that offered to provide resource adequacy capacity for 2018 based on qualifying capacity values calculated under the CPUC's Qualifying Capacity Manual, which were the same as those adopted for 2017. The CPUC Staff noted that, because the CPUC had already issued a proposed decision in its resource adequacy proceeding, it could not implement any additional changes to its qualifying capacity values in 2018. The CPUC Staff urged that changes to the resource adequacy measurement hours and the availability assessment hours should be coordinated so that the CPUC program can be consistent with the CAISO's implementation of its tariff, to avoid "a mismatch that may be problematic for some resources such as demand response."<sup>10</sup> The CPUC Staff also explained that short-listed bidders for demand response delivery for 2018 under the CPUC's DRAM have already received offers based on the existing

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<sup>10</sup> CPUC Staff Comments on PRR 986 at 1 (June 5, 2017), available at [https://bpmcm.aiso.com/Lists/PRR%20Comments/Attachments/1418/CPUC%20Staff%20Comments%20on%20PRR%20986\\_.docx](https://bpmcm.aiso.com/Lists/PRR%20Comments/Attachments/1418/CPUC%20Staff%20Comments%20on%20PRR%20986_.docx).

resource adequacy hours, and investor-owned utilities have already filed demand response applications for 2018-2022. As a result, DRAM bidders might need to terminate or modify offers already made in the CPUC program, seek exemptions, or cause the CPUC and the CAISO to assess resource adequacy compliance differently, “all of which are problematic.”<sup>11</sup>

Several stakeholders raised issues in their comments similar to those the CPUC Staff discussed. NRG Energy, Inc. (NRG) expressed its support for the CPUC Staff’s comments. NRG also stated that changing the availability assessment hours for 2018 could compel DRAM bidders to “reduce their commitment based upon changed RA [resource adequacy] requirements,” but that “invoking that provision means that bidders can only expect to receive reduced or no revenues from their Demand Response Auction Mechanism activities for 2018 and 2019, which is an unacceptable outcome.”<sup>12</sup> The Joint Demand Response Parties commented that revising the availability assessment hours for 2018 “will have significant and severe consequences for DR [demand response] resources including the DR Auction Mechanism (Demand Response Auction Mechanism) awardees” and thereby “destabilize[] the regulatory

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<sup>11</sup> *Id.* at 1-2. In its comments in Docket No. ER17-2263, the CPUC reiterated its support for maintaining the same availability assessment hours for 2018. The CPUC stated that changing the availability assessment hours “would lead to inconsistencies between CPUC and CAISO rules and have negative consequences for existing demand response contracts.” CPUC Notice of Intervention and Comments, Docket No. ER17-2263-000, at 2 (Aug. 29, 2017).

<sup>12</sup> NRG Comments on PRR 986 at 1 (June 13, 2017), available at <https://bpmcm.caiso.com/Lists/PRR%20Comments/Attachments/1420/NRG%20Comments%20on%20PRR%20986%20170613.pdf>.

framework over resource adequacy in California.”<sup>13</sup> The California Large Energy Consumers Association stated that revising the availability assessment hours for 2018 or 2019 “would be highly disruptive and might result in terminated contracts that undermine the results of the [Demand Response Auction Mechanism] auction” and that “[t]he worst outcome would be a mismatch between the CPUC and CAISO AAH [availability assessment hours].”<sup>14</sup>

At that time, the CAISO decided to address these concerns by seeking to maintain the 2017 availability assessment hours for 2018. The CAISO issued a market notice announcing that decision on June 28, 2017.<sup>15</sup> Because retaining the 2017 availability assessment hours in 2018 arguably was inconsistent with the provisions in section 40.9.3.1(a)(2)(B) of the CAISO tariff, the CAISO stated that its determination was subject to Commission approval.

**C. The CAISO Petition for Limited Tariff Waiver in Docket No. ER17-2263**

On August 8, 2017, the CAISO filed in Docket No. ER17-2263-000 a petition for limited waiver of section 40.9.3.1(a)(2)(B) of the CAISO tariff so that the CAISO could continue assessing the availability of all resources providing

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<sup>13</sup> Joint Demand Response Parties Comments on PRR 986 at 1-2 (June 5, 2017), available at <https://bpmcm.caiso.com/Lists/PRR%20Comments/Attachments/1417/JDRP's%20Protest%20to%20CAISO%20PRR%20986.pdf>.

<sup>14</sup> California Large Energy Consumers Association Comments on PRR 986 at 1 (May 31, 2017), available at <https://bpmcm.caiso.com/Lists/PRR%20Comments/Attachments/1414/PRR%20986%20CLECA%20comments%205-31-17.pdf>. EnerNOC, Inc. (EnerNOC) provided comments similar to those discussed above in the Commission proceeding that resulted in the issuance of the October 24 Order. See EnerNOC Motion to Intervene and Comments, Docket No. ER17-2263-000, at 6-7, 12-14 (Aug. 29, 2017).

<sup>15</sup> See CAISO tariff section 22.11.1.5 (setting forth provisions on issuance of a PRR decision); BPM for Change Management, sections 2.4.8-2.4.9 (same); June 28, 2017, market notice, available at <http://www.caiso.com/Documents/PRR986BPMChangeManagementFinalDecision-BPMPosted062817.html>.

local and/or system resource adequacy capacity using the same availability assessment hours for 2018 as it did for 2017. The CAISO supported the waiver based on concerns that adopting different availability assessment hours for 2018 could create problems for demand response resources that had already committed to provide resource adequacy capacity for 2018 based on the CPUC's methodology.

On October 24, 2017, the Commission denied the August 8 petition without prejudice, on the grounds that the CAISO had not satisfied all the criteria for granting a waiver.<sup>16</sup> Regarding the criterion that a waiver must be limited in scope, the Commission stated that the number of “demand response providers that require relief . . . appears to be relatively small compared with the total number of resource adequacy resources subject to the availability assessment hours.”<sup>17</sup> However, the Commission found that the CAISO's waiver request “affects the availability assessment hours applied to all non-exempt resource adequacy resources providing system and local capacity and not solely the demand response providers that require relief.”<sup>18</sup> The Commission concluded that the CAISO had not shown that “the small amount of [demand response] resources requiring relief justifies or requires the proposed scope of the waiver CAISO requests.”<sup>19</sup>

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<sup>16</sup> October 24 Order at P 29.

<sup>17</sup> *Id.* at 30.

<sup>18</sup> *Id.* (citation omitted).

<sup>19</sup> *Id.*

Regarding the criterion that a waiver must not have undesirable consequences, the Commission found that granting the waiver “could result in weakening the incentives for resources to be available at the times of highest anticipated system need,” which could “potentially cause undesirable consequences such as decreased reliability and increased costs” given the waiver petition’s “current scope.”<sup>20</sup> The Commission also stated that the CAISO “cannot solely rely on the fact that these availability assessment hours were in place in 2017 as evidence that there will be no undesirable consequences.”<sup>21</sup> The Commission noted the argument that “a countervailing undesirable consequence from denying CAISO’s request for waiver would be that demand response resources may be unavailable to CAISO markets.”<sup>22</sup> The Commission found, however, that the “CAISO has not presented evidence that the loss of these resources would undermine reliability or the efficient operation of the grid.”<sup>23</sup> Further, the Commission found that “the demand response resources that require the relief provided by the requested waiver in order to participate in the resource adequacy program would be available for the 1pm to 6pm hours, but it is uncertain whether they would be able to participate from 6pm to 9pm.”<sup>24</sup> For these reasons, the Commission concluded that “the value lost through the unavailability of those resources to be limited compared with the negative

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<sup>20</sup> *Id.* at P 31.

<sup>21</sup> *Id.* at P 32.

<sup>22</sup> *Id.* at P 33.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

impacts discussed above.”<sup>25</sup>

Nevertheless, the Commission found that “CAISO has potentially identified a problem. Demand response resources provide valuable contributions to CAISO’s system and should not be unnecessarily prevented from participating in CAISO markets due to misalignment between CAISO and CPUC processes.”<sup>26</sup> Therefore, the Commission explained that its rejection of the waiver petition was “without prejudice to CAISO presenting the Commission with a [new] limited waiver request that directly addresses the problem of demand response participation without creating undesirable consequences for the resource adequacy program.”<sup>27</sup> The Commission further stated that “[s]hould CAISO decide to request a limited waiver, it should clearly identify the problem to be remedied by the waiver, including the scope of the resources that would be denied participation in CAISO markets without a waiver and how the waiver request is narrowly tailored to address this problem.”<sup>28</sup>

Because the Commission denied the waiver, the CAISO updated the availability assessment hours, changing the five-hour block for the months of April through October of 2018 from 1:00 p.m. - 6:00 p.m. to 4:00 p.m. - 9:00 p.m.

#### **D. Demand Response Programs in California**

The purpose of the CPUC’s DRAM program is to procure demand response resources that are required to make offers and serve as resource

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<sup>25</sup> *Id.*

<sup>26</sup> *Id.* at P 35.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

adequacy capacity in the CAISO markets. A 2014 CPUC decision required the three large investor-owned utilities in California (Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company) to design and implement DRAM pilot programs for demand response resources providing qualifying capacity that included auctions to be held in 2015 and 2016 for deliveries in 2016 and 2017, respectively.<sup>29</sup> The CPUC issued a decision in 2016 that required the investor-owned utilities to continue the DRAM pilot programs and required auctions to be held in 2017 for deliveries in 2018 and 2019.<sup>30</sup>

The investor-owned utilities also administer various demand response programs which are overseen by the CPUC.<sup>31</sup> Resources from these programs can participate in the CAISO markets as proxy demand resource (PDR) or reliability demand response resource (RDRR) products.<sup>32</sup>

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<sup>29</sup> *Order Instituting Rulemaking to Enhance the Role of Demand Response in Meeting the State's Resource Planning Needs and Operational Requirements – Decision Resolving Several Phase Two Issues and Addressing the Motion for Adoption of Settlement Agreement on Phase Three Issues*, CPUC Decision 14-12-024 (Dec. 9, 2014), available at <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M143/K552/143552239.pdf>.

<sup>30</sup> *Order Instituting Rulemaking to Enhance the Role of Demand Response in Meeting the State's Resource Planning Needs and Operational Requirements – Decision Adopting Bridge Funding for 2017 Demand Response Programs and Activities*, CPUC Decision 16-06-029 (June 9, 2016), available at <http://docs.cpuc.ca.gov/publisheddocs/published/g000/m163/k467/163467479.pdf>. See also *Approval with Modifications to Southern California Edison Company, Pacific Gas and Electric Company, and San Diego Gas & Electric Company's Demand Response Auction Mechanism Pilot for 2018-2019*, CPUC Energy Division Resolution E-4817 (Jan. 19, 2017), available at <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M172/K765/172765001.PDF>.

<sup>31</sup> See the materials linked to <http://www.cpuc.ca.gov/General.aspx?id=5926>.

<sup>32</sup> See *Cal. Indep. Sys. Operator Corp.*, 134 FERC ¶ 61,004, at PP 2-3 (2011); *Cal. Indep. Sys. Operator Corp.*, 144 FERC ¶ 61,047, at PP 9, 38 (2013). See also CAISO tariff sections 4.13, 11.6, 30.6, 34.8, 34.18, and 40.6.12 and subsections thereto of the CAISO tariff (setting forth provisions regarding PDRs and RDRRs) and appendix B.14 to the CAISO tariff (containing *pro forma* demand response provider agreement). Some of those tariff provisions also address

The CAISO expects that approximately 200 megawatts of capacity that participated in the DRAM to provide resource adequacy capacity in 2018. This represents approximately 0.4 to 0.6 percent of all resource adequacy resources that are expected to provide system resource adequacy capacity during the summer months in 2018.<sup>33</sup>

## **II. Petition for Limited Tariff Waiver**

Good cause exists for the Commission to grant a limited waiver of CAISO tariff section 40.9, to exempt affected demand response resources providing local and/or system resource adequacy capacity from the obligation to bid during the CAISO's availability assessment hours. The affected demand response resources are those participating in the CPUC's DRAM with delivery obligations between April 2018 through October 2018, and April 2019 through October 2019. The CAISO understands that the CPUC will work with the various demand response providers to identify the specific DRAM resources affected. The CPUC's Director for its Energy Division will then transmit the list of affected resources to the CAISO to exempt specific affected demand response resources from the requirement to bid during the availability assessment hours.

The Commission has previously granted requests for tariff waivers where (1) the applicant acted in good faith, (2) the waiver was of limited scope, (3) the

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participating load, but participating load is expressly excluded from the definition of a "Demand Response Resource" set forth in appendix A to the CAISO tariff.

<sup>33</sup> See Division of Market Monitoring Q3 Report on Market Issues and Performance, p. 77, which shows monthly system resource adequacy requirements between 36,000 to 51,000 megawatts during summer months in 2017, available at <https://www.aiso.com/Documents/2017ThirdQuarterReport-MarketIssuesandPerformance-December2017.pdf>.

waiver addressed a concrete problem, and (4) the waiver did not have undesirable consequences, such as harming third parties.<sup>34</sup> This waiver petition meets all four conditions.

Section 40.9 of the CAISO tariff requires the CAISO to determine the availability of resources providing local and/or system resource adequacy capacity during the availability assessment hours each month and then assess the resultant availability incentive payments and non-availability charges through the CAISO's settlements process. This limited tariff waiver would exempt the affected demand response resources from these provisions in a manner similar to the existing exemptions for Variable Energy Resources and Combined Heat and Power Resources contained in Section 40.9.2(b)(1) of the CAISO tariff.

This waiver petition addresses the concrete problem that arises because of a disconnect between certain values used in CPUC programs directing investor-owned utilities to procure resource adequacy capacity from demand response and the CAISO tariff requirements governing the update of availability assessment hours. Specifically, the demand response resources that are the subject of this waiver have made binding commitments through CPUC programs to provide resource adequacy capacity in 2018 and 2019 based on qualifying capacity values that differ from the availability assessment hours recently updated by the CAISO. As explained above, the CAISO recently updated the availability assessment hours for April through October of 2018 from 1:00 p.m. -

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<sup>34</sup> See, e.g., *Cal. Indep. Sys. Operator Corp.*, 158 FERC ¶ 61,072, at P 5 (2017); *N.Y. Indep. Sys. Operator, Inc.*, 146 FERC ¶ 61,061, at P 19 (2014); *PJM Interconnection, L.L.C.*, 146 FERC ¶ 61,041, at P 5 (2014); *ISO New England, Inc.*, 134 FERC ¶ 61,182, at P 8 (2011).

6:00 p.m. to 4:00 p.m. - 9:00 p.m.

The demand response resources covered by this waiver may be unable to provide capacity during the updated availability assessment hours, which could cause the resources to violate contractual obligations to California investor-owned utilities that currently require resources to bid during the CAISO's applicable availability assessment hours. Because the underlying demand resources are designed to provide capacity during the previously effective availability assessment hours, the changes to the availability assessment hours could result in reduced revenues for these resources through the CPUC programs, or prevent these resources from participating in the CAISO markets. Even though the affected demand response resources currently constitute only a small percentage of all resource adequacy capacity, the problem is significant for those resources.<sup>35</sup> Because these demand response resources often rely on contractual arrangements with third parties to provide load shedding during specific periods and under specific conditions, the demand response resources cannot be easily reconfigured to provide capacity during the CAISO's availability assessment hours. Rather than penalizing these resources based on the mismatch between the CAISO and CPUC assessment hours, the CAISO's proposal allows for a reasonable transition period that allows the CPUC to update its resource adequacy assessment hours in its annual resource adequacy

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<sup>35</sup> There is no Commission requirement that the concrete problem addressed by a petition for tariff waiver must be a large-scale problem. For example, the Commission has previously granted a petition for tariff waiver to extend a procedural deadline in order to prevent the interconnection request of a single interconnection customer from being deemed terminated and withdrawn from a generator interconnection queue. *Jordan Creek Wind Farm LLC*, 162 FERC ¶ 61,001, at PP 9-11 (2018).

proceeding, thereby mitigating any potential negative impacts to existing demand response resources.

Encouraging demand response resource participation in the CAISO markets is consistent with Commission policy. In Order No. 719, the Commission explained that its

policy has been, and continues to be, to identify and eliminate barriers to participation of demand response resources in organized power markets. Development of demand response resources provides benefits to consumers by providing competitive pressure to reduce wholesale power prices, providing for the more efficient operation of organized markets, helping to mitigate market power and enhance system reliability, and encouraging development and implementation of new technologies, including renewable energy and energy efficiency resources, distributed generation and advanced metering.<sup>36</sup>

The Commission's orders accepting CAISO tariff revisions have highlighted the benefits of demand response resources participating in the CAISO markets.<sup>37</sup> In its October 24 Order, the Commission again recognized that "[d]emand response resources provide valuable contributions to CAISO's system." The inability of the affected demand response resources to provide resource adequacy under the updated availability assessment hours for April through October in 2018 and 2019 would prevent consumers from realizing these

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<sup>36</sup> *Wholesale Competition in Regions with Organized Electric Markets*, Order No. 719, FERC Stats. & Regs. ¶ 31,281, at P 48 (2008) (Order No. 719).

<sup>37</sup> *See, e.g., Cal. Indep. Sys. Operator Corp.*, 156 FERC ¶ 61,110, at P 10 (2016) ("CAISO's adoption of the NAESB metering generator output methodologies for calculating demand response performance will allow for greater participation by, and more accurate measurement of energy storage and behind-the-meter resources participating in CAISO's markets, thereby promoting enhanced competition in the wholesale markets."); *Cal. Indep. Sys. Operator Corp.*, 155 FERC ¶ 61,224, at P 107 (2016) ("We note that CAISO's proposal does not preclude demand response solutions and we encourage all involved to deploy demand side alternatives to the fullest extent possible.").

benefits from demand response.

The CAISO has acted in good faith because it seeks to address a significant issue identified by the CPUC and other stakeholders in a manner consistent with the direction provided by the Commission in its October 24 Order.

The tariff waiver is of limited scope because it applies solely to the provisions in section 40.9 as they concern affected demand response resources.<sup>38</sup> Unlike the waiver petition the Commission denied in its October 24 Order, this waiver will not affect the availability assessment hours applicable to the vast majority of resources providing resource adequacy capacity. As explained above, the demand response resources participating in the DRAM and other demand response programs constitute only about 0.4 to 0.6 percent of all resource adequacy resources that provide local and/or system resource adequacy capacity; the subset of affected demand response resources subject to this waiver must necessarily constitute an equal or smaller percentage. Exempting these resources from the must-offer availability assessment means that the affected resources will not be assessed for the purpose of RAAIM. This tariff waiver is temporary because it will only apply to the availability assessment hours for April through October of 2018 and of 2019. This temporary tariff waiver will allow the CAISO to coordinate with the CPUC to ensure that the CPUC's programs for procurement of demand response resources to provide resource adequacy capacity beginning in 2020 will reflect qualifying capacity values that are consistent with the provisions of the CAISO tariff governing availability

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<sup>38</sup> Cf. October 24 Order at PP 30, 35.

assessment.

The CPUC will have an opportunity to align its resource adequacy assessment hours with the CAISO's availability assessment hours in its 2018 resource adequacy proceeding. The CPUC has already explicitly noted that this is a time-sensitive matter that will be addressed in a CPUC decision to be issued in June 2018.<sup>39</sup> The CAISO intends to introduce its 2017 availability assessment hours study into the CPUC's resource adequacy proceeding to provide an evidentiary basis on which the CPUC can adopt new resource adequacy assessment hours.

Based on information provided by the CPUC, the CAISO understands that certain DRAM resources, which are typically provided by third-party demand response aggregators, have contracts with end-use customers that are based on the CPUC's current resource adequacy assessment hours (1:00 p.m. to 6:00 p.m.) and extend through the 2019 resource adequacy compliance year. The DRAM contracts that have been executed based on the CPUC's current resource adequacy assessment hours cannot be readily modified without significant potential impacts to third-party demand response providers. To ensure that California maintains a robust and competitive demand response market, this waiver would apply to all affected DRAM resources for the April through October periods of 2018 and 2019.

Lastly, this waiver has no undesirable consequences. Because the

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<sup>39</sup> *Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge*, CPUC Rulemaking 17-09-020 (January 18, 2018) at p. 7, available at <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M205/K706/205706239.PDF>.

affected demand response resources are expected to constitute no more than 0.6 percent of all resource adequacy resources during the summer of 2018 and 2019, this waiver will not significantly reduce the overall capacity available during hours of highest anticipated system need during the months of April through October in 2018 and 2019. As such, the CAISO does not anticipate that this tariff waiver will have an adversely impact on reliability or increase costs significantly. On the other hand, requiring that the availability of the affected resources be evaluated using the updated availability assessment hours during those months could harm resources that made commitments in the CPUC programs in good faith. Denying this waiver also could diminish demand response participation, preventing consumers from realizing the full range of additional benefits from increased participation of demand response resources in the CAISO markets.

For these reasons, good cause exists to grant the CAISO's request for limited waiver of section 40.9.

### **III. Service**

The CAISO has served copies of this filing on the CPUC, the California Energy Commission, all parties with Scheduling Coordinator Agreements under the CAISO tariff, and all parties in the proceedings in which the Commission issued the October 24 Order (Docket No. ER17-2663). In addition, the CAISO has posted a copy of this filing on the CAISO website.

### **IV. Conclusion**

For the foregoing reasons, the Commission should find that good cause exists to grant this petition for limited waiver of tariff section 40.9 with regard to

the affected demand response resources providing local and/or system resource adequacy capacity for April through October of 2018 and of 2019. The CAISO requests that the Commission grant this petition for limited waiver prior to April 1, 2018 in order to give demand response providers certainty regarding their RAIM obligations.

Respectfully submitted,

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