

**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
(Filed January 25, 2007)

**OPENING COMMENTS OF CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION,
CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION, DIVISION OF RATEPAYER
ADVOCATES, ENERNOC, INC., PACIFIC GAS AND ELECTRIC COMPANY (U 39-E), SAN DIEGO
GAS & ELECTRIC COMPANY (U 902-E), SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E),
AND THE UTILITY REFORM NETWORK ON PROPOSED DECISION ADOPTING AGREEMENT
ON PHASE 3 ISSUES PERTAINING TO EMERGENCY TRIGGERED DEMAND RESPONSE
PROGRAMS**

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Dated: June 14, 2010

OPENING COMMENTS OF CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION, CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION, DIVISION OF RATEPAYER ADVOCATES, ENERNOC, INC., PACIFIC GAS AND ELECTRIC COMPANY (U 39-E), SAN DIEGO GAS & ELECTRIC COMPANY (U 902-E), SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E), AND THE UTILITY REFORM NETWORK ON PROPOSED DECISION ADOPTING AGREEMENT ON PHASE 3 ISSUES PERTAINING TO EMERGENCY TRIGGERED DEMAND RESPONSE PROGRAMS

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OPENING COMMENTS OF CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION, CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION, DIVISION OF RATEPAYER ADVOCATES, ENERNOC, INC., PACIFIC GAS AND ELECTRIC COMPANY (U 39-E), SAN DIEGO GAS & ELECTRIC COMPANY (U 902-E), SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E), AND THE UTILITY REFORM NETWORK ON PROPOSED DECISION ADOPTING AGREEMENT ON PHASE 3 ISSUES PERTAINING TO EMERGENCY TRIGGERED DEMAND RESPONSE PROGRAMS

Pursuant to Rule 14.3 of the California Public Utilities Commission’s (Commission) Rule of Practice and Procedure, the California Independent System Operator Corporation (ISO), California Large Energy Consumers Association (CLECA), Division of Ratepayer Advocates (DRA), EnerNOC, Inc. (EnerNOC), Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), Southern California Edison Company (SCE), and The Utility Reform Network (TURN) (collectively, the Settling Parties) submit the following comments to the Proposed Decision of ALJ Sullivan to the “Decision Adopting Settlement Agreement on Phase 3 Issues Pertaining to Emergency Triggered Demand Response Programs.”¹

The PD considers and adopts, without modification, the settlement agreement which the Settling Parties submitted in compromise of their respective positions and in resolution of the

¹. Issued May 25, 2010 (“Proposed Decision or PD”), accessible on the CPUC’s website at <http://docs.cpuc.ca.gov/eFile/PD/118408.pdf>.

outstanding issues in Phase 3 of this proceeding.² The Settling Parties concur in and support the PD's determination that the Settlement:

- satisfies the procedural requirements of Rule 12.1(a) [timeliness] and (b) [public notice and settlement conference]³;
- satisfies the substantive requirements of Rule 12.1 (d) [reasonableness in light of the whole record, consistency with the law, and in the public interest] ⁴
- resolves all outstanding issues in Phase 3 of this proceeding; and
- that the Settlement shall be adopted and effective immediately.⁵

The Settling Parties offer these comments to clarify certain aspects of the summary and description of the settlement in Section 3.2 [Summary of the Settlement] of the PD.

I. PERTINENT BACKGROUND

As noted in the Final Decision issued August 20, 2009 in Application (A.) 08-06-001 *et al.* (regarding the IOUs' 2009 – 2011 DR program portfolios),

In 2008, the Commission initiated Phase 3 of R.07-01-041 to examine more closely the amount and type of emergency-triggered demand response that is needed for system reliability and may appropriately be triggered in response to a system Stage 1, 2, or 3 emergency, and the amount that can or should be transitioned to price-responsive triggers more integrated with the [ISO's] new markets. Phase 3 of R.07-01-041 is intended to determine the direction of emergency-triggered programs, such as the appropriate amount of capacity (in megawatts) to enroll in these programs, and how to transition any excess capacity to non-emergency programs with price responsive triggers integrated with the CAISO's new markets.⁶

² The settlement agreement executed by the Settling Parties is attached to the Proposed Decision as Appendix A (Settlement) and accessible on the CPUC website at <http://docs.cpuc.ca.gov/efile/PD/118409.pdf> .

³ PD at Section 3.1, p. 9 and Conclusion of Law No. 1

⁴ PD at Section 4.5, p. 20 and Conclusion of Law No. 2.

⁵ PD at Conclusion of Law No. 3.

⁶ Decision 09-08-027, modified by Decision 10-03-003 on unrelated issues, at, pp. 29-30. . As noted in the PD at issue in these comments, D.09-08-027 imposed the interim caps on the IOUs' emergency-triggered DR programs pending the outcome of the issues as addressed in this proceeding.

As noted in the PD, the Settling Parties have reported that the Alliance for Retail Energy Markets (AReM), a party to Phase 3, did not join the Settlement, but has informed the Settling Parties that it does not oppose the Settlement.⁷ Moreover, no party filed comments in opposition to the Settling Parties' February 22, 2010 Joint Motion and Settlement.⁸

II. SUMMARY OF THE SETTLEMENT AND RECOMMENDED MODIFICATIONS TO THE PD

The PD notes the following key features of the Settlement:

A. Transition to Price-Responsive DR Product [PD Section 3.2.2]

The PD notes that one goal of the Settlement is to reduce the amount of emergency-triggered or reliability-triggered DR from the current level of 3.5% of system peak to 2% of system peak, consistent with the ISO's estimate of the amount of reliability-triggered DR that is useful to ISO grid management while retaining customers as part of such DR programs in ways that can decrease the cost of system peaks.⁹ In this section as well as others of the PD, the PD refers to reliability triggered DR "receiving RA [*i.e.*, Resource Adequacy] payments." The Settling Parties recommend that the PD be amended to replace references to DR "receiving RA payments" with reference to DR which "counts toward Resource Adequacy," as more accurately describing the Settlement. In this regard, the Settlement addresses a cap on the number of megawatts in emergency-triggered and reliability-triggered programs which count for RA but does not address the subject of RA payments, or, in particular, what payment *amounts* are appropriate now or in the future. Moreover, while generating resources may receive RA payments for participation as Resource Adequacy qualifying capacity resources, any capacity credit that DR programs receive under retail tariffs are not called or considered necessarily as RA payments.

⁷ See PD at Section 1, p.8 and Section 3.1 p.9.

⁸ PD at Section 1, p.8.

⁹ PD at p. 10.

B. Caps on the Amount of Reliability-Triggered DR Qualifying for Resource Adequacy [PD Section 3.2.2].

Again, the PD refers to DR subject to the Settlement cap as emergency-triggered or reliability-triggered DR “that may receive an RA payment.” As indicated above, the Settling Parties recommend that the PD be amended to replace “that may receive/receiving/receives RA payments” with “that counts toward Resource Adequacy.” In this regard, the focus of the settlement, the caps it establishes, and its transition toward those caps is more accurately and usefully described as caps regarding programs that count toward Resource Adequacy requirements rather than described as receiving RA payments.

C. The ISO Wholesale Reliability DR Product [PD Section 3.2.4]

The PD indicates in this section that the ISO Reliability Demand Response Product (RDRP) will replace the IOU emergency programs and that, once RDRP is completed, retail customers remaining in such programs will transition from IOU programs to the RDRP. These statements do not precisely describe the situation. The IOU programs will be reconfigured and interface with the ISO market through RDRP. Customers will not directly transition to RDRP; rather, they will remain enrolled in the reconfigured emergency programs.

The purpose of the ISO RDRP product is to provide a mechanism to integrate into the wholesale market reliability-triggered programs and emergency-triggered programs.¹⁰ RDRP will be available for any emergency-triggered program or reliability-triggered program, whether or not that retail program resource qualifies for Resource Adequacy. However, under the Settlement, the IOU emergency-triggered and reliability-triggered programs that the CPUC designates as counting for RA will be limited in MW size to the Settlement cap (which, in 2012 is 3% of system peak (roughly 1,721 MW) and moves down by year 2014 to 2% of system peak

¹⁰ Price responsive programs already have the ability to participate in the wholesale market either through the ISO’s current Participating Load mechanism, or through the pending Proxy Demand Resource product, intended for launch this summer. Accordingly, price responsive programs are not intended to participate in RDRP.

(roughly 1,000 MW)).¹¹ The RDRP is the mechanism that will enable the integration of emergency-triggered DR programs into the ISO market. Accordingly, the RDRP product will not replace IOU emergency-triggered and reliability-triggered programs, but, rather, will enable their integration with the ISO market.

These retail programs may require some reconfiguration to participate in RDRP. On the wholesale side, the DR programs participating in RDRP will be treated analogously to use-limited resources that will be triggered at a point immediately prior to the ISO's need to canvas neighboring balancing authorities and other entities for available exceptional dispatch energy or capacity. Once triggered, the programs within the RDRP product will be inserted into the ISO supply stack at a bid price and, at that point, dispatched economically.

Accordingly, the retail customers who remain in the emergency- and reliability-triggered programs will not participate directly in the ISO market, but, rather, will continue to participate in their emergency-triggered DR programs, and it is the *programs, as reconfigured*, which will utilize the new RDRP product. Some modification of the PD's discussion of the RDRP product in Section 3.2.4 is necessary, as more fully discussed below, to clarify that (1) the RDRP product will not replace the existing IOU emergency-triggered DR programs and reliability-triggered DR programs, but, rather, serve as a mechanism to integrate those retail programs into the wholesale market; and (2) rather than transitioning retail *customers* to RDRP, the Settlement provides for the transition of retail *programs* (that count for RA) into RDRP. Finally, as noted above, the Settling Parties recommend replacing the phrase "qualifies for Resource Adequacy Payment," "receives an RA payment" and similar phrases in Section 3.2.3 (and in all places where they appear in the PD) with the phrase "counts for Resource Adequacy."

¹¹ Of significance for third party demand response providers, and other potential demand response providers of non-IOU load serving entity customers, the product will be available to for these parties to participate as well.

D. Halt of Customer Recruiting Activities for A/C Cycling Programs [PD at Ordering Paragraph 1(h)]

At Ordering Paragraph 1(h), the PD permits continued customer recruiting for any A/C Cycling program that has been accepted by the Commission as of the date of the decision. The Settling Parties note that this existing text could be interpreted to require a halt to PG&E's current A/C cycling program recruitment until the Commission approves the addition of a price trigger to the program, which is currently pending before the Commission in A 09-08-018. The Settling Parties believe that this result may be inadvertent. Accordingly, the Settling Parties request that the PD be modified to expand the ordering paragraph to state that it does not restrict continued customer recruitment of any A/C Cycling program with a price trigger proposal which is currently pending before the Commission.

III. SPECIFIC MODIFICATIONS RECOMMENDED FOR THE PD

The Settling Parties recommend the following specific modifications to the PD. These modifications are presented by way of "blackline" (marked) text, referenced by the sections of the PD:

1. Summary

This decision adopts a Settlement Agreement.... In addition, it reduces the amount of reliability-based and emergency-triggered demand response programs that ~~qualify count~~ count for Resource Adequacy ~~payments~~ from the current 3.5% of system peak to 2% of system peak in 2014. Even as the Settlement adopts caps on the amount of MW ~~that qualify count for Resource Adequacy payments~~, the Settlement removes the current enrollment caps on reliability-based and emergency-triggered demand response programs. (PD at Section 1, pp.1-2.)

...

Under the Settlement, the reliability-based and emergency-triggered demand response programs will be changed This new practice would eliminate the anomalous treatment whereby emergency-triggered demand response ~~receives~~ counts for Resource Adequacy payments, yet, unlike all other power that ~~receives~~ counts for Resource Adequacy payments (PD at Section 1, p.2.)

3.2 Summary of the Settlement

The material terms of the settlement includecaps on the amount of reliability-triggered DR that ~~qualifies~~ counts for an RA payment.... (PD at Section 3.2, p.9.)

3.2.2 Transition to a Price Responsive DR Product

One goal of this Settlement is to reduce the amount of emergency-triggered or reliability-triggered DR ~~receiving RA payments~~ which counts toward RA requirements from the current 3.5% of system peak to 2% of system peak, consistent with the CAISO’s estimate of the amount of reliability-triggered DR that is useful to its management of the California grid while still retaining the customers as part of the DR program in ways that can decrease the cost of system peaks. (PD at Section 3.2.2, p. 10.)

3.2.3 Caps on the Amount of Reliability-Triggered Demand Response that Qualifies for Resource Adequacy Agency Payment¹²

The transition to price-responsive DR is part of the Settlement’s strategy to meet the caps on the size of emergency-triggered or reliability-triggered DR programs that ~~may receive an RA payment~~ count for RA. Specifically, as part of the Settlement, the Settling Parties have agreed to the following caps on reliability-triggered DR ~~receiving RA payments~~ that counts for RA: (PD at Section 3.2.2, p. 12.)

¹² It appears that the word “agency” was mistakenly used for “adequacy” in the transcription of the PD.

- A limit on reliability-triggered DR ~~receiving an~~ that counts for RA payment, calculated as a percentage of system peak as follows:

....

Although the Settlement adopts firm caps on the size of emergency-triggered or reliability-triggered DR that ~~qualifies for RA payments~~ that counts for RA, a condition of settlement is the elimination of the May 2010 enrollment caps on reliability-triggered or emergency-triggered DR. [fn] Thus, the reliability-triggered DR programs will become and remain open even as the utilities must manage a reduction in the size of those programs to meet the Settlement's caps on reliability-triggered DR programs ~~receiving RA payments~~ that counts for RA. (PD at Section 3.2.2, p. 13.)

In addition.... Furthermore, the Settlement does not preclude IOUs from proposing other reliability-triggered DR products, but any product that ~~receives a RA payment~~ that counts for RA would count ~~for~~ against the cap. Any new product would require Commission approval. (PD at Section 3.2.2, p. 13.)

3.2.4 The CAISO Wholesale RDRP Product

Another key element of this settlement is the design of a new reliability-triggered DR product that will ~~replace the current emergency-triggered DR product~~ serve as the mechanism through which the IOU emergency-triggered and reliability-triggered programs will be integrated into the CAISO market. A goal of this new product is to improve the cost-effectiveness of reliability-triggered DR by enabling it to work better in the CAISO's dispatch sequence. (PD at Section 3.2.4, p.13.)

...

Thus, following the adoption of this Settlement, those IOUs who desire to receive resource adequacy treatment for their reconfigured emergency- and ~~those customers who desire to remain on~~ reliability-triggered DR programs must transition to integrate those programs into the wholesale market using this new product, and the programs, as

reconfigured, will be reviewed by which the Commission will review in the new 2012-2014 program cycle. (PD at Section 3.2.4, p.15.)

Discussion

The settlement, as described above.... Finally, the Settlement reduces the overall size of the reliability-triggered power ~~qualifying for RA payments~~ counting for RA. (PD at Section 4, p.15.)

4.6 Further Directions Concerning the 2011 Demand Response Filing of the Utilities

...

A goal of the Commission.... This provision of the settlement (as well as the ~~capping of cap on the amount of MW RA payments~~ for reliability triggered DR that counts for RA) is consistent with the Commission's overall policy goals. (PD at Section 4.6, p.20.)

To facilitate the Commission in determining the "appropriate action concerning 'oversupply'"[fn] in order to ensure that ~~neither RA payments nor other~~ ratepayer funds do not subsidize reliability-triggered DR in amounts that exceed the settlement caps.... For this reason, we will require that in the filing of the 2011 applications, each utility will propose in its application a plan as to how it will limit enrollment in reliability-triggered DR programs in accordance with the settlement caps as well as a regulatory mechanism that ensures that ~~neither RA payments nor other~~ ratepayer funds will not subsidize the tariff provision of reliability-triggered DR if an oversupply is determined (PD at Section 4.6, pp.20-21.)

Findings of Fact

8. The Settlement Agreement:

...

- c. reduces the amount of power ~~eligible to receive~~ associated with emergency-triggered and reliability-triggered programs which counts for Resource Adequacy payments from the current level of 3.5% of system peak to 2% of system peak; (PD, FOF 8(c), at p.22.)

...

Order

IT IS ORDERED that:

1.

- h. Any A/C Cycling program for which a price trigger proposal is currently pending before ~~has been accepted by~~ the Commission is not restricted in actively recruiting customers at this time, subject to future commission action that may limit the size of such a program. (PD Ordering Paragraph (8(h) at p.24.)

IV. CONCLUSION

The Settling Parties support the PD, its findings and its determination that the Settlement be adopted without modification. As outlined above, the Settling Parties respectfully request that certain minor modifications be made to the PD for purposes of clarification, so that the Settlement is more accurately described.

Respectfully submitted,

**CALIFORNIA INDEPENDENT SYSTEM
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Dated: June 14, 2010

CERTIFICATE OF SERVICE

I hereby certify that, pursuant to the Commission's Rules of Practice and Procedure, I have this day served a true copy of

Opening Comments of California Independent System Operator Corporation, California Large ENERGY Consumers Association, Division of Ratepayer Advocates, EnerNOC, Inc., Pacific Gas and Electric Company (U 39-E), San Diego Gas & Electric Company (U 902-E), Southern California Edison Company (U 338-E), and The Utility Reform Network on Proposed Decision Adopting Agreement on Phase 3 Issues Pertaining To Emergency Triggered Demand Response Programs

on all parties identified on the attached service list(s).

Transmitting the copies via e-mail to all parties who have provided an e-mail address. First class mail will be used if electronic service cannot be effectuated.

Executed this **14th day of June, 2010**, at Folsom, California.

Anna Pascuzzo

Anna Pascuzzo
Employee of the California Independent
System Operator Corporation