

Appeal of Business Practice Manual Change Pursuant to PRR 1280

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Southern California Edison Company (“SCE”) submits this appeal to oppose the California Independent System Operator’s (“CAISO”) changes to its Business Practice Manual (“BPM”) pursuant to Proposed Revision Request (“PRR”) 1280.

Background and Executive Summary

SCE currently has the largest portfolio of Demand Response (“DR”) capacity in the CAISO market, as well as the State of California. Over 240,000 customers participate in SCE DR programs which result in those resources being bid into the CAISO market on a daily basis and consistently provide critical service to the California power grid. During the recent system emergencies in August and September 2020, these resources collectively over-delivered multiple times, above their assigned monthly RA credit¹.

Despite the value of these DR resources, the CAISO’s BPM changes fail to recognize that DR is situated differently with respect to other resources for which Resource Adequacy Availability Incentive Mechanism (“RAAIM”) charges apply. While non-variable energy resources can control their output and are subject to RAAIM charges, variable energy resources such as hydro,

¹ SCE emergency DR programs received 2020 RA credit in the amount of 872 MW in August and 824 MW in September.

wind and solar are appropriately exempt from RAAIM charges when their fuel supply is unavailable. The CAISO's changes, however, now require DR to be included on Resource Adequacy ("RA") Supply Plans while failing to recognize that SCE's DR programs are more similar to variable energy resources and subjecting DR to RAAIM charges with no exemption similar to that of other variable energy resources.

Due to the sheer MW size of SCE's DR portfolio, SCE customers will be disproportionately harmed by the RAAIM charges associated with the rules governing the RA Supply Plan process. By requiring all DR resources to be included in monthly Supply Plan showings, SCE estimates this change will come at a cost of approximately \$6 million dollars in RAAIM charges to SCE customers – simply because of the variable nature of DR as a resource and in seeming denial of DR's recent demonstrated value. Further, PRR 1280 sets a bad precedent for the treatment of DR statewide now and in the future, particularly given the focus on DR in the immediate actions list detailed in the Preliminary Root Cause Analysis as a product that has potential to provide additional reliability services looking to Summer 2021². Similarly, the CPUC has initiated an OIR to ensure reliability under adverse weather conditions in 2021 which seeks to develop both load reductions as well as generating resources capable of providing capacity to meet needs in the summer of 2021 if the weather conditions in the summer of 2020 are repeated.³

The CAISO should therefore revoke PRR 1280 as an impermissible BPM change and pursue any needed modifications to the DR program in a manner consistent with its jurisdictional authority. To implement any changes to the treatment of DR, the CAISO should (1) participate in

² See recommendations on pgs. 2 and 15 [Preliminary Root Cause Analysis](#) issued October 6, 2020, "*Expedite the regulatory and procurement processes to develop additional resources that can be online by 2021. **This will most likely focus on resources such as demand response and flexibility. This can complement the resources that are already under construction***"

³ See R.20-11-003

the California Public Utilities Commission’s (“CPUC”) RA proceeding to effectuate the entire set of changes necessary to make the provision of DR through a Supply Plan just and reasonable, and (2) run a stakeholder process to determine if any changes are needed to the CAISO tariff and, if so, file those changes at the Federal Energy Regulatory Commission (“Commission”). This effort must align with other state agencies’ mandates promoting clean energy resources to meet grid reliability goals and implement:

- A process in which a DR resource that provides its output in a manner similar to other variable energy resources is evaluated against RAIM in a manner that does not impose a charge upon the resource when its fuel source is unavailable;
- A process to ensure the purpose, intent, and authority of the Local Regulatory Authority (“LRA”), including the CPUC, is appropriately recognized by the CAISO tariff and BPM;
- A process in which the responsibility for RA is clearly delineated between and consistent with the LRA and the CAISO; and
- A process which allows for adequate stakeholder engagement, information exchange, comments, and regulatory certainty in considering any change. Such a process will result in a program that promotes state goals and reliability, rather than a substantive change that unilaterally creates inconsistency among agency policies and confusion for Load Serving Entities (“LSE”).

Without the above clarity, LSEs will face an untenable position to comply with inconsistent rules, which will unacceptably impact procurement, reliability, and costs to customers.

Reason for Appeal

A. The BPM Change Is Not Just and Reasonable and Exceeds the CAISO’s Jurisdictional Authority

Prior to the BPM change, the CAISO allowed LRAs to credit certain elements like DR against an LSE’s RA obligation. In doing so, the resources were deemed by the LRA to provide the necessary reliability, and the LRA then had responsibility to ensure that the resources did indeed provide the reliability that they expected. For the CPUC, this meant exempting the Investor Owned Utility (“IOU”) DR programs from the requirement to integrate such resources in the

energy market as well as programmatic review by the CPUC. For the IOUs, the DR programs are evaluated by the CPUC in an annual process to evaluate the expected level of contribution to RA. This process utilizes a Load Impact Protocol (“LIP”) informed by historical data to estimate the contribution to reliability from the IOU DR fleet. This is also a public process in which the CAISO has historically participated.

Once the LRA has adopted the program and defined the compliance requirements, the LRA provides a credit against the RA requirements of each LSE that is benefitted by the program. For the CPUC, the credit of the IOU DR programs goes to all jurisdictional LSEs which includes not only the bundled load of the IOU but also all Direct Access and Community Choice Aggregation customers. Because the resource is credited against the LSE’s RA obligation, the resource is not part of a Supply Plan at the CAISO and is subject to the regulation of the LRA rather than the must-offer obligation of the CAISO.

PRR 1280 fundamentally changes that balance by effectively disallowing the crediting of IOU DR programs and requiring each resource to be filed within an RA Supply Plan subject to all must-offer requirements of the CAISO tariff. Under the CAISO’s proposed change, failing to provide IOU DR resources on a Supply Plan may result in the CAISO not recognizing the resources and concluding that the LSE is deficient in meeting its RA obligation. This could result in the CAISO conducting backstop procurement and charging that backstop to the deficient LSE even though the LSE is deemed compliant and the LRA has accepted the very same resource that is not recognized by the CAISO.

Notably, the BPM change also undermines state law and the CPUC’s established authority over DR resources and RA requirements. Section 380 of the California Public Utilities Code specifically grants the CPUC the authority to “establish a mechanism to value load modifying

demand response resources, including, but not limited to, the ability of demand response resources to help meet distribution needs and transmission system needs and to help reduce a load-serving entity's resource adequacy obligation.”⁴ Indeed, the CAISO recently recognized the CPUC’s authority when it submitted its Track 2 Proposals to the CPUC in February 2020.⁵ In its proposal, the CAISO asked the CPUC to place DR on the RA Supply Plan and the CPUC rejected the proposal because it conflicted with existing CPUC-approved RA programs, which authorize DR to be counted towards RA.⁶ After its proposal was rejected, the CAISO proposes to issue a rule that circumvents the CPUC’s rules, which exceeds CAISO’s jurisdictional authority.

While the CAISO has argued that it is not determining the Qualifying Capacity (“QC”) of the DR program and that this valuation is left to the LRA⁷, this fails to recognize that the CAISO’s action effectively nullifies the CPUC rules with regard to allowing crediting regardless of how the QC is determined. The CAISO further argues that the resource simply needs to be part of a Supply Plan and the QC will be recognized,⁸ but this too fails to recognize that, similar to other variable energy resources, the amount of DR capacity available may change depending upon conditions beyond its control (i.e. the equivalent to fuel availability from hydro, wind and solar resources) and the application of RAAIM in such circumstances is therefore inappropriate just as it is inappropriate for other variable energy resources like wind, solar, and hydro. Thus, the application of RAAIM within the CAISO tariff as it presently applies to DR RA resources is not just and reasonable, as it fails to recognize that SCE’s DR programs are similar to other variable energy resources where the CAISO only applies RAAIM for outages not related to the availability of fuel

⁴ Cal. Code, Public Utilities Code § 380(j).

⁵ California Indep. Sys. Operator Corp Track 2 Proposals, filed February 21, 2020; CPUC Rulemaking 19-11-009.

⁶ R.17-09-020. 2020 Filing Guide for System, Local and Flexible Resource Adequacy (RA) Compliance Filings. July 21, 2020. Page 30.

⁷ CAISO Response Matrix - PRR 1280 Initial Comments

⁸ Verbally during the October 27, 2020 BPM Change Management meeting

supply. For wind, solar, and hydro generating resources, the CAISO exempts such resources for outages caused by a lack of wind, solar irradiance, or water. SCE's DR programs are comprised of customers that generally must reduce their consumption via automated throttling of electrical equipment or to a contracted amount.⁹ The amount of reduction will therefore be dependent on their level of consumption at the time the resource is called upon. For example, a call of curtailable air conditioning load can be expected to deliver different quantities during the peak temperature conditions for the day and the lowest temperature for the day. While the LIP evaluates the program and its expected value at the time of reliability need, much like the ELCC or the historic evaluation of hydro availability which determine their QC values, none of those programs depict the expected value of capacity in all hours.

SCE agrees that an energy evaluation is important in the RA proceeding and has proposed a method to do just that in the current RA OIR,¹⁰ but differential treatment of similarly situated variable energy resources is not appropriate in the interim. For the same reason, exposure to RAAIM for a variable energy resource is not an acceptable outcome nor is the derating of capacity to the lowest value expected in any hour of the month in order to avoid RAAIM charges from a resource that can be expected to provide significantly more capacity during the time of the highest reliability need.

For the reasons described above, the changes proposed in PRR 1280 create a mechanism in which either the QC value ascribed by the CPUC cannot be realized, which encroaches upon the

⁹ SCE's Base Interruptible Program, Capacity Bidding Program and LCR contracts require customers to commit to firm load reductions while other DR programs automatically turn off or cycle A/C equipment or industrial pumping equipment via automated signals with no customer intervention.

¹⁰ In the CPUC Track 3B RA OIR, SCE and CalCCA have submitted a proposal to evaluate RA on a net load basis where wind and solar are netted from load to derive a net load peak for which non-wind and solar resources are needed to meet reliability. The proposal would also look at meeting energy needs of the grid to ensure that load needs are met in all hours. This methodology would better evaluate capacity and energy contributions from all resources including DR.

jurisdictional authority of the CPUC, or they create a mechanism in which, to realize that QC value, the resource will be subject to RAAIM in a manner inconsistent with the treatment of other variable energy resources. The change therefore creates regulatory uncertainty given the inconsistent rules between agencies and confusion for market participants in meeting their compliance obligations.

B. The CAISO's BPM Changes Violate its Own Tariff

Further, the CASIO's changes are invalid and must be withdrawn because they are in violation of the CAISO's own tariff. Section 40.4.1 of the CAISO's Fifth Replacement Electric Tariff explicitly states that "[t]he 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."¹¹ The tariff continues, making it clear that the CAISO may only apply its own rules regarding qualifying capacity "where the CPUC or Local Regulatory Authority has not established and provided to the CAISO criteria to determine the types of resources that may be eligible to provide Qualifying Capacity and for calculating Qualifying Capacity for such eligible resource types."¹² Here, the CPUC has already established its rules and criteria regarding RA requirements and treatment of DR. And, as noted above, the CAISO has acknowledged the CPUC's rules and authority when it requested the changes via its Track 2 Proposals. Therefore, per its own tariff, the CAISO cannot make these changes as a matter of law, so they should be withdrawn.

C. Significant Changes Affecting Rates Must Be Made Through Tariff Modification Rather than BPM Changes

¹¹ California Indep. Sys. Operator Corp: Fifth Replacement FERC Electric Tariff, Section 40.4.1 (2017).

¹² *Id.* at Sections 40.4.1, 40.8.1.

Even if the CAISO had jurisdictional authority over RA requirements and DR valuation (which it does not), such rule modifications cannot be implemented via a BPM change. The Commission, which regulates the CAISO, has held that “[d]ecisions on whether to place an item in the CAISO Tariff or the BPM are shaped by the Commission’s ‘rule of reason’ policy, which dictates that provisions which ‘significantly affect rates, terms, and conditions’ must be included in the tariff.”¹³ Consistent with this policy, the Commission has on multiple occasions rejected CAISO-proposed BPM changes that would affect rates for services and ordered the CAISO to submit changes as part of a tariff modification under Section 205 of the Federal Power Act (“FPA”).¹⁴ As discussed above, there are significant financial impacts to placing DR on the RA plan because it would subject SCE, its customers, and others to considerable RAAIM charges, thereby significantly affecting rates, terms, and conditions of service. Thus, these modifications, even if they were within the CAISO’s jurisdictional authority, cannot be implemented via BPM changes and must instead be included in a tariff amendment filed with the Commission under FPA Section 205.

D. Conclusion

For the reasons above, SCE respectfully requests that the CAISO withdraw its BPM changes regarding treatment of DR within RA Supply Plans and engage in a more complete stakeholder process, including discussion within the CPUC RA OIR to determine the proper method of accounting for DR consistent with CAISO and other policy objectives.

¹³ *California Indep. Sys. Operator Corp.*, 136 ¶ 61,120 at P 22 (2011)

¹⁴ *See, e.g., California Indep. Sys. Operator Corp.*, 141 FERC ¶ 61,237 at P 35-36 (2012) (rejecting the CAISO’s BPM changes involving a method for calculating greenhouse gas allowance costs and ordering the CAISO to submit in a separate filing under FPA Section 205 when such method would “clearly affect rates for service”); *California Indep. Sys. Operator Corp.*, 131 FERC ¶ 61,087 at P 57 (2010) (holding that the CAISO’s proposed exemption criteria for a forecast fee was not appropriate for a BPM change and should instead be part of the tariff because the applicability of the fee and the exemption would significantly affect rates, terms and conditions of service); and *California Indep. Sys. Operator Corp.*, 128 FERC ¶ 61,265 at P 46 (2009) (finding that a provision regarding time limits for responding to a parameter of the CAISO settlement process would significantly affect rates, terms and conditions of service such that the provision must be included in the tariff).