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Summary

The California Large Energy Consumers Association (CLECA) hereby appeals the Proposed Revision Request (PRR) 854, a Business Practice Manual (BPM) change affecting response time requirements for demand response resources in local capacity areas. Referencing Tariff Section 40.3.1.1, the new BPM footnote language states, in relevant part:

Accordingly, when evaluating resources that satisfy the requirements of the CAISO Local Capacity Technical Study, **the CAISO assumes that local capacity resources need to be available in no longer than 20 minutes** so the CAISO **and demand response providers** have a reasonable opportunity to perform their respective and necessary tasks and enable the CAISO to reposition the system within the 30 minutes in accordance with applicable reliability criteria.¹

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

- It inappropriately buries a new response time requirement specific to demand response resources in local capacity areas in a footnote in the BPM instead of in the tariff;
- It improperly circumvents an open, transparent stakeholder process on that specific local capacity response time requirement, wrongly chilling debate on the merits in contravention of open and transparent decision-making; and
- It impermissibly prejudices a pending decision on this exact issue by the California Public Utilities Commission (CPUC), the local regulatory authority (LRA) with explicit statutory jurisdiction over the setting of resource adequacy requirements.

The adoption of this BPM change should be reversed. The purported “clarification” of a CAISO assumption of a 20-minute response requirement for demand response resources in local capacity areas would set a new de facto requirement for those resources that was never formally adopted

¹ BPM_for_Reliability_Requirements_VXX_redline V3_12012015 (Protected View), at 106 (emphasis added).

by the CAISO Board; nor was this local capacity counting assumption ever transparently vetted in a CAISO stakeholder process. All local capacity studies and reports from 2009 to the current 2015 draft refer to a local resource availability requirement of “within 30 minutes”, not within 20 minutes. Indeed, the only specific discussion of response times of local demand response resources in the CAISO’s local capacity studies and reports over that 6-year period refers to availability “within 30 minutes”, not within 20 minutes.² Further, the only formally-adopted decision on this proposed requirement is the CPUC decision expressly deferring it to enable the necessary time for a full and transparent vetting by interested stakeholders.³ The CPUC’s determination as the LRA on this matter should precede the CAISO action, and that CAISO action may require a tariff change to be approved by FERC, rather than a revised BPM footnote.⁴

Previous Comments on PRR

On July 29, 2015, CAISO introduced PRR 854 to “clarify” an assumption of a 20-minute response time requirement for “demand response providers”; the “clarification” was hidden in a footnote on page 106 of the BPM for Reliability Requirements. On August 13, 2015, initial comments on the proposed revision were submitted by the following: San Diego Gas & Electric Company (SDG&E), Joint Parties (EnerNOC, Converge, CPower, EnergyHub, Johnson Controls); Pacific Gas & Electric Company (PG&E); Western Powers Trading Forum (WPTF); Calpine; and CLECA. SCE initially submitted comments on August 13, 2015, withdrew them

² 2013 Local Capacity Technical Analysis Addendum to the Final Report and Study Results, Absence of San Onofre Nuclear Generating Station (SONGS), August 20, 2012, at 5.

³ See CPUC Decision 15-06-063, at 35.

⁴ See SDG&E Comments, August 13, 2015 (“NERC reliability requirements listed by CAISO specify a recovery time of 30 minutes but do not reference any qualifications of Local RA attributes. Changes to Local resource qualifications must go through a stakeholder initiative process and CPUC RA proceeding. They cannot be adopted just by adding a footnote under a BPM change”); see also WPTF Comments, dated Aug. 13, 2015 (“This appears to be an additional eligibility requirement for a specific resource type to provide Local Resource Adequacy benefits in the event there is an aggregate deficiency ... It is WPTF’s understanding that changes to Local (or any) resource adequacy qualifications must go through a stakeholder initiative process as it affects rates, terms and conditions. ... We ask the CAISO to clarify why this change belongs in a footnote in the BPM and, if necessary, request they include the change in the tariff.”)

and resubmitted them on September 3, 2015. Every single set of comments, except the Calpine comments, questioned or opposed the use of the BPM and PRR process to disclose this “requirement.” Most sought a more transparent and open stakeholder process.⁵ CLECA stated:

- “The CAISO may have indicated in various CPUC proceedings and in its TPP that it considers a 20-minute response time appropriate for resources to be available within 30 minutes to address an N-1-1 contingency; however, this proposal for a new requirement has never been formalized, nor has it been adopted by the CPUC for RA counting purposes”, referring to CPUC Decision 15-06-063.
- “This BPM change could render their [CPUC-jurisdictional LSEs] portfolios subject to backup procurement over which no LSE would have control, imposing greater costs on customers.”

CLECA urged the CAISO to “first make its case in ... the CPUC’s RA proceeding, since the CPUC is the Local Regulatory Authority for investor-owned utilities, electric service providers, and community choice aggregators.” CLECA noted the need for “formal notice to affected parties and allow[ance] for a proper comment period.” CLECA concluded with two additional objections to the PRR: that it “unfairly targets just DR” and that CLECA knew of “no other ISO/RTO subject to the same NERC reliability requirements that has such a 20-minute response time requirement for local RA or its equivalent.” CLECA sought disclosure by CAISO of any similar requirements at other ISO/RTOs.

On September 1, 2015, CAISO’s PRR 854 Initial Comments and Response failed to address the specific concern regarding whether and where this proposal had been fully vetted and subsequently formally approved; rather, CAISO referenced documents that state a need to

⁵ See, e.g., SCE Comments, August 13, 2015, resubmitted 9/3/2015 (“SCE recommends the CAISO delay this BPM change until a more transparent stakeholder process where the driving needs and requirements, as well as possible solutions, can be thoroughly vetted ... this can and should be done through the 2016 CPUC RA proceeding”); see also SDG&E Comments, August 13, 2015 (“SDG&E strongly requests the CAISO to suspend this PRR immediately and create a stakeholder initiative to discuss the Local RA process and how all resources can meet local requirements”); see also Joint Parties Comments, August 13, 2015.

respond within 30 minutes. CAISO then leaps to the conclusion that a “**20-minute notification time is appropriate and reasonable** and allows the 30-minute standard to be met while allowing 10-minutes for ‘CAISO operator adjustment and market dispatch’.” *That leap from “within 30-minutes” to “20-minutes” was neither substantiated nor transparently vetted with CAISO or CPUC stakeholders; this is the problem that CAISO has failed to address.* CAISO also failed to respond to CLECA’s questions regarding other similar ISO/RTO requirements and said it would consider applying the new 20-minute requirement to other use-limited resources. CAISO also ignored the objection that the CPUC, as the LRA, should address the issue first.

CAISO then revised PRR 854. On September 16, 2015, PG&E, SDG&E, and the Joint Parties submitted comments on the revision; they reiterated support for deferral of the proposed change to a full stakeholder process and sought clarification of various aspects of the proposed change. The proposed BPM change was again revised on October 28, 2015. On November 11, 12 and 13, 2015, SDG&E, SCE, Calpine, the Joint Parties, PG&E, and CLECA submitted their respective comments on that revision. All parties except Calpine continued to question or oppose the proposed BPM change; some parties, including CLECA, both questioned and opposed it. CLECA reiterated its prior concerns and noted that they had not been addressed by the multiple revisions of the proposed change. CLECA stated:

While the CAISO claims that it is simply providing a clarification and documentation to an existing policy, that policy was not developed in any CAISO stakeholder process; to the best of CLECA’s knowledge, the CAISO Board has not voted to approve this policy following a stakeholder initiative, nor has there been a decision by FERC to require this policy. CAISO’s “documentation” through a footnote embedded in a BPM which is over 200 pages long, without any attempt to inform stakeholders of the fact, was and remains procedurally inappropriate. Further, the CAISO has ignored the fact that the largest Local Regulatory Authority in its balancing area, the CPUC, has not adopted this

requirement for RA counting purposes.

CLECA agreed with “the majority of commenting parties that this question of specific eligibility requirements for DR resources belongs in the CAISO’s tariff, not the BPM.”⁶ Moreover, CLECA again explained that this specific issue was to be addressed by the CPUC in its RA proceeding, and CLECA urged the CAISO to make its case there. CLECA also objected to the continued singling out of demand response resources; despite CAISO’s attempt to broaden the applicability of this new requirement, the text in the footnote still explicitly references demand response. In addition, CLECA questioned the CAISO response regarding pre-dispatching of other resources.⁷ CLECA’s questions remain unanswered. CLECA preferred that these issues be addressed in the CPUC’s RA proceeding or, if not, that they be fully vetted in an open, transparent stakeholder process at the CAISO prior to the adoption of the proposed BPM change.

On November 23, 2015, CAISO responded to the November comments. This response failed to address CLECA’s questions and CLECA’s concerns regarding back-up procurement costs. CAISO’s response dismissed CLECA’s comments regarding the CPUC’s jurisdiction over RA requirements with a reference to CAISO’s “ability to set resource qualification criteria with the CAISO’s existing tariff authority and responsibility to conduct an annual Local Capacity Technical Study.” CAISO said, “PRR 854 merely clarifies existing, previously utilized CAISO processes and study assumptions to determine local capacity area resources pursuant to CAISO tariff section 40.3.” On November 30, 2015, the CAISO adopted the BPM change as final.⁸

⁶ See WPTF Comments; see also SDG&E Comments; see also Joint Parties Comments.

⁷ CLECA asked: What is “sufficient frequency (sufficient total number of hours and daily hours of availability)”? Is this defined anywhere in CAISO’s tariff? What is “pre-dispatch in anticipation of the first contingency”? How often has CAISO engaged in such “pre-dispatch”? How does the CAISO decide to “pre-dispatch” and where is that process described? Are the “pre-dispatch” determinations optimized in CAISO’s markets? How are the “pre-dispatched” resources compensated and at what levels? Is there a formal process for the “anticipation of the first contingency”? What specific considerations go into the “anticipation of the first contingency”?

⁸ The CAISO PRR webpage shows a status end date of Dec. 19, 2015 for this PRR; CLECA’s appeal is timely.

Reason for Appeal

The CAISO should reconsider and reverse its decision on PRR 854 because: the process was problematic; substantive questions remain outstanding and a full debate on the merits is needed; the CPUC has statutory authority over RA requirements; and FERC approval may be required for this proposal as a tariff change.

A PRR Process to Effect This Change Via a BPM Footnote Is Highly Problematic

As CLECA and others repeatedly stated in comments, the use of a PRR to effect or inform entities of a local capacity “assumption” which is essentially a de facto “requirement” via a footnote on page 106 of a 200 page BPM is wholly inappropriate. Changing a BPM footnote is not transparent, open policymaking. The Joint Parties rightly objected to the use of this BPM process “to incorporate a significant operational change to one type of resource without an opportunity for stakeholder input.”⁹ They stated that resolution “should first occur in the CPUC RA proceeding where parties can have an opportunity to present arguments that are supported by evidence.” Others agreed.¹⁰ In its response, the CAISO relies on the annual Local Capacity Technical Study process, stating:

Joint Parties and CLECA wrongly conflate CPUC’s resource adequacy rules and the ability to set resource qualification criteria with the CAISO’s existing tariff authority and responsibility to conduct an annual Local Capacity Technical Study to determine the amount of local capacity area resources necessary to meet identified contingencies. PRR 854 merely clarifies existing, previously utilized CAISO processes and study assumptions to determine local capacity area resources pursuant to CAISO tariff section 40.3. It does not impose new rules or regulations on the CPUC or its resource adequacy program, but it does highlight how alignment between a local regulatory authority’s

⁹ Joint Parties Comments, dated Aug. 13, 2015, at 3.

¹⁰ PG&E Comments, 9/16/2015, at 1 (“PG&E continues to believe that the CAISO’s proposed ... BPM revision represents a significant change that must be vetted within the CPUC’s current RA Rulemaking (R.14-10-010) prior to the PRR being finalized”); *see also* SDG&E Comments, 9/16/2015, at 1 (urging a broader stakeholder process).

procurement requirements and the CAISO's reliability needs and requirements is desirable and prudent.¹¹

This reliance is misplaced and misleading. A close review of the many Local Capacity Technical Studies and associated Reports performed from 2009 to now evidences ***no*** disclosure of any such response-time assumption for demand response resources in local capacity areas. Not a single one of these studies or reports sets a 20-minute response time assumption for local resources; rather, each and every one of them, in connection with the "Time Allowed for Manual Readjustment" states that the "time should be less than 30 minutes ... [per] existing ISO Grid Planning Standards".¹² 20 minutes is not the same as less than 30 minutes. Moreover, one local capacity study and report actually references demand response specifically: the 2013 Local Capacity Technical Analysis Addendum to the Final Report and Study Results, Absence of San Onofre Nuclear Generating Station (SONGS), August 20, 2012. That report states:

The reduction in SDG&E service area need will consequently increase the LA Basin single contingency need to the point where a new small 83 MW deficiency exists. Mitigation for this new single contingency deficiency is twofold: ...

2. The ISO has received Demand Response (DR) program information from the Participating Transmission Owners (PTOs). It is possible that about 48 MW in Orange County and another 252 MW in the South of Lugo area could be used **if available within 30 minutes** of a transmission line loss or overload. If possible, the ISO will rely on them for the first part of summer 2013 until El Segundo Repower or Sentinel become commercially operational in August 2013 in order to mitigate this single contingency

¹¹ CAISO Response to PRR 854 Comments, at 1.

¹² See Final 2016 Local Capacity Technical Analysis Final Report and Study Results, dated April 30, 2015, at 14; see also 2020 Local Capacity Technical Analysis Final Report and Study Results, dated April 30, 2015, at 14; see also Final Manual 2015 Local Capacity Area Technical Study, November 2013 Version, at 14; see also 2019 Local Capacity Technical Analysis Final Report and Study Results, dated April 30, 2014, at 14; see also 2018 Local Capacity Technical Analysis Final Report and Study Results, dated April 30, 2013, at 14; see also 2014 Local Capacity Technical Analysis Final Report and Study Results, dated April 30, 2013, at 14; see also Final Manual 2013 Local Capacity Area Technical Study, January 2012 Version, at 14; see also Final Manual 2012 Local Capacity Area Technical Study, December 2010 Version, at 14-15; see also Final Manual 2011 Local Capacity Area Technical Study, Dec. 2009 Version, at 14-15. All available online at: <http://www.caiso.com/informed/Pages/StakeholderProcesses/Default.aspx>

need that causes South of Lugo loading concerns. However, even if available within 30 minutes, these DR programs and the new generating resources are insufficient in mitigating the double contingency need as addressed above, however.¹³

Again, the local capacity technical manuals, analyses and study reports do not specify a 20-minute response requirement for demand response resources in local areas; rather, they uniformly reference availability “within 30 minutes”. These repeated, annual initiatives may be transparent, open processes with active engagement by interested stakeholders, but this specific issue – a 20-minute response time assumption for demand response resources – does not appear to have ever been fully or transparently vetted in them.

The CAISO cannot simply announce a new requirement, label it a clarification and be done. This impermissibly substitutes CAISO staff opinion for a stakeholder process and decision voted upon by the LRA, the CPUC, where issues could be fleshed out and possibly resolved. Even the CAISO’s November response states, “The CAISO believes an assessment about how supply demand response can serve as a local capacity resource must be conducted collaboratively, as opposed to solely by the CAISO.” But the PRR process relied upon here 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.

The Lack of Stakeholder Vetting Compounds the Process Problem by Precluding Debate on Substantive Merits

A requirement for a 20-minute response time for local demand response resources is questionable as it has not been vetted by any stakeholders; CAISO staff opinion, while valuable, simply cannot substitute for this critical stakeholder process. Given the content of the local capacity technical study results and reports and the multiple written stakeholder comments in

¹³ 2013 Local Capacity Technical Analysis Addendum to the Final Report and Study Results, Absence of San Onofre Nuclear Generating Station (SONGS), August 20, 2012, at 5[the double contingency need is 316 MW].

those initiatives, it does not appear there was any stakeholder input provided to CAISO staff regarding their setting of a 20-minute response time assumption. As the Joint Parties note,

Supply-side resources in the wholesale market have a day-ahead and/or real-time must-offer obligation. The CAISO will know how much DR is available and how much DR is scheduled to be dispatched as a supply-side resource.¹⁴

Moreover, SDG&E noted, the “new limitation unduly discriminates against the ability of RDRR [Reliability Demand Response Resource] and PDR [Proxy Demand Response] to provide Local Resource Adequacy benefits.”¹⁵ Others, including CLECA, agreed. Additionally, many substantive questions remain unanswered; SCE, SDG&E, PG&E, the Joint Parties and CLECA all sought clarification regarding the footnote and the CAISO’s responses to comments; as noted above, these multiple questions were either not adequately answered or they were ignored. The PRR should not have been finalized with these outstanding substantive questions. Stakeholders should be able to transparently and fully explore both the merits and the detriments of various response times for local resources in the CPUC’s RA proceeding, without the issue being pre-judged by a codified BPM footnote change set solely by CAISO staff.

The CPUC’s Authority to Set RA Requirements Must Not Be Infringed

California state law is clear: the CPUC holds the statutory authority to set RA requirements. PU Code §380.(a) provides “*The commission, in consultation with the Independent System Operator, shall establish resource adequacy requirements for all load serving entities.*”¹⁶ However, here, a CAISO staff assumption on a response time requirement for local demand response resources – never vetted in a full CAISO stakeholder initiative and never voted on by the CAISO Board - might be allowed to justify CAISO backstop

¹⁴ Joint Parties Comments, dated Aug. 13, 2015, at 2.

¹⁵ SDG&E Comments, dated August 13, 2015.

¹⁶ P.U. Code Section 380.(a) (emphasis added).

procurement; this is an untenable result as it codifies that staff assumption into a de facto requirement

A FERC-Approved Tariff Change May Be Required

As WPTF and SDG&E note, CAISO refers to the tariff section addressing the study of local capacity (40.3.1.1), rather than the tariff section on RA criteria requirements (40.4); in addition to stating that this “requirement” should be part of the tariff, these parties question why this section of the tariff is considered relevant as opposed to the tariff section on eligibility criteria. CLECA agrees that the cited tariff section seems inapposite, particularly given CAISO’s November response that “resources that are shown on a supply plan as local resource adequacy capacity that require post-contingency dispatch because of their very energy limited nature ***must fully respond*** to a CAISO dispatch instruction ***within 20 minutes to be included*** in as a local capacity area resource.”¹⁷ (Again, as discussed above, the local capacity study tariff language states manual readjustment “should not be more than thirty (30) minutes”; it does **not**, however, state demand response resources in local areas must respond “within 20 minutes” to be counted in the study.)

The BPM change is a de facto new requirement for local demand response resources to count as local capacity; if the resource cannot respond in 20 minutes, the CAISO will not count it. Yet CAISO’s eligibility criteria tariff, Section 40.4.1, states in relevant part, “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.***”¹⁸ The CPUC has not adopted a 20-minute response time as an eligibility criterion for demand response

¹⁷ CAISO November Response to PRR 854 Comments, at 2 (underlining in original; italicizing and bolding emphasis added).

¹⁸http://www.aiso.com/Documents/Section40_ResourceAdequacyDemonstrationForAllSchedulingCoordinators_as_of_Jun3_2015.pdf (emphasis added).

resources to serve as Local RA resources; rather, the CPUC has explicitly said it will address this issue in the pending RA docket.¹⁹ Additionally, CAISO’s tariff Section 40.4.5 provides, in relevant part, that for purposes of developing the criteria for reductions for performance by RA resources: “The *CAISO will collaborate with the CPUC* and other Local Regulatory Authorities *to develop the performance criteria to be submitted to FERC.*”²⁰ Clearly, no performance criteria imposing a 20-minute response time for demand response resources in local areas have collaboratively been developed with the CPUC for submission to FERC for such purposes. Yet the CAISO’s BPM change – again, in a footnote on page 106 of a 200+ page BPM – would do exactly that: reduce the resource’s RA capacity based on a new performance criterion, a criterion never vetted in a full stakeholder process nor adopted by either the CAISO Board or the CPUC.

Relief Requested

The CAISO should reject PRR 854 and defer the issue to after the CPUC June 2016 RA decision; then the CAISO should engage in a full CAISO stakeholder process to align its local capacity study assumptions with the CPUC’s local RA requirements.

¹⁹ CPUC Decision 15-06-063, at 35.

²⁰http://www.aiso.com/Documents/Section40_ResourceAdequacyDemonstrationForAllSchedulingCoordinators_as_of_Jun3_2015.pdf