

CLECA Reply Brief on Appeal of PRR 854: Submitted to: bpm_cm@caiso.com

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CLECA replies to the CAISO Response to Appeals on the PRR 854, a Business Practice Manual (BPM) change affecting response time requirements for resources in local capacity areas. Citing Tariff Section 40.3.1.1, the new BPM footnote states, in part: “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.”

This PRR has focused on Demand Response (DR) resources; it should be rejected because:

- It risks a material impact to rates and materially impacts service; per federal law, it should be part of the Tariff as a new requirement in local capacity areas following coordinated decision-making with the California Public Utilities Commission (CPUC).
- It prejudices a pending decision on this by the CPUC, the Local Regulatory Authority (LRA) with explicit jurisdiction over setting resource adequacy (RA) requirements for the CPUC-jurisdictional Load Serving Entities (LSEs), in violation of state law.
- The PRR conflicts with the existing CAISO Tariff.
- No other ISO or RTO – all subject to the same NERC requirements – appears to have a similar response time requirement for local capacity area resources, calling into question the reasonableness and prudence of CAISO’s action.
- Finally, multiple procedural defects should lead to rejection of the PRR.

PRR 854 Violates Federal Law, State Law and CAISO’s Own Tariff

The “clarification” of a study assumption of a 20-minute response requirement for resources in local capacity areas would set a new de facto requirement for DR resources that

should instead be codified in the Tariff.¹ This recently-disclosed local capacity study assumption was never transparently vetted in a CAISO stakeholder process associated with the cited tariff section.² It could not be “generally understood” and indeed has not been generally understood. Such CAISO action requires a tariff change to be approved by FERC, rather than a revised BPM footnote.³ This change could render the CPUC-jurisdictional LSEs’ portfolios subject to backup procurement over which no LSE would have control, imposing greater costs on customers, materially impacting rates and service. CAISO itself states that rates and reliability (and thus service) would be impacted.⁴ Federal law requires inclusion in tariffs provisions with material impact.⁵ The PRR violates federal law. It would also violate state law.

The PRR contravenes California’s statutory granting of authority to set RA requirements to the CPUC.⁶ The only formally-adopted decision on a 20-minute response time requirement is the CPUC decision deferring it to enable a full and transparent vetting by stakeholders.⁷ Indeed, this specific issue was to be and now is being addressed by the CPUC. The CAISO recently responded to the CPUC’s questions in the ongoing RA proceeding; a record on the issue is being built at the CPUC– which did not happen at the CAISO, adding to the procedural defects.⁸

¹ See, e.g., *City of Cleveland v. FERC*, 773 F.2d 1368, 1376 (D.C. Cir. 1985) (finding that utilities must file “only those practices that affect rates and service significantly, that are reasonably susceptible of specification, and that are **not so generally understood in any contractual arrangement as to render recitation superfluous**”)(emphasis added); *Public Serv. Comm’n of N.Y. v. FERC*, 813 F.2d 448, 454 (D.C. Cir. 1987) (holding that the Commission properly excused utilities from filing policies or practices that dealt with only matters of “practical insignificance” to serving customers); *Midwest Indep. Trans. Sys. Operator, Inc.*, 98 FERC ¶ 61,137, at 61,401 (2002), *clarification granted*, 100 FERC ¶ 61,262 (2002) (“It appears that the proposed Operating Protocols could significantly affect certain rates and services and as such are required to be filed pursuant to Section 205.”).

² 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.

³ See California Independent System Operator Corp., 122 FERC ¶ 61,017, 61,057-58 (2008).

⁴ CAISO Response to Appeals, at 10-11 (referencing reliability and the Capacity Procurement Mechanism).

⁵ 16 U.S.C. § 824(d) (2012).

⁶ P.U. Code Section 380.(a).

⁷ See CPUC Decision 15-06-063, at 35.

⁸ CLECA asked many questions in this PRR process, including: What is “sufficient frequency (sufficient total number of hours and daily hours of availability)”? 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? What specific considerations go into the “anticipation of the first contingency”? None of

The PRR violates the tariff. Tariff Appendix A defines Local Capacity Area Resources:

Resource Adequacy Capacity from a Generating Unit listed in the technical study or Participating Load or Proxy Demand Resource or Reliability Demand Response Resource that is located within a Local Capacity Area capable of contributing toward the amount of capacity required in a particular Local Capacity Area.

Neither PDR nor RDRR are listed in the CAISO's technical study and therefore –per the CAISO's tariff – must be “deemed” a Local resource. Regardless of response time, DR is and will be Local if located within a local capacity area and capable of contributing. Tariff section 40.4 defers to the LRA to set eligibility criteria for resources' capabilities to contribute.

The PRR relied on the annual Local Capacity Technical Study process tariff section 40.3 (rather than the tariff section on RA criteria requirements (40.4)) as the authority for its requirement.⁹ This reliance was and is misleading.¹⁰ Those studies do not state a 20 minute response time.¹¹ The CAISO's Response refers to its Transmission Planning Process to substantiate the claimed authority to institute a response time requirement;¹² this reference to a planning process for setting an operational requirement is similarly misplaced. CAISO's authority to set a planning assumption to study the “amount” of capacity is different from the CPUC's authority to set criteria. A study “parameter” is not an eligibility criterion.

The PRR would violate Tariff section 40.4.1; it is a de facto new requirement for local DR resources to count as local capacity; if the resource cannot respond in 20 minutes, the

these questions were answered by the CAISO in this PRR process.

⁹ CAISO Response to PRR 854 Comments, at 1.

¹⁰ 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 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>

¹¹ CAISO Response to Appeals, at 12.

¹² Id, at 3.

CAISO will not count it. Yet CAISO's eligibility criteria tariff, Section 40.4.1, states, "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.*"¹³ The CPUC has not adopted a 20-minute response time as an eligibility criterion for DR to serve as Local RA resources; rather, the CPUC said it will address this issue in the pending RA docket.¹⁴

CAISO's tariff Section 40.4.5 provides: "The *CAISO will collaborate with the CPUC ... to develop the performance criteria to be submitted to FERC.*"¹⁵ No performance criteria imposing a 20-minute response time for DR resources in local areas have collaboratively been developed with the CPUC for submission to FERC. Yet the PRR would impose a new performance criterion, one never vetted nor adopted by the CPUC, or reduce the RA capacity.

Reasonable and prudent standard: CLECA knows of no other ISO/RTO subject to the same NERC reliability requirements with a similar 20-minute response time requirement for local RA. The claims of prudence in the CAISO Response are thus questionable.

Procedural defects: The 13-page CAISO Response exceeds the BPM Appeal Process limit of 8 pages.¹⁶ The BPM Appeal Process also requires 12 point Arial or Times New Roman font and double spacing; CAISO's Response uses smaller font size and is not double-spaced. These procedural defects are emblematic of the disregard in this PRR process of the CAISO's own rules and tariff, in addition to state and federal law. The PRR should be rejected; CAISO staff opinion on a study assumption cannot substitute for a stakeholder process and decision voted upon by the CPUC on eligibility criteria and performance requirements for RA resources.

¹³http://www.aiso.com/Documents/Section40_ResourceAdequacyDemonstrationForAllSchedulingCoordinators_as_of_Jun3_2015.pdf (emphasis added).

¹⁴ CPUC Decision 15-06-063, at 35.

¹⁵http://www.aiso.com/Documents/Section40_ResourceAdequacyDemonstrationForAllSchedulingCoordinators_as_of_Jun3_2015.pdf (emphasis added).

¹⁶ Adding to the lack of transparency of this PRR process, all CAISO documents lack dates and any contact information.