

| CLECA Statement on Issues Discussed in Earlier Hearing re PRR 1280, submitted by | Company | Date Submitted |
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PRR 1280

PRR 1280 was initially submitted on August 27, 2020, after the August 2020 rolling blackouts, with a requested effective date of October 30, 2020. Referencing Tariff Sections 40.7.a.i and ii (on evaluation), and 40.10.5.3 (on flexible RA), the final PRR states, “In reviewing RA plans for compliance, the CAISO accepts LRA-provided adjustments to the compliance obligations for the LRA’s jurisdictional LSEs *provided the adjustments do not create a net reduction of the RA capacity provided and shown to the CAISO or a net reduction in the LSEs’ compliance obligations.* ... The CAISO will not process adjustments in CIRA without such a demonstration of the net neutral impact.”¹ As CAISO staff explained, “If LRA credits do not net to zero, then all of the credits would be rejected.”² On October 30, 2020, the CAISO adopted the PRR and the BPM change, essentially determining unilaterally that system Demand Response (DR) resources do not count for RA. Implementation has, however, been deferred due to the granting of CLECA’s and others’ appeals.

Changes since the December 2020 Hearing

Recently, the California Public Utilities Commission (CPUC) in D. 21-06-029 decided that a requirement for DR to be shown on supply plans would be imposed only after an exemption from the RAIM is approved by FERC and implemented by CAISO; moreover, the

¹ BPM for Reliability Requirements Version 50_LRA-Adjustments (2), at 27 (emphasis added). (CIRA is Customer Interface for Resource Adequacy)

² PRR1280_Initial_Comments_Matrix, CAISO Response (available here: https://bpmcm.caiso.com/Lists/PRR%20Comments/Attachments/1914/PRR1280_Initial_Comments_Matrix.pdf).

CPUC noted that the CAISO tariff does not require use of an ELCC methodology to count DR's qualifying capacity.³ The CPUC also asked the CEC to undertake a working group process to review qualifying counting methodology for DR for the year 2023 and beyond; this began today. The CAISO plans a FERC filing to request an exemption for DR from RAAIM; this filing has not yet been made, so the planned exemption has not been adopted or implemented. Additional modifications to the RAAIM exemption filing have been requested:

- (1) that the RAAIM exemption for DR should not be linked to a particular QC methodology, specifically ELCC and
- (2) that the RAAIM exemption should be applicable to DR whose QC is set with the methodology adopted by the CPUC following the CEC-led working group.⁴

It is not known if these additional modifications have been or will be made. Thus, there have been changes, but concerns remain with PRR 1280 and it should not be implemented now.

CLECA's December 2020 Hearing Concerns and Whether/How They Have Been Addressed

CLECA reiterates its previously stated concerns below with current status *in italics*:

- The cost of electricity is high in California, so all CLECA members participate in the Base Interruptible Program (BIP) to help offset that cost; BIP is integrated into the CAISO market as Reliability Demand Response Resources (RDRR). *The cost of electricity remains high today.*
- Almost all CLECA members are Emissions-Intensive, Trade-Exposed (EITE) entities, and California actively seeks to keep EITE entities in-state to avoid emissions leakage. So, California needs EITE entities to stay, and CLECA EITE entities need BIP in order to do so. *This remains true today.*

³ CPUC Decision 21-06-029 at 30-31.

⁴ See CLECA July 14, 2021 letter to CAISO Board of Governors re RAAIM exemption option.

- The challenges facing our state from climate change are significant, and include catastrophic wildfires and extreme weather events. Also in 2020, they included rolling blackouts during an extended heat storm in August, and the risk of rolling blackouts in a second extended heat storm in September. *These challenges remain today.*
- The CPUC has calculated that about 1500 MW of system RA provided by DR resources – including BIP- are placed at risk by the PRR. Yet BIP resources have consistently and dependably helped reduce rolling blackouts for over two decades. *The concern over the risks to BIP from the PRR remains today.*
- BIP is a carbon-free resource that has the additional benefit of keeping EITE entities in the state of California, avoiding leakage – a state policy goal that no one in California should ignore. If these carbon-free resources were not counted despite the Local Regulatory Authority’s decision to credit them, that would send a chilling signal to BIP participants regarding the viability of the proven, cost-effective program. Moreover, it is most likely that the resulting CAISO backstop procurement would be for fossil-fueled resources. *These concerns remain today.*
- Thus, the CAISO backstop procurement would regrettably and needlessly increase actual carbon emissions, in addition to harming state policy goals to avoid emissions leakage and reduce emissions. State law compels the CAISO to “conduct its operations consistent with applicable state and federal laws and consistent with the interests of the people of the state.” P.U. Code §345.5 Yet, the PRR needlessly risks reliability, as well as negative impacts to California’s climate goals. *These concerns remain today.*

CLECA suggested that the Appeals Committee decision be guided by the following simple, key point: “*We are all in this together and we should act accordingly.*” CLECA asked the Appeals Committee to grant the appeal, allow the CPUC process time to work, and direct CAISO staff to work with the CPUC and stakeholders, rather than acting unilaterally with a problematic BPM change. CLECA *continues* to recommend a collaborative approach to determine the merits of various proposals, and asks the CAISO to defer the issue to the CEC-led working group process.

CLECA also responded to several statements in the CAISO Staff Appeals Brief, noting:

- CAISO Staff Appeals brief claimed, “That such resources may provide benefits or may have performed well during a stressed grid condition does not transform them into RA Capacity or mean they are capable of regularly performing up to RA standards.” (at 24). The staff’s brief also discusses the need to apply RAAIM to credited DR resources. In response, CLECA reviewed BIP’s proven performance as emergency reliability DR, and also noted that, regarding the incentives and obligations of RA capacity, wind and solar resources are not subject to RAAIM, nor are Demand Response Auction Mechanisms resources sized under 1 MW, yet this PRR would seek application of RAAIM to the DR resources in question; this unduly discriminatory approach would likely be prohibited by FERC. Equally importantly, the BIP retail tariff includes very steep penalties for non-performance; excess energy charges are paid on every kWh above the firm service level, and non-performance could lead to a participant’s removal from BIP.
 - SCE: \$10.60/kWh to \$12.49/kWh
 - PG&E: \$6/kWh
- CAISO Staff Appeals brief claimed “[U]nder the tariff, LRAs’ authority to establish Qualifying Capacity values for Resource Adequacy Resources does not extend to granting RA credits for resources not shown on RA Plans and Supply Plans.” (at 14). CLECA responded at the hearing that the Appeals Committee must recognize that the CAISO tariff does not set the boundary for the LRA’s authority. The LRA authority is established by California statute – and the statute allows the LRA’s to “credit” RA. CLECA also noted that there is a hierarchy of legal authority: at the top, Constitutions, US, then state, then foreign; Statutes (US, then state, then foreign) –this level is where the California Public Utilities Code sits; then treaties and international agreements; Case law (federal, with the US Supreme Court, courts of appeals, district courts, bankruptcy courts, court of federal claims; then state courts); then come administrative regulations, which is where the FERC-approved tariff sits. The CAISO brief claims that it “cannot continue a practice that is inconsistent with the tariff.” (p. 18) This claims fails to recognize that CAISO actions must comply with governing statutes, including state statutes, and the CAISO tariff – and the BPM – cannot be read to undermine the statute.

- CAISO Staff Appeals brief claimed: “Quoting isolated passages from the Board materials on the slow demand response initiative does not render PRR 1280 an illegitimate or unauthorized business practice change.” (at 19.) In response, CLECA recalled what Mark Rothleder told the Board on July 22: the CPUC “deferred the ultimate decision whether these resources need to be shown to be counted or whether they could be credited – we weighed in on that very clearly,” and CLECA further noted that Greg Cook said in July that the crediting issue was teed up in that CPUC RA proceeding. CLECA explained that what staff said to the Board in July was that this was a live issue before the CPUC and it would be decided THERE; yet a month later, in August 2020, CAISO staff flipped. CLECA observed that this unfortunate approach is not conducive to a trusting cooperative relationship – and unilateral action with the outcome presented as a *fait accompli* in a short-changed procedural process chills debate and hinders collaboration.

CLECA’s concerns remain.

As noted above, CLECA continues to oppose the PRR, and reiterates its appeal of this PRR and BPM change on the following grounds:

- the CAISO Board did not approve an all-encompassing requirement for all DR to be shown on supply plans (rather than credited by the LRA); it just required "slow" Proxy Demand Resource (PDR) to be shown on supply plans;
- the PRR is not necessary for any other PDR, nor is it necessary for Reliability Demand Response Resources (RDRR), as demonstrated in the August and September 2020 heat storms, yet it risks reliability and creates negative impacts for our climate goals;
- the PRR would create unnecessary procurement of replacement resources, thereby increasing customer rates;
- the PRR contravenes the State's Loading Order and Public Utilities Code section 454;
- the PRR is not ministerial in nature, and this abrupt change could have a material impact on rates; accordingly, it should be a tariff filing submitted for agency approval;
- the PRR would wrongly, without coordination with the CPUC, reverse the LRA’s current RA crediting and counting practices for DR, a preferred resource, impacting the Base

Interruptible Program (BIP), which performed very well in the August and September heat storms and prevented additional blackouts. CLECA notes as well that BIP/RDRR was called again on July 9, 2021, due to a catastrophic wildfire near a transmission line, and the BIP/RDRR performed.

The initial granting of appeal should be upheld, and the PRR again denied. The CAISO should continue to direct staff to work with the CPUC and stakeholders. Notably, the CPUC has asked the CEC to lead a working group to examine appropriate QC counting methodologies for demand response for use in 2023 and beyond, with recommendations to be provided to the CPUC in March of 2022; that working group began today, July 19, 2021. This collaborative process should be given time to work, both in the CEC-led working group process, and subsequently in the CPUC RA proceeding; once addressed there, the CAISO should, per state law and its tariff, use the LRA's criteria for crediting and counting for DR.

Moreover, the CPUC has adjusted for 2022 the Planning Reserve Margin adder for BIP (and other DR programs) with a 6% reduction; this should assuage counting concerns for 2022. CLECA appreciates this opportunity to comment on whether and how its concerns expressed at the December 2020 hearing have been addressed. CLECA will respond to other comments on July 26, 2021, and, in conclusion, reiterates a key excerpt from CLECA's appeals brief:

The PRR Wrongly Infringes on the CPUC's Statutory Authority to Set RA Requirements, in Violation of the CAISO's Tariff

California state law is clear: the CPUC holds the statutory authority to set RA requirements. P.U. Code §380 provides:

The commission, in consultation with the Independent System Operator, shall establish resource adequacy requirements for all load serving entities ... [and] establish or maintain existing demand response products and tariffs ... that can meet or reduce an electrical corporation's resource adequacy requirements, as

determined by the commission.⁵

The CPUC has not adopted a requirement for a supply plan showing⁶ (nor has it set a 20-minute response time as an eligibility criterion for demand response resources to serve as Local RA resources, a tangentially related topic).⁷ Yet the CAISO's BPM change would abruptly reduce the LRA's crediting of RA based on a new CAISO staff criterion, imposed via a BPM change, of required inclusion of all DR on supply plans; as detailed multiple times, this new criterion was never vetted in a full stakeholder process, nor adopted by either the CAISO Board or the CPUC.

The CAISO's tariff is clear: "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.*"⁸ Here, however, a CAISO BPM change would result in a *de facto* disregard for the LRA's counting and crediting of DR, leading to CAISO backstop procurement.⁹ This untenable result violates state law and the CAISO's own tariff.

⁵ P.U. Code §380(a), (b) (emphasis added).

⁶ See CPUC Decision 21-06-029, at 30 (adopting the Energy Division proposal to defer a requirement for supply plan showings until after "the Commission confirms that CAISO permits DR resources to bid variably in its markets and implements a FERC-approved RAAIM penalty exemption for DR resources"); see also generally, Rulemaking 17-09-020 and Rulemaking 19-11-009.

⁷ See CPUC Decision 15-06-063 at 34-38; see also CPUC Decision 17-06-027 at 22; see also CPUC Decision 18-06-030 at 46-48; see also CPUC Decision 19-06-026 at 52.

⁸http://www.aiso.com/Documents/Section40_ResourceAdequacyDemonstrationForAllSchedulingCoordinators_aso_f_Jun3_2015.pdf (emphasis added).

⁹ The CAISO staff response to initial comments claims on the one hand: "The PRR relates to aspects of the RA program that are within the CAISO's tariff authority. LRAs may set their planning reserve margin and establish qualifying capacity methodologies. Nothing about PRR1280 intrudes on LRAs' ability to exercise their authority on those matters." Yet in the same response, CAISO staff states, "If LRA credits do no net to zero, then all of the credits would be rejected." PRR1280_Initial_Comments_Matrix, CAISO Response.