

Appeal of BPM PRR 1280

Submitted by	Organization	Date Submitted
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Previous Comments on PRR

Please see previously filed comments and reply comments.

Reason for Appeal

The CPUC staff appeals CAISO’s proposed changes to its BPM which would, in effect, no longer count the investor owned utility (IOU) demand response that the CPUC allocates to load-serving entities. To effectuate this, CAISO proposes to no longer accept the “credits” the CPUC uses to reduce *system* resource adequacy requirements for these Demand Response resources. With this addition to its BPM, CAISO upends the CPUC long-standing practice, which allows CPUC- jurisdictional entities to use Demand Response to meet their *system* resource adequacy (RA) obligations. As discussed further below, CPUC staff believes that the proposed change intrudes upon CPUC jurisdiction, is procedurally improper, is inconsistent with Board approval, and inconsistent with state law and state policy regarding the treatment of Demand Response resources.

At a broad level, CPUC staff understands and appreciates CAISO’s concern about the reliability of the grid, which we share as well, especially in light of the August 2020 heat storm outages. However, we believe that the IOU demand response programs that the CPUC allocates through credits to all jurisdictional entities (e.g., the base interruptible program, agricultural pumping program, capacity bidding program, and air conditioner cycling programs) materially helped to address the reliability issues experienced during the August heat storm outages. Accordingly, we

do not believe that it would be appropriate at this time for CAISO to reject the CPUC's decades long practice of using DR credits, and to determine unilaterally that DR resources neither reduce nor meet RA requirements. Not only would this be an expensive proposition for ratepayers, but it does not comport with the State law, the Energy Action Plan "loading order" or state policy preferences.

Should CAISO be concerned about the quality of the credits for other types of resources used by non-jurisdictional entities (e.g., liquidated damage contracts), CAISO could narrowly tailor its requirement to prohibit the use of these types of contracts and credits. Further, to address over reliance on DR, CAISO could also post additional information on the use of DR by LRAs to provide further transparency regarding the scope of the issue so that stakeholders could engage in a more informed discussion about the issues of utmost importance to the state, including grid reliability and use of demand response to meet our shared grid reliability needs.

For the reasons discussed below, CPUC staff appeals CAISO's determination to proceed with this change. In addition, CPUC staff notes that with CAISO's recently proposed changes to substantially abbreviate its BPM appeal process, which reduces the appeal time from ten weeks to less than four weeks (including the elimination of reply briefs and stakeholder briefs), there is insufficient time for this appeal process before CAISO would make backstop decisions and thereby afford parties with sufficient due process for a change of this magnitude.

CAISO Provides No Tariff Language or Citations that Supports this BPM Change. At no time during the BPM process has CAISO provided the tariff language and sections that supports its position in this BPM, nor does CAISO explain its abrupt reversal from accepting DR credits

from the CPUC since the beginning of the RA program and why, if it contravened its tariff, it was acceptable over the last decade, but not now.

CAISO’s Proposed Change Intrudes on CPUC Jurisdiction to Determine RA Requirements for CPUC Jurisdictional Entities. CAISO’s proposed BPM change, to reject the CPUC’s long-standing practice of using Demand Response credits to reduce resource adequacy requirements, intrudes on CPUC jurisdiction. California Public Utilities Code, Section 380(a) states that “[t]he commission, in consultation with the Independent System Operator, shall establish resource adequacy requirements for all load-serving entities.” Further, Section 380 states that the CPUC shall “[e]stablish new or maintain existing demand response products and tariffs that facilitate the economic dispatch and use of demand response that can either meet or *reduce an electrical corporation’s resource adequacy requirements, as determined by the commission.*” (Emphasis added.) In this circumstance, the CPUC has determined that the Demand Response resources reduce the resource adequacy requirements, consistent with statute, and the CAISO is rejecting this determination.

CAISO’s Proposed Change is Procedurally Improper -- It is Not a Ministerial Change and Will Have a Material Effect on Rates and, therefore, a Stakeholder Process and Tariff Changes are Required. The proposed BPM change is not a ministerial issue and is thus inappropriate to institute through the BPM process. FERC conditioned approval of CAISO’s BPM process on the finding that BPM changes do not “have a material impact on rates.” Therefore, CAISO may not unilaterally impose changes that could have a material impact on rates. The proposed change would have material impacts on rates because it will affect the ability of already contracted-for Demand Response resources to count as system capacity in RA compliance showings by load serving entities for the 2021 RA compliance year. This BPM

change imposes new resource requirements and amount to a new de facto requirement imposed on Demand Response resources to qualify as system capacity resources. Therefore, CAISO's refusal to count over 1,500 MW of Demand Response as a system resource for 2021 will likely lead either to load serving entities procuring additional capacity to meet the newly created CAISO requirement or to CAISO procuring excess capacity through the Capacity Procurement Mechanism (CPM), because it identified a "shortfall" that the CPUC did not. To be clear, this can and will have a material impact on rates. As is well known, the CPUC has used this practice for over a decade and the CAISO has a long-standing practice of deferring to the CPUC regarding the counting of Demand Response to meet system requirements. Section 380 of the California Public Utilities Code provides that procurement requirements must be adopted by the CPUC, in consultation with the CAISO. Therefore, both agencies need to work collaboratively to adopt rules through a transparent process and a full stakeholder process, and tariff changes are required.

CAISO's Proposal in PRR 1280 Has Not Been Approved by CAISO's Board and is Inconsistent with the Stakeholder Processes. While CAISO may argue that this change was authorized by the CAISO Board, CPUC staff disagrees. In documents prepared for CAISO's July Board meeting, CAISO explained its proposal in the following manner:

- For reliable operation of the grid, the ISO depends on adequate supply from resources *located in local capacity areas* to meet demand all hours of the year. Demand response resources can help support the system *in local capacity areas* by reducing load, thus requiring less electricity supply when the *local area* is supply constrained and would otherwise be in jeopardy should a contingency occur.

- The slow demand response PDR effort was initiated as a result of a 2016 business practice manual (BPM) revision appeals decision in which the ISO committed to initiate a stakeholder process to develop a way to operationalize slow demand response resources. Doing so would allow these resources to remain eligible to provide *local resource adequacy capacity* and be used by the ISO when needed *for local reliability needs*. This resulted in the development of a new process to dispatch slow demand response PDR on a pre-contingency dispatch basis using a post-day-ahead market solution.
- Stakeholders are generally supportive of Management’s efforts to integrate “slow” demand response PDR *as a local capacity resource* as a remedy to the ISO 2016 BPM appeals committee decision.

In addition, in its presentation to the Board, CAISO discussed only *local* RA and CAISO management made clear that if these resources were not shown on a supply plan, CAISO would backstop only for *local* requirements, but did not mention that it would not count the resources for system and potentially backstop through CPM in this manner (see CAISO slides below).

Tariff revisions are necessary to operationalize slow demand response resources for local needs

- To meet local RA needs, resources must either:
 - Be able to respond within 20 minutes following a contingency event, or
 - Have availability to be dispatched frequently on a pre-contingency basis
- In 2016, proposed BPM revision would require resource availability within 20 minutes to qualify as local RA
 - Impacted demand response resources without the flexibility or capability to respond within 20 minute notification
 - Appeal made by multiple demand response stakeholders was granted by the ISO executive appeals committee

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The pre-contingency dispatch solution will apply starting with the 2021 resource adequacy compliance year

- CPUC “credits” utility demand response programs as resource adequacy and does not require them to be shown on resource adequacy plans
 - Crediting means demand response not subject to ISO RA tariff provisions like all other RA resources
 - Solution can only operationalize demand response resources shown on supply plans
 - After a cure period, the ISO will procure additional resources through its backstop authority if there are insufficient resources shown on RA supply plans to meet **local area capacity needs**

Further, in its motion for approval by the Board, CAISO requested permission to implement these changes *through tariff revisions*, not through a BPM change, as shown in the figure below (emphasis added):¹



Board of Governors July 22, 2020 Decision on Slow Demand Response and Proxy Demand Resources Proposal
General Session

Motion

Moved, that the ISO Board of Governors approves the tariff revisions necessary to implement the slow demand response and proxy demand resources proposal as described in the memorandum dated July 15, 2020; and

Moved, that the ISO Board of Governors authorizes Management to make all necessary and appropriate filings with the Federal Energy Regulatory Commission to implement the proposed deliverability methodology revisions, including any filings that implement the overarching initiative policy but contain discrete revisions to incorporate Commission guidance in any initial ruling on the proposed tariff amendment.

Moved: Bhagwat Second: Galiteva

Board Action:	Passed	Vote Count:	5-0
Bhagwat	Y		
Borenstein	Y		
Galiteva	Y		
Leslie	Y		
Olsen	Y		

Motion Number: 2020-07-G2

¹ Available at <http://www.caiso.com/Documents/DecisiononSlowDemandResponseandProxyDemandResourcesProposal-Motion-July2020.pdf>

Finally, even if it was authorized by the Board, which we do not believe occurred, it cannot be implemented through a BPM change because it is not a ministerial matter and will have a material impact on rates, as discussed previously.

CAISO’s Proposed Change Is Inconsistent with State Law and State Policy. Finally, CAISO’s proposal to not allow any Demand Response resources to count for system resource adequacy is inconsistent with state law and state policy regarding the loading order. First, California Public Utilities Codes, Section 380 states the following:

(a) The commission, in consultation with the Independent System Operator, shall establish resource adequacy requirements for all load-serving entities.

(b) In establishing resource adequacy requirements, the commission shall ensure the reliability of electrical service in California while advancing, to the extent possible, the state’s goals for clean energy, reducing air pollution, and reducing emissions of greenhouse gases. The resource adequacy program shall achieve all of the following objectives:

* * *

(2) Establish new or maintain existing demand response products and tariffs that facilitate the economic dispatch and use of demand response that can either *meet or reduce an electrical corporation’s resource adequacy requirements, as determined by the commission.*

In addition, CAISO’s proposed BPM change is inconsistent with California’s adoption of the loading order, which is codified, in part, under California Public Utilities Code 454, which states:

(i) The electrical corporation *shall first meet its unmet resource needs through all available energy efficiency and demand reduction resources* that are cost effective, reliable, and feasible.

The state’s loading order is also discussed in the 2008 Energy Action Plan and that plan indicates that it was “established that the state, in meeting its energy needs, would invest first in energy

efficiency and demand-side resources, followed by renewable resources, and only then in clean conventional electricity supply.”²

Further, California Public Utilities Code, Section 345.5, requires the following of the CAISO:

(a) The Independent System Operator, as a nonprofit, public benefit corporation, shall conduct its operations consistent with applicable state and federal laws and ***consistent with the interests of the people of the state.***

(b) To ensure the reliability of electric service and the health and safety of the public, the Independent System Operator shall manage the transmission grid and related energy markets in a manner that is consistent with all of the following:

(1) Making the most efficient use of available energy resources. For purposes of this section, “available energy resources” include energy, capacity, ancillary services, and demand bid into markets administered by the Independent System Operator. “Available energy resources” do not include a schedule submitted to the Independent System Operator by an electrical corporation or a local publicly owned electric utility to meet its own customer load.

(2) ***Reducing, to the extent possible, overall economic cost to the state’s consumers.***

(3) ***Applicable state law intended to protect the public’s health and the environment.***

(4) Maximizing availability of existing electric generation resources necessary to meet the needs of the state’s electricity consumers.

(5) ***Conducting internal operations in a manner that minimizes cost impact on ratepayers to the extent practicable and consistent with the provisions of this chapter.***

(6) Communicating with all balancing area authorities in California in a manner that supports electrical reliability.

(c) The Independent System Operator shall do all of the following:

(1) ***Consult and coordinate with appropriate state and local agencies to ensure that the Independent System Operator operates in furtherance of state law regarding consumer and environmental protection.***

For the foregoing reasons, CPUC staff respectfully appeals CAISO’s determination regarding PRR 1280 and requests that CAISO either withdraw it or hold it in abeyance until the CPUC has considered CAISO’s proposal to eliminate DR “credits” for system resources.

² 2008 Energy Action Plan, available at <https://www.cpuc.ca.gov/eaps/>