

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE  
STATE OF CALIFORNIA**

Application of Southern California Edison  
Company (U338E) for Approval of the  
Results of Its 2013 Local Capacity  
Requirements Request for Offers for the  
Western Los Angeles Basin.

Application 14-11-012

**CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION RESPONSE  
TO APPLICATIONS FOR REHEARING OF DECISION 15-11-041**

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Pursuant to Rule 16.1(d) of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission), the California Independent System Operator Corporation (CAISO) files this response to the applications for rehearing of Decision (D.) 15-11-041 filed by EnerNOC, Inc., Powers Engineering (Powers Engineering), and Sierra Club.

**I. Introduction**

The CAISO continues to support the Commission’s decision in D.15-11-041 (Decision) and believes that the procurement approved in the decision is an important step toward ensuring reliability in Southern California while advancing the state’s renewable and environmental policy goals. The CAISO strongly supports the state’s Loading Order, specifically with regard to pursuing preferred resources that can substitute for, and reduce reliance on greenhouse gas emitting resources. In Commission proceedings as well as its own stakeholder initiatives, the CAISO has consistently focused on enabling the growth of preferred resources, including demand response, that can effectively address the system’s operational needs.<sup>1</sup> The request for offers (RFO) conducted by Southern California Edison Company (SCE) effectively procured resources that were capable of addressing the local reliability constraints as identified by the CAISO and required by the Commission.

**II. Standard of Review**

Public Utilities Code (“PU Code”) Section 1757(a) establishes the standard for determining whether the Decision is unlawful or erroneous, and specifies that review by a court

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<sup>1</sup> See, for example, the CAISO’s participation in R.13-09-011 wherein the CAISO advocated for supply side demand response resources that were capable of meeting capacity requirements, and the CAISO’s participation in R.14-10-010, wherein the CAISO sought to better align resource adequacy procurement with the CAISO’s local capacity needs.

shall not extend further than to determine, on the basis of the entire record, whether any of the following occurred:

- (1) The Commission acted without, or in excess of, its powers or jurisdiction;
- (2) The Commission has not proceeded in the manner required by law;
- (3) The Decision is not supported by the findings;
- (4) The findings in the Decision are not supported by substantial evidence in light of the whole record;
- (5) The Decision was procured by fraud or was an abuse of discretion; or
- (6) The Decision violates any right of the petitioner under the Constitution of the United States or the California Constitution.

The parties requesting rehearing allege legal error based on the standards in PU Code Sections 1757(a)(2) through (a)(6). In assessing whether the Commission proceeded in the manner required by law, courts apply “a strong presumption of the validity of the [C]ommission’s decisions.”<sup>2</sup> The Commission’s interpretation of its own rules and regulations “is entitled to consideration and respect by the courts.”<sup>3</sup> A reviewing court will not interfere with the Commission’s choice of procedures “absent a manifest abuse of discretion or an unreasonable interpretation of the statutes governing its procedures.”<sup>4</sup> In addition, if the court concludes that the Commission has failed to proceed in the manner required by law, the court “will annul its decision only if that failure was prejudicial.”<sup>5</sup>

In assessing whether the findings in the Decision are supported by substantial evidence in light of the whole record, “[t]he court must consider all relevant evidence in the record,” but “[i]t is for the agency to weigh the preponderance of conflicting evidence.”<sup>6</sup> “Courts may reverse an agency’s decision only if, based on the evidence before the agency, a reasonable person could not reach the conclusion reached by the agency.”<sup>7</sup> “[T]he findings of fact by the [Commission] are to be accorded the same weight that is given to jury verdicts and the findings are not open to attack for insufficiency if they are supported by any reasonable construction of the evidence.”<sup>8</sup>

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<sup>2</sup> *Utility Reform Network v. Public Utilities Comm’n.*, 223 Cal. App. 4th 945, 958 (2014); *Utility Consumers’ Action Network v. Public Utilities Comm’n.*, 187 Cal.App.4th 688, 697 (2010).

<sup>3</sup> *Southern California Edison Co. v. Public Utilities Comm’n.*, 85 Cal.App.4th 1086, 1096 (2000).

<sup>4</sup> *Pacific Bell v. Public Utilities Comm’n.*, 79 Cal.App.4th 269, 283 (2000).

<sup>5</sup> *Utility Reform Network v. Public Utilities Comm’n.*, 223 Cal. App. 4th 945, 958 (2014), citing *Southern California Edison Co. v. Public Utilities Comm’n.*, 140 Cal.App.4th 1085, 1106 (2006).

<sup>6</sup> *Clean Energy Fuels Corp. v. Public Utilities Comm’n.*, 227 Cal.App.4th 641, 649 (2014).

<sup>7</sup> *Id.*, citing *SFPP, L.P. v. Public Utilities Comm’n.*, 217 Cal.App.4th 784, 794 (2013).

<sup>8</sup> *Id.*

“When conflicting evidence is presented from which conflicting inferences can be drawn, the [Commission’s] findings are final.”<sup>9</sup>

**III. The Commission Proceeded in the Manner Required by Law.**

EnerNoc alleges that D.15-11-041 does not proceed in a manner required by law because it does not address issues included in the Scoping Memo.<sup>10</sup> EnerNoc specifically states that the Decision failed to address the following issues:

“4. Are the results of SCE’s 2013 LCR RFO for the LA Basin a reasonable means to meet the 1,900 to 2,500 MW of identified LCR need determined by D.13-02-015 and D.14-03-0[0]4,” [with] “consideration of the reasonableness of at least the following:

.....

(d) Did SCE’s RFO process limit certain resource bids from being considered? If so, were these limitations reasonable?”

(e) Was the process used to develop the eligibility requirements reasonable?

(f) Did the process and outcome of any consultations between the California Independent System Operator [CAISO] and SCE impact resources requirements and contract selection? If so, was this impact reasonable?”<sup>11</sup>

Powers Engineering states that the Decision violates PU Code Section 454.5(b)(9)(c), which requires an electric utility to meet resource needs through all available energy efficiency and demand reduction resources that are cost effective, reliable and feasible.<sup>12</sup>

Contrary to these assertions, D.15-11-041 appropriately reviewed the reasonableness of SCE’s RFO. The Decision makes specific findings that the “RFO procurement can meet long-term local capacity requirement needs when combined with repurposing of existing demand response resources in the Western LA Basin starting 2021,” that SCE and the CAISO worked together to “confirm that the location and characteristics of the procured resources would meet local capacity needs” and that the selected resources “effectively address two major reliability concerns for the LA Basin and San Diego areas and will address the residual need in the Western LA Basin.”<sup>13</sup> These findings were supported by substantial evidence presented by both the

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<sup>9</sup> Id., at 649-650, citing *Toward Utility Rate Normalization v. Public Utilities Comm’n.*, 22 Cal.3d 529, 537-538 (1978).

<sup>10</sup> EnerNoc Application for Rehearing, pp. 3-19.

<sup>11</sup> Scoping Memo, p. 4.

<sup>12</sup> Powers Application for Rehearing, pp. 14-15.

<sup>13</sup> Decision, pp. 33-34.

CAISO and SCE regarding the resource characteristics necessary to meet the identified local reliability constraints. The consultations between the CAISO and SCE to identify resource characteristics sufficient to meet local reliability constraints were specifically required by Commission's Track 1 and Track 4 decisions in the 2012 long-term procurement plan.<sup>14</sup> Furthermore, the Commission's Track 4 decision confirmed that only "fast demand response" resources could be relied upon to mitigate a first contingency and prepare the system for a second contingency in an N-1-1 scenario.

Taken together, the factual record in this proceeding and the legal requirements set forth in the Track 1 and Track 4 decisions provide a strong substantive basis for the Commission's determination that the results of SCE's RFO were reasonable.

**A. EnerNoc's Contention that SCE's Consultations with the CAISO Were Unreasonable is Baseless.**

The Commission's Long-term Procurement Plan Proceeding Track 4 decision (D.14-03-004) directed SCE to make "efforts to consult with the [CAISO] to develop performance characteristics for local reliability, and how [to] meet any such performance characteristics."<sup>15</sup> There is substantial evidence that SCE completed these efforts in a reasonable manner that was consistent with the legal requirements of D.14-03-004. Notwithstanding the evidentiary record in this proceeding and the Track 1 and Track 4 decisions in the 2012 long-term procurement plan proceeding, EnerNoc claims that these consultations were unreasonable based largely on what EnerNoc perceives as an unreasonable outcome of the RFO.<sup>16</sup> In particular, EnerNoc takes issue with SCE's requirement that demand response resources have a 20-minute response requirement to participate in the RFO. In taking this position, EnerNoc ignores precedential policies, the legal and factual bases on which the Commission determined local capacity requirement (LCR) needs in the 2012 long-term procurement plan proceeding, the CAISO tariff, NERC standards addressing system contingencies, and the factual evidence presented in this proceeding. A thorough review of these legal and factual bases makes it clear that SCE's RFO was reasonable and the Commission's decision to approve the RFO was both lawful and based on substantial evidence.

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<sup>14</sup> D.13-02-015, p. 136, Ordering Paragraph 14; D.14-03-004, p. 114.

<sup>15</sup> D.14-03-004, p. 146, Ordering Paragraph 11.

<sup>16</sup> EnerNoc Application for Rehearing, p. 11.

**i. The Track 1 and Track 4 Decisions Acknowledged that Only “Fast Demand Response” Resources Could Meet the CAISO-Identified Reliability Constraint.**

During Track 1 and Track 4 of the 2012 long-term procurement plan proceeding, the Commission heard considerable testimony regarding the necessary performance characteristics of resources sufficient to meet the LCR in the western LA Basin. In the Track 1 Decision, the Commission recognized the CAISO’s testimony indicating “that it may be possible to develop specific demand response programs which would be able to count for reliability purposes, possibly including programs targeted to specific local areas, or to shave peak load (which would reduce the load forecast). However, there are no demand response programs at this time which the [CAISO] believes meet reliability criteria.”<sup>17</sup>

Recognizing this testimony, the Track 1 Decision noted: “We [the Commissioners] fully expect that innovative demand response programs will continue to develop, *including those that possess characteristics that are consistent with [CAISO] local reliability criteria.*”<sup>18</sup> Implicit in this finding is that demand response resources must meet CAISO local reliability criteria to count toward LCR needs. The Commission then stated that it “is reasonable to assume that some amount of demand response resources will be located in the LA Basin, *be locally dispatchable, and available to meet LCR needs by 2020.*”<sup>19</sup> Conclusion of Law No. 7 further found that it was reasonable to assume 200 megawatts (MW) of “locally-dispatchable” demand response resources to be available in the LA Basin to “reduce LCR needs by 2020.”<sup>20</sup> The Commission adopted the 200 MW by 2020 figure knowing that 549 MW of demand response existed in the LA Basin at that time (in 2013).<sup>21</sup> The Commission’s assumption of 200 MW out of 549 MW of locally-dispatchable resources by 2020 clearly reflected the Commission’s understanding that not all demand response resources are consistent with the CAISO’s local reliability criteria.

In Track 4, the Commission more explicitly addressed the issue of whether and how demand response resources could be relied upon to meet LCR. In the Track 4 Scoping Memo, the Commission set forth assumptions for the levels of “fast demand response,” specifically

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<sup>17</sup> D.13-02-015, pp. 53-54.

<sup>18</sup> Id. at 55. (emphasis added).

<sup>19</sup> Id. (emphasis added).

<sup>20</sup> Id. at 158.

<sup>21</sup> Id. at 52.

those demand response resources that would be “*activated in 30 minutes or less after the first contingency.*”<sup>22</sup> The Scoping Memo assumed a level of “fast demand response” in the LA Basin and San Diego local reliability areas at 189 MW for the years 2018 and 2022<sup>23</sup> and also assumed 997 MW of additional demand response that it designated as “second contingency” resources.<sup>24</sup> These “second contingency” resources were specifically *not* modeled to address LCR.<sup>25</sup> The Commission acknowledged that only the “fast demand response” resources could be depended upon to mitigate the first contingency and prepare the system for a second contingency in an N-1-1 scenario. Specifically, the Commission found as follows:

“Consistent with the instructions of the revised Scoping Memo, the 997 MW of ‘second contingency’ demand response in the [CAISO] modeling was not available to avoid the second contingency ....The [CAISO]’s modeling followed the revised Scoping Memo’s instructions, which reflected the operating and performance characteristics of ‘second contingency’ demand response resources. In the [CAISO]’s reliability rubric, these resources should not be counted because they cannot be relied upon to activate within 30 minutes after the first contingency. We find that, consistent with the revised Scoping Memo, the [CAISO] properly did not model ‘second contingency’ demand response resources for determining LCR needs. We will not revisit these demand response assumptions here for the purpose of changes to the [CAISO] study itself, but instead consider whether potential additional demand response should affect authorized procurement amounts.”<sup>26</sup>

The Commission further noted that “[i]n the future, it is reasonable to expect that some amount of what is now considered ‘second contingency’ demand response resources can be available to mitigate the first contingency, and therefore meet LCR needs.”<sup>27</sup> However, this finding was immediately followed with the clarification that “[CAISO] witness Millar agrees that it is possible that additional demand response resources with more notice would also be able to respond within the time frame expected to meet the N-1-1 contingency within 30 minutes.”<sup>28</sup> The Track 4 decision recognized that demand response not capable of being dispatched to respond to a first contingency within 30 minutes could not be relied upon to meet LCR.

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<sup>22</sup> D.14-03-004, p. 53.

<sup>23</sup> Id.

<sup>24</sup> Id. at 54.

<sup>25</sup> Id. at 55.

<sup>26</sup> Id. at 55-56.

<sup>27</sup> Id. at 57.

<sup>28</sup> Id.



Based on this discussion, the Track 4 decision specifically required that any RFO issued by SCE had to ensure that “the resource must meet the identified reliability constraint identified by the [CAISO].”<sup>29</sup> EnerNoc takes issues with SCE’s decision to “reduce the one (1) hour response time required in the original [demand response] LCR Pro Forma Agreement,”<sup>30</sup> but completely disregards the thorough Commission discussion of demand response performance characteristics in the Track 4 decision authorizing SCE to procure new resources. In addition to being inconsistent with the LCR requirements in the CAISO tariff, maintaining the one hour response time for demand response resources would have been objectively unreasonable based on the Commission’s analysis of demand response performance characteristics and the directive to ensure that resources meet the CAISO-identified reliability constraint.

**ii. The 20-Minute Maximum Response Time for Demand Resources Is Rooted in Established Reliability Requirements.**

The CAISO extensively addressed NERC and CAISO tariff reliability requirements that led to the establishment of the 20-minute response time requirement for demand response resources.<sup>31</sup> CAISO Tariff Section 40.3 specifically identifies that the CAISO will conduct an annual Local Capacity Technical Study<sup>32</sup> to determine the amount of Local Capacity Area Resources needed to meet identified contingencies.<sup>33</sup> The CAISO applies methods for resolving contingencies consistent with NERC Reliability Standards and the CAISO Reliability Criteria.<sup>34</sup> The tariff specifies a maximum manual adjustment time of 30 minutes after the first contingency for the CAISO to prepare the system for the next contingency.<sup>35</sup> This 30-minute requirement applies to all resources, not solely demand response.<sup>36</sup> Based on the CAISO tariff and the NERC Reliability Standards, the 1-hour response time initially included in the SCE RFO clearly would not have been sufficient to meet LCR needs. The CAISO has stated on numerous occasions that

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<sup>29</sup> Id. at 114.

<sup>30</sup> EnerNoc Application for Rehearing, p. 13.

<sup>31</sup> CAISO Reply Brief, pp. 2-3. Despite this thorough discussion, EnerNoc claims that the demand response performance requirements “had *no* support in law or fact” (emphasis in the original). EnerNoc fails to address specific NERC Reliability Standards that require repositioning of the system within thirty minutes after the first contingency, the CAISO tariff sections regarding the Local Capacity Technical Study, and the Commission’s discussion of demand response performance requirements in the Track 1 and Track 4 decisions. EnerNoc’s fundamental position seems to be that these local reliability requirements should be ignored entirely.

<sup>32</sup> Terms not otherwise defined herein are used as defined in the CAISO tariff.

<sup>33</sup> CAISO Tariff Sections 40.3.1 and 40.3.1.1.

<sup>34</sup> CAISO Tariff Section 40.3.1.1

<sup>35</sup> CAISO Tariff Section 40.3.1.1(1).

<sup>36</sup> This requirement is based on NERC Planning Standards TOP-004 and TOP-007.

in order to manually readjust the system within the NERC-mandated 30-minute window, some amount of time must be reserved for operator action and market dispatch.<sup>37</sup> A 20-minute window response requirement allows only 10-minutes for the CAISO operator to assess and re-dispatch the system.<sup>38</sup>

As noted in EnerNoc's Comments, the CAISO proposed a revision request (PRR) to its Reliability Requirements Business Practice Manual to clarify the CAISO's Local Capacity Technical Study analysis. This PRR seeks to clarify *already existing* CAISO processes to determine Local Capacity Area Resources pursuant to tariff section 40.3. After carefully considering stakeholder comments, the CAISO has restarted the PRR process.<sup>39</sup> Contrary to EnerNoc's claims, the PRR does not institute new requirements on any resources; rather, it merely clarifies the current requirements that resources must meet to qualify as Local Capacity Area Resources.

**iii. The Commission's Resource Adequacy Decision for 2016 does not Control Long-Term Resource Procurement Required to Meet CAISO Identified Reliability Constraints.**

In its rehearing request, EnerNoc cites the Commission's decision regarding resource adequacy (RA) requirements for the 2016 program year (D.15-06-063) to "confirm" that there is no Commission required local dispatch requirement for demand response resources. This observation not only ignores the CAISO's requirement for local area capacity, it is irrelevant.

The 2016 RA decision did not dictate, and does not govern, the procurement which the Commission directed SCE to undertake (which procurement underlies this proceeding) in the Track 1 and Track 4 long-term procurement plan decisions. The Track 4 Decision specifically required SCE to solicit resources that met "the identified reliability constraint identified by the [CAISO]."<sup>40</sup> That decision, not the 2016 RA proceeding, directs and governs SCE's procurement at issue in this proceeding. The CAISO provided SCE with information regarding

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<sup>37</sup> See, for example, Reporter's Transcript in SCE's Application for Approval of the Results of Its 2013 Local Capacity Requirements Request for Offers for the Moorpark Sub-Area (A.14-11-016), p. 493, lines 7-11, Testimony of Neil Millar, Order Instituting Rulemaking to Enhance the Role of Demand Response in Meeting the State's Resource Planning Needs and Operational Requirements (R.13-09-011), p. 6 ("The first way [for system operators to ready the system for the next contingency] is to have resources that can respond sufficiently fast that the need for the dispatch is determined, the dispatch is communicated, and resources respond, all within 30 minutes.")

<sup>38</sup> This requirement is discussed in more detail in the updated PRR language, which can be found at <http://bpmcm.caiso.com/Pages/ViewPRR.aspx?PRRID=854&IsDlg=0>.

<sup>39</sup> <http://www.caiso.com/Documents/BPMChangeManagementProposedRevisionRequestStatusChanges102815.htm>.

<sup>40</sup> D.14-03-004, p. 114.

its Local Capacity Area Resource requirements to meet this directive. In addition, D.15-06-063 pertains only to 2016 resource adequacy requirements. The Decision notes that the 20-minute local dispatch requirement was not adopted for 2016 “[g]iven the lag in DR program response time as well as the current market participation uncertainties.”<sup>41</sup> The Decision also explicitly states that “this issue should be re-evaluated in Phase 3 of this proceeding to be considered for future compliance year RA rules.”<sup>42</sup> The Track 1 and Track 4 decisions, which govern this procurement, were designed to meet long-term LCR needs based on the CAISO-identified reliability constraints in 2021 and beyond. Application of resource adequacy rules in 2016 is therefore irrelevant.

EnerNoc also fails to acknowledge that the Long-term Procurement Proceeding Track 1 and Track 4 decisions explicitly recognized the ability and difference between “fast demand response” resources and “second contingency” resources, with the Commission finding that “second contingency” resources could not be used to meet the CAISO-identified reliability constraint.

**iv. The Evidentiary Record in A.14-11-012 Supports a Finding that SCE’s Consultations with the CAISO were Expected and Reasonable**

Reviewing the actual record demonstrates that the process for determining performance characteristics was fully consistent with the Commission’s Long-term Procurement Plan proceeding Track 4 directive to consult with the CAISO. The evidentiary record shows that SCE provided hypothetical local capacity portfolios for the CAISO to study.<sup>43</sup> The CAISO studied the scenarios consistent with the studies it conducted in the Track 1 and Track 4 long-term procurement plan proceedings to determine whether the conceptual portfolios would meet the local capacity needs.<sup>44</sup> In the process of studying these hypothetical local capacity portfolios, the CAISO indicated a need for a 20-minute response time for use limited resources “in order to be meaningful in helping us address the specific local capacity needs we had in the area and the reliability issues in the area.”<sup>45</sup>

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<sup>41</sup> D.15-06-063, p. 35.

<sup>42</sup> Id.

<sup>43</sup> Tr.(Chinn) at 264, ln. 14-17.

<sup>44</sup> Exhibit CAISO-2, Prepared Direct Testimony of Neil Millar, p. 5.

<sup>45</sup> Tr.(Millar) at 340, ln. 13-17.

EnerNoc alleges that these consultations created a “moving target” for demand response resources with performance obligations that were “beyond the knowledge” of market participants.<sup>46</sup> However, these allegations ring hollow when one considers that EnerNoc was a party to the 2012 long-term procurement plan proceeding that directed the SCE procurement at issue in this proceeding and had (or should have had) full knowledge of the Commission’s discussion of performance characteristics of demand response resources necessary to meet the local reliability needs in the Western LA Basin. Moreover, EnerNoc had (or should have had) knowledge that the Commission had directed SCE to consult with the CAISO.

**B. The Commission Can Incorporate Additional Findings and Conclusions into the Decision if Necessary.**

Based on the foregoing analysis, it is clear that there is strong evidentiary record and legal basis supporting the reasonableness of SCE’s RFO, specifically as it relates to the solicitation of demand response resources. If necessary, the Commission could make additional findings of fact and conclusions of law to clarify the basis on which it found SCE’s RFO to be reasonable. The CAISO recommends that the Commission consider the addition of the following findings of fact and conclusions of law.

Findings of Fact

- Pursuant to the Commission’s directive in Ordering Paragraph 11 of D.14-03-004, SCE presented conceptual LCR procurement portfolios to the CAISO to develop performance characteristics for local reliability, and to meet any such performance characteristics.
- The CAISO reviewed SCE’s conceptual procurement portfolios to determine whether the selected resources met the CAISO-identified local capacity constraints.
- The CAISO tariff specifies a maximum manual adjustment time of 30 minutes after the first contingency to prepare the system for the next contingency.
- In D.14-03-004, the Commission acknowledged that only the “fast demand response” resources could be depended upon to mitigate the first contingency and prepare the system for a second contingency in an N-1-1 scenario.

Conclusions of Law

- SCE reasonably limited its procurement of resources to those that would meet the CAISO-identified local capacity area constraints.
- Procuring demand response resources with a one hour response time would not have been reasonable given the discussion of demand response performance

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<sup>46</sup> EnerNoc Application for Rehearing, p. 13.

characteristics in D.14-03-004 and the local reliability constraints in the Western LA Basin.

#### **IV. Conclusion**

It is clear that the Commission's Decision was supported by the record in this proceeding and the legal framework established by the Track 1 and Track 4 decisions in the 2012 long-term procurement plan proceeding. The Commission should reaffirm the Decision and provide additional support and findings from the evidentiary record as necessary to ensure preferred resource procurement is effective at meeting system needs.

Respectfully submitted,

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