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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Enhance the Role of Demand Response in Meeting the State's Resource Planning Needs and Operational Requirements.	Rulemaking 13-09-011 (Filed September 19, 2013)

REPLY COMMENTS OF THE CALIFORNIA ENERGY EFFICIENCY INDUSTRY COUNCIL ON ADMINISTRATIVE LAW JUDGE'S RULING REQUESTING RESPONSES TO ADDITIONAL QUESTIONS IN REGARD TO 2018 AND BEYOND DEMAND RESPONSE PROGRAMS

July 15, 2016

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The California Energy Efficiency Industry Council (Efficiency Council) respectfully submits these *Reply Comments on Administrative Law Judge's (ALJ's) Ruling Requesting Additional Responses to Questions in Regard to 2018 and Beyond Demand Response (DR) Programs*, issued on May 20, 2016 (May 20 ALJ Ruling). These Comments are timely filed and served pursuant to the Commission's Rules of Practice and Procedure and the May 20th ALJ Ruling.

I.

BACKGROUND ON THE EFFICIENCY COUNCIL

The Efficiency Council is a statewide trade association of non-utility companies that provide energy efficiency (EE) and demand response (DR) services and products in California.[1] The Efficiency Council's member businesses employ many thousands of Californians throughout the state. Among these businesses and employees are implementation and evaluation experts, energy data analytics providers, energy service companies, engineering and architecture firms, contractors, financing experts, workforce training entities, and manufacturers of energy efficiency and DR products and equipment. The Efficiency Council's mission is to support appropriate energy efficiency and DR policies, programs, and technologies to create sustainable jobs, foster long-term

[1] More information about the Efficiency Council can be found at www.efficiencycouncil.org .

economic growth, create stable and reasonably priced energy, and drive environmental improvement.

Members of the Efficiency Council are actively involved in California's energy efficiency and DR industry and have a keen interest in the issues associated with the policies regarding DR, including active participation in Commission proceedings. As the actual providers of EE and DR products and services and generators of green jobs, the Efficiency Council's members' knowledge and expertise with respect to the issues surrounding effective implementation of DR, as well as the challenges faced by ratepayers and customers, can assist the state in reaching its energy goals.

II.

OVER-ARCHING COMMENTS

The May 20 ALJ Ruling acknowledges that there are significant issues that need to be resolved to provide a stable policy foundation for transitioning DR to a new paradigm. It is important to have a smooth transition period that allows appropriate time to implement the significant market changes while providing certainty to aggregators and customers.

The Efficiency Council appreciates the Commission's efforts to resolve the pending policy matters and its recognition that these are complex issues that require additional time to resolve. As many parties pointed out in Opening Comments on the May 20 Ruling, there are a number of factors in addition to the DR Potential Study that are pending, including an analysis of the Demand Response Auction Mechanism (DRAM), cost effectiveness, cost allocation, resource adequacy, and the Integrated Distribution Energy Resources (IDER) and Distribution Resource Plans (DRP) Rulemakings.

III.

TO SUPPORT A SMOOTH TRANSITION TO A MORE STABLE ENVIRONMENT FOR DR, THE COMMISSION SHOULD PERMIT LONGER-TERM PLANNING

Several parties commented on the need to move toward a more stable environment that will permit long-term planning. The Joint DR Parties expressed the difficulty for aggregators and customers to administer the program, manage customer expectations, and plan ahead in the current environment of multiple one or two year extensions as opposed to a longer process. As we articulated in our Comments on the March 4 ALJ Ruling, a three-year cycle would be an improvement from the current bridge year funding that is utilized, as it would reduce funding cliffs and stabilize programs. In the long run, the longer the program cycle the stronger the marketplace. DR programs need stability in customer participation which comes with stability in funding cycles.

IV.

TARGET MARKETING WITHIN SECTORS DEPENDS ON THE AVAILABILITY OF GRANULAR DATA

A number of parties commented on the fact that the utilities and third parties do not have equal access to customer information for the purpose of target marketing. The Interim Report recommends targeting customers within each sector who would have a propensity to participate in DR programs. This is a reasonable recommendation, but the Efficiency Council agrees with others who point out that this will require the availability of a significant amount of granular data. This issue is currently being addressed in the IDER and DRP proceedings where parties are grappling with the granularity of data requirement to meet the needs at the distribution level. In order to aid in program design, the granular data needs to be available prior to program design so that programs can be designed to match potential load with DR services. The specific customer data allows DR providers to successfully target appropriate loads. We recognize, however, that obtaining this data from the utility or customers may require the Commission to tackle the larger topic of customer information and data privacy. We support recommendations that the Commission, IOUs and DER providers continue to evaluate the level of granularity of data in the DR Potential Study that can be provided while observing data privacy rules. We also support alternative suggestions such as appointing the IOUs to identify customers by their load shape and refer them to registered aggregators on the Commission website.

V.

THE EFFICIENCY COUNCIL SUPPORTS MOVING TOWARD A THIRD-PARTY COMPETITIVE PROCUREMENT MODEL

Consistent with our position in Commission proceedings on energy efficiency (R.13-11-005), we are firm in our experience that the energy markets are more effective when the Commission regulates and leads, administrators (IOUs) administer, and third parties (demand response providers) implement. We acknowledge and support the comments of the Office of Ratepayer Advocates[2] to fully embrace the development of a competitive procurement for DR.

A clear boundary between administration, the IOUs, and implementation, third-parties, will address the following issues to the benefit of ratepayers:

> <u>Competitive markets generate highest value</u>. IOU-operated programs are not subject to the same market forces as competitively outsourced programs, and as such are not necessarily delivering the highest value to ratepayers. As a result, there is the risk that ratepayers may not be getting the most efficient/effective programs when administrators also implement. This challenge is similar to issues found when utilities procure generation resources. For supply-side resources the Commission has decided that "utility-owned generation projects should only be considered after an RFO for independent generation has failed"[3] in order to get the highest ratepayer value and create a competitive market that will attract multiple bidders.
>
> <u>Minimize risk of non-performance</u>. The IOUs carry little risk of not recovering the full costs of programs that they implement which places the full performance risk on ratepayers. The staffing costs of any individual program that they implement internally are almost always recovered in

[2] Comments of the Office of Ratepayer Advocates, filed July 1, 2016, response to question 2 at page 4; response to question 10 at page 12.
[3] D.12-04-046, April 19, 2012, Conclusions of law #7 page 62; Ordering Paragraph #5, page 65.

rates and can certainly be recovered before program performance is known – which is not comparable to competitively procured DR. Third-parties carry substantial development and staffing costs unless and until they deliver savings which insulates ratepayers from the risk of non-performance. This creates much more pressure to optimize implementation costs.

The Efficiency Council recommends that the Commission take the steps necessary to move supply DR programs to DRAM-like procurement. Competitive third-party procurement should be the rebuttable presumption. If there are some instances or exigent circumstances where an IOU is best positioned to efficaciously manage and implement a certain program compared to a third-party, the IOU should have to make that case to the Energy Division. This is not unlike the requirement in a government "sole-source" contract justification, where the government is required to document that a particular contractor has unique qualifications, or the activities are so time sensitive, that outsourcing the implementation is not warranted.

VI.

CONCLUSION

The Efficiency Council very much appreciates the opportunity to comment on these important issues and looks forward to working closely with the Commission, staff and other stakeholders in this proceeding.

Respectfully submitted,

July 15, 2016

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