BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

FILED
12-03-09
02:16 PM

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COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES ON "ALJ'S RULING TRANSFERRING FILINGS ON COST-EFFECTIVENESS METHODOLOGIES INTO THE RECORD AND ESTABLISHING COMMENT PERIOD"

LISA MARIE SALVACION
Attorney for the Division of Ratepayer Division of Advocates

California Public Utilities Commission
505 Van Ness Ave.
San Francisco, CA 94102
Phone: (415) 703-2069
FAX: (415) 703-2262
lms@cpuc.ca.gov

SUDHEER GOKHALE
Senior Utilities Engineer for the Division of Ratepayer Advocates

California Public Utilities Commission
505 Van Ness Ave.
San Francisco, CA 94102
Phone: (415) 703-2719
skg@cpuc.ca.gov

December 3, 2009

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I. INTRODUCTION

Pursuant to the November 19, 2009 Ruling of Administrative Law Judge (ALJ) Hecht (Ruling), the Division of Ratepayer Advocates submit these comments on the Commission's request to supplement the record on the cost-effectiveness methodology. The Ruling listed a number of documents in Applications 08-06-001, et al., to be considered part of the record in the Demand Response Rulemaking, (R.) 07-01-041, for the purposes of developing a standardized cost- effectiveness methodology for demand response (DR) activities. The Ruling also asked parties to identify any additional documents filed relevant for this purpose.[1] As provided in the Ruling, DRA appreciates the opportunity to submit comments regarding the contents of the listed documents and their relevance to the development of standardized cost-effectiveness protocols.

II. DISCUSSION

DRA does not oppose the submission of documents listed in the ALJ Ruling into the record of this proceeding. However, the Commission should adopt cost-effectiveness protocols based not only on the documents listed in the Ruling, but also all other relevant documents submitted by the CAISO, DRA and TURN over a period of time since

[1] Ruling, p.3.

R.07-01-041 was issued on January 26, 2007. Additional relevant documents from the A.08-06-001 docket that should be included in the record of R.07-01-041 are as follows:

1) DRA's Prepared Testimony filed in A.08-06-001 et al., dated November 24, 2008.
2) Initial comments of the California Independent System Operator Corporation on the proposed decision adopting Demand Response Activities and Budgets for 2009 through 2011, dated July 20, 2009.

DRA's Prepared Testimony should be included into the record, because it questions the high LOLP[2] factor Pacific Gas & Electric Company (PG&E) uses in determining the avoided cost of emergency-triggered programs, when such programs have no role in CAISO's daily resource needs. In the second item above, the CAISO points out the payments received by DR program participants may be substantially different and lower than capacity payments provided by IOUs. Both these issues are relevant to the development of cost-effectiveness protocols.

However, as discussed below, DRA's main assertion is that some of the most relevant information necessary for the development of standardized cost effectiveness protocols for demand response programs for the next cycle (2012-2014) will be available only after Phases 3 and 4 of R.07-01-041 are concluded. The Commission should wait until such information becomes available. DRA identifies three major areas currently being addressed in Phases 3 and 4 in the DR Rulemaking: (1) cost-effectiveness issues on the integration of demand response programs into CAISO markets, (2) cost-effectiveness issues on the transitioning emergency demand response programs, and (3) cost-effectiveness issues on direct participation by demand response providers in CAISO markets.

[2] Loss of Load Probability (LOLP). Also called Loss of Load Expectation (LOLE) by Southern California Edison Company (SCE).

A. The Commission Should Not Adopt Final Cost-Effectiveness Protocols Until the CAISO Develops Its Participation Requirements And Market Products For 2012.

As directed by the Commission, the IOUs provided cost-effectiveness estimates for their proposed programs based on a "Consensus Framework"[3] for the 2009-2011 DR program cycle. Subsequently, in D.09-08-027, the Commission authorized portfolios of DR programs for the three IOUs relying, to a large extent, on the cost-effectiveness results using the Consensus Framework. Although the IOUs were able to show that most of their programs are cost-effective based on the protocols in the Consensus Framework, it is now abundantly clear that the programs authorized for the 2009-2011 DR program cycle will need substantial modifications to fit into the CAISO's current markets as well as its markets in 2012. For example, currently the IOUs are not able to bid any of the authorized demand response programs directly into the CAISO's markets. Rather, the three IOUs provide an excel spreadsheet to the CAISO indicating which programs they expect to call in the near term.[4] This is hardly a robust program design as compared to other conventional generation resources participating in CAISO's markets.

The disconnect between the theoretical basis on which cost-effectiveness of IOUs' 2009-2011 DR programs were evaluated, and the practical basis of how the CAISO could actually use them, has been a continuing concern for DRA. Because of this disconnect, the IOUs' ratepayers do not receive the full value of these programs, even though they are assumed to provide benefits on par (with certain adjustments for other attributes) to a modern combustion turbine (CT). This disconnect is most obvious in the case of emergency DR programs which is the reason the Commission opened Phase 3 of this Rulemaking. Moreover, in instances where programs have emergency triggers the ratepayers are further exposed to pay twice for the same capacity.[5] The main reason for

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[3] Joint Comments Of California Large Energy Consumers Association, Comverge, Inc., Division Of Ratepayer Advocates, Energyconnect, Inc., Enernoc, Inc., Ice Energy, Inc., Pacific Gas And Electric Company (U 39-M), San Diego Gas & Electric Company (U 902-E), Southern California Edison Company (U 338-E) And The Utility Reform Network Recommending A Demand Response Cost Effectiveness Evaluation Framework, November 19, 2007.

[4] PG&E and CAISO refer to this as the "manual workaround process."

[5] Supplemental Recommendation And Pre-Workshop Comments Of The California Independent System Operator In Response To The Assigned Commissioner's Amended Scoping Ruling in R.07-01-041, July 27, 2009, pp. 6-7.

this situation is that the current cost-effectiveness protocols mostly ignore how and whether the programs fit into CAISO's operations and markets.

DRA has serious concerns that adopting cost-effectiveness protocols for use in the 2012-2014 DR program cycle—before the CAISO fully develops its market products in which future demand response programs are expected to participate—would once again cause a serious disconnect between the IOU program designs and the requirements for participation in CAISO's markets.

B. The Commission Should Not Adopt Final Cost-Effectiveness Protocols Until Negotiations for Transitioning Customers Enrolled in Emergency Trigger Programs Is Complete.

The Commission opened Phase 3 in R.07-01-041 to address how customers enrolled in IOUs' emergency DR programs could be transitioned to programs that have less restrictive triggers, so they could be available to CAISO prior to CAISO declaring an operating emergency. Phase 3 will also determine the maximum size of such reconfigured emergency programs consistent with CAISO's operating requirements. Phase 3 will also likely address if there is a continuing need for some amount of current emergency-triggered programs for meeting localized emergencies outside of system-wide emergencies. The Commission held two workshops in Phase 3 and settlement negotiations on these issues are currently underway. Depending on the outcome of these negotiations and subsequent approval by the Commission, the current cost-effectiveness protocols may not be appropriate for evaluating these programs. For example, for programs used to address localized emergencies, the Commission may need to consider a different proxy than the current CT proxy or consider additional adjustments to the CT proxy, to determine what costs are avoided by these programs.

C. The Commission Should Not Adopt Final Cost-Effectiveness Protocols Until It Determines How It Will Comply With FERC Order 719.

A November 9, 2009 Assigned Commissioner and Administrative Law Judges' Ruling opened a new phase of R.07-01-041. Phase 4 will consider the legal and practical implications of the Federal Energy Regulatory Commission (FERC) Order 719, which requires CAISO to accommodate direct participation of retail demand response customers (either individually or through demand response aggregator companies) in CAISO

markets. Direct bid-in is required to be incorporated in the second-generation CAISO tariff called Markets and Performance, scheduled to be implemented after April of 2010.[6] Appendix A of the ruling poses several questions on direct participation, and parties are requested to provide initial comments by December 4, 2009, followed by a workshop on December 16, and a Commission decision in mid-March 2010.

Assuming the Commission concludes that California law does not prohibit such direct participation, there could be implications on how demand response programs are evaluated. First, since the same customers could participate in both the IOU-administered DR programs and CAISO markets directly, and perhaps simultaneously, any such dual participation will raise questions regarding how costs incurred and benefits received by customers are allocated to IOU-administered DR programs for the purposes of evaluating their cost-effectiveness. Second, the payments made by CAISO for participation will likely be limited to an energy payment stream for energy, Residual Unit Commitment, and/or ancillary service capacity payments.[7] The CAISO, however, believes "that a significant contribution to the 'revenue adequacy' concern for demand response resources may continue to be required, coming directly from the utilities and other load-serving entities, in the form of resource adequacy capacity payments."[8] If such resource adequacy capacity payments are made to the IOU-administered DR program participants, the Commission will have to consider whether such payments should also be made to aggregators participating directly in CAISO markets. In any case, whether or not to include the cost of such resource adequacy capacity payments in the cost benefit evaluation could be an issue for consideration.

III. CONCLUSION

In summary, cost-effectiveness issues still remain open in relation to the integration of DR programs in CAISO markets, the negotiations in Phase 4 of R.07-01-041 regarding the transition of emergency DR program, and the direct participation by

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[6] Assigned Commissioner and Administrative Law Judges' Ruling Amending Scoping Memo, Establishing A Direct Participation Phase of this Proceeding, and Requesting Comment On Direct Participation of Retail Demand Response in CAISO Electricity Markets, November 09, 2009, p. 5.

[7] Initial comments of the California Independent System Operator Corporation on the proposed decision adopting Demand response Activities and budgets for 2009 through 2011, p.3, July 20, 2009 in A.08-06-001, et al.

[8] *Id.,* p.5.

DR providers in CAISO markets. These issues have not been adequately addressed in any of the documents filed in R.07-01-041. The currently available record is not adequate for finalizing demand response cost effectiveness protocols for the 2012-2014 DR program cycle, even after including those additional documents identified in the Ruling. Resolution of these issues is important to develop appropriate cost effectiveness protocols for the next cycle of DR programs. The ability of DR programs to align and integrate with CAISO markets is critical for the success of future demand response programs. The Commission should postpone adopting final standardized cost-effectiveness protocols, until the issues identified by DRA above are fully addressed in Phases 3 and 4 of R.07-01-041.

Respectfully submitted,

LISA-MARIE SALVACION

By: /s/ LISA-MARIE SALVACION

Lisa Marie Salvacion
Staff Counsel

Attorneys for the Division of Ratepayer Advocates

California Public Utilities Commission
505 Van Ness Ave.
San Francisco, CA 94102
Phone: (415) 703-2069
FAX: (415) 703-2262

December 3, 2009

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of **COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES ON "ALJ'S RULING TRANSFERRING FILINGS ON COST-EFFECTIVENESS METHODOLOGIES INTO THE RECORD AND ESTABLISHING COMMENT PERIOD"** to each party of record on the official service list in **R.07-01-041** via electronic mail.

Parties who did not provide an electronic mail address, were served by U.S. mail with postage prepaid listed on the official service list.

Executed on **December 3, 2009** at San Francisco, California.

/s/ ALBERT HILL

Albert Hill

SERVICE LIST
A.07-01-041

sdebroff@rhoads-sinon.com
keith.mccrea@sablaw.com

rmettling@bluepointenergy.com
spatrick@sempra.com
klatt@energyattorney.com
douglass@energyattorney.com
janet.combs@sce.com
liddell@energyattorney.com
ames_doug@yahoo.com
nes@a-klaw.com
jellis@resero.com
peter.maltbaek@cpowered.com
lms@cpuc.ca.gov
marcel@turn.org
mflorio@turn.org
rcounihan@enernoc.com
saw0@pge.com
jeffgray@dwt.com
irene@igc.org
ssmyers@att.net
wbooth@booth-law.com
kowalewskia@calpine.com
eric@strategyi.com
ja_boothe@yahoo.com
rquattrini@energyconnectinc.com
bhines@svlg.net
brbarkovich@earthlink.net
martinhomec@gmail.com
bdicapo@caiso.com
kmills@cfbf.com
elvine@lbl.gov
demorse@omsoft.com
clark.pierce@us.landisgyr.com
nplanson@consumerpowerline.com
gesmith@ecsny.com
apetersen@rhoads-sinon.com
miino@rhoads-sinon.com
CCole@currentgroup.com

stephen.baker@constellation.com
tcarlson@rrienergy.com
dviolette@summitblue.com
kcooney@summitblue.com
sschare@summitblue.com
barrettlarry@comcast.net

david@nemtzow.com
jcluboff@lmi.net
david.reed@sce.com
joyce.leung@sce.com
marian.brown@sce.com
mark.s.martinez@sce.com
andrea.horwatt@sce.com
carl.silsbee@sce.com
Case.Admin@sce.com
Jennifer.Shigekawa@sce.com
ka-wing.poon@sce.com
larry.cope@sce.com
garwacrd@sce.com
dwood8@cox.net
cfpena@sempra.com
jlaun@apogee.net
dbarker@semprautilities.com
jyamagata@semprautilities.com
ksmith2@semprautilities.com
LDavidson@semprautilities.com
CentralFiles@semprautilities.com
LWrazen@semprautilities.com
Dave.Hanna@itron.com
gayres@energycoalition.org

dwylie@aswengineering.com
hvidstenj@kindermorgan.com
shawn_cox@kindermorgan.com
mtierney-lloyd@enernoc.com
pk@utilitycostmanagement.com
chris@emeter.com
sue.mara@rtoadvisors.com
Paul.karr@trilliantnetworks.com
sharon@emeter.com
theresa.mueller@sfgov.org
mgm@cpuc.ca.gov
tcr@cpuc.ca.gov
srovetti@sfwater.org
tburke@sfwater.org
dcengel@fscgroup.com
elaine.s.kwei@pjc.com
snuller@ethree.com

filings@a-klaw.com
kea3@pge.com
lhj2@pge.com

MAGq@pge.com
cpuccases@pge.com
SRH1@pge.com
aliddell@icfi.com
steven@sfpower.org
epoole@adplaw.com
ahmad.faruqui@brattle.com

bcragg@goodinmacbride.com
joshdavidson@dwt.com
bobgex@dwt.com
sdhilton@stoel.com
salleyoo@dwt.com
cem@newsdata.com
crmd@pge.com
regrelcpuccases@pge.com
jwwd@pge.com
mrh2@pge.com
hxag@pge.com
rwalther@pacbell.net
jennifer.chamberlin@directenergy.com
Service@spurr.org
cpjoe@gepllc.com
sean.beatty@mirant.com
smithmj@calpine.com
philha@astound.net
alex.kang@itron.com
jody_london_consulting@earthlink.net
ted@energy-solution.com
mrw@mrwassoc.com
cpucdockets@keyesandfox.com
rschmidt@bartlewells.com
stevek@kromer.com
glbarbose@lbl.gov
agartner@energyconnectinc.com
emahlon@ecoact.org
janreid@coastecon.com
arg@enertechnologies.com
jshields@ssjid.com
joyw@mid.org
rogerv@mid.org
tomk@mid.org
jweil@aglet.org
clark.bernier@rlw.com
gayatri@jbsenergy.com
jeff@jbsenergy.com
rmccann@umich.edu
jgoodin@caiso.com
mgillette@enernoc.com
e-recipient@caiso.com

brian.theaker@dynegy.com
lwhouse@innercite.com
mary.lynch@constellation.com
cmkehrein@ems-ca.com
dhungerf@energy.state.ca.us
msherida@energy.state.ca.us
bernardo@braunlegal.com
abb@eslawfirm.com
ttutt@smud.org
vwood@smud.org
bboice02@yahoo.com
karen@klindh.com
rogerl47@aol.com
sas@a-klaw.com
bschuman@pacific-crest.com
laura.rooke@pgn.com
jholmes@emi1.com
tylerb@poweritsolutions.com
dserio@ecsgrid.com
ag2@cpuc.ca.gov
agc@cpuc.ca.gov
bsk@cpuc.ca.gov
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edd@cpuc.ca.gov
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jc8@cpuc.ca.gov
jhe@cpuc.ca.gov
joc@cpuc.ca.gov
jym@cpuc.ca.gov
kkm@cpuc.ca.gov
mjd@cpuc.ca.gov
jpn@cpuc.ca.gov
wtr@cpuc.ca.gov
skg@cpuc.ca.gov
tjs@cpuc.ca.gov
ys2@cpuc.ca.gov
claufenb@energy.state.ca.us