

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



FILED

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Order Instituting Rulemaking Regarding Policies and Protocols for Demand Response Load Impact Estimates, Cost-Effectiveness Methodologies, Megawatt Goals and Alignment with California Independent System Operator Market Design Protocols.

Rulemaking 07-01-041
(Filed January 25, 2007)

NOTICE OF EX PARTE COMMUNICATION

Pursuant to Rule 8.3 of the Commission's Rules of Practice and Procedure, EnerNOC, Inc. (EnerNOC), CPower, Inc. (CPower), and EnergyConnect, Inc. ("Joint Parties") hereby give notice of the following ex parte communication.

The communication occurred at 2:00 p.m. on Monday, April 12, 2010. The communication was oral and took place at the Commission's offices at 505 Van Ness Avenue, San Francisco, California 94102.

Mona Tierney-Lloyd, EnerNOC's Senior Manager of Western Regulatory Affairs, initiated the communication with Andrew Campbell, advisor to Commissioner Nancy Ryan. Also present at the meeting was Aimee Riley, CPower's Account Manager.

Ms. Tierney-Lloyd stated that EnerNOC, CPower, and EnergyConnect, Inc. intended to continue their joint participation in the Direct Participation (DP) Phase of R.07-01-041 (Demand Response (DR)) by filing joint Opening Comments that day (April 12) in opposition to the Proposed Decision of Administrative Law Judge (ALJ) Farrar in the DP Phase. Ms. Tierney-Lloyd indicated that it was the Joint Parties' position that the Proposed Decision was deeply flawed both as to the law and fact and should be withdrawn in favor of an Alternate Proposed Decision. Ms. Tierney-Lloyd stated that the Joint Parties' Opening Comments would include Proposed Findings of Fact,

Conclusions of Law, and Ordering Paragraphs aimed at correcting the many legal errors of the Proposed Decision.

In this regard, Ms. Tierney-Lloyd stated that, among other things, an Alternate Proposed Decision was required to correct and reverse the Proposed Decision's erroneous imposition of restrictions and regulations on demand response providers (DRPs). According to Ms. Tierney-Lloyd, the Proposed Decision failed to establish that the Commission had any jurisdiction to regulate DRPs in the manner adopted in the Proposed Decision and was also impermissibly vague as to what those regulations would specifically entail.

In addition, Ms. Tierney-Lloyd and Ms. Riley contended that the Proposed Decision had failed to identify with specificity "outstanding issues" that would be decided in a future proceeding and improperly failed to commit to an appropriate schedule for resolving those issues. Ms. Tierney-Lloyd advised that the Proposed Decision also erred by prohibiting dual participation in DR programs, including the California Independent System Operator's (CAISO's) Proxy Demand Resource (PDR), in conflict with current Commission policy. In this regard, Ms. Tierney-Lloyd noted that the Proposed Decision never established a factual or legal basis for prohibiting or deferring consideration of PDR participation based on developing undefined "ratepayer protections" at a subsequent time.

To obtain a copy of this notice, please contact:

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Respectfully submitted by:

April 15, 2010

/s/ SARA STECK MYERS

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Attorney for EnerNOC, Inc.

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CERTIFICATE OF SERVICE

I, Sara Steck Myers, am over the age of 18 years and employed in the City and County of San Francisco. My business address is 122 - 28th Avenue, San Francisco, California 94121.

On April 15, 2010, I served the within document **NOTICE OF EX PARTE COMMUNICATION (Campbell)** in R.07-01-041, with service on the R.07-01-041 service list in the manner prescribed by the Commission's Rules of Practice and Procedure and with additional and separate delivery of paper copies by U.S. Mail to Assigned Commissioner Grueneich and Assigned ALJs Sullivan, Hecht, and Farrar, at San Francisco, California.

Executed on April 15, 2010, at San Francisco, California.

/s/ SARA STECK MYERS

Sara Steck Myers

**Service List
R.07-01-041 (DR)
April 15, 2010**

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