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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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)

ASSIGNED COMMISSIONER'S RULING AMENDING SCOPING MEMO

Summary

The California Independent System Operator (CAISO) proxy demand response proposal was approved by the Federal Energy Regulatory Commission (FERC) in the *Order Conditionally Accepting Tariff Changes and Directing Compliance Filing*, 132 FERC paragraph 61,045 (2010). However, on March 15, 2011 the FERC amended its regulations in an attempt to further ensure the competitiveness of organized wholesale energy markets and remove barriers to the participation of demand response resources. The new FERC order calls into question whether the previously approved CAISO tariffs are permissible. This order amends the scope of the proceeding to allow consideration and clarification of FERC's new rule.

Discussion

In the Order Instituting Rulemaking that initiated this proceeding, the California Public Utilities Commission (CPUC or Commission) stated that it would consider modifications to demand response programs needed to support

the California Independent System Operator's (CAISO) efforts to incorporate demand response into wholesale market design protocols.[1] On November 9, 2009, the original Scoping Memo in this proceeding was amended pursuant to Rule 7.3 of the Commission's Rules of Practice and Procedure. The amended Scoping Memo modified the scope of the proceeding to include certain issues related to the possibility of changes to the CAISO wholesale market design protocols to accommodate direct participation of retail demand response resources in CAISO wholesale markets, and set a schedule for consideration of these issues in a new Direct Participation Phase of this proceeding.[2]

The parties to this proceeding met for a three-day workshop to discuss issues related to the direct participation of retail demand response resources in CAISO wholesale markets including, among other things, how to resolve the missing money or double payment problem. The missing money problem occurs where, for example, a Load Serving Entity (LSE) procures 100 Megawatt-hours (MWh) of load and only 90 MWh is recorded on the LSE's customers' meters (the other 10 MWh are curtailed through a Demand Response Provider (DRP). Through a wholesale market settlement, the Independent System Operator (ISO) pays the LSE an energy payment for the 10 MWh that the LSE over-procured. However, the ISO also pays the DRP for the 10 MWh bid that cleared as energy supply. This creates what has been called a "missing money" problem for the LSE (that paid for more energy than its customers actually consumed).

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[1] Order Instituting Rulemaking 07-01-041 at 1.

[2] All references to rules are to the Commission's Rules of Practice and Procedure.

Workshop participants identified several ways to deal with the missing money problem. The CAISO noted that its proxy demand response (PDR) model is designed to address the problem through the deployment of a default load adjustment (DLA) mechanism. In contrast, EnerNOC supports an "uplift" that would spread the under-collection amongst the Investor-owned Utilities-LSEs' bundled customers. In general, while all parties to this proceeding support some kind of financial settlement to make the LSEs whole, there is disagreement about what the settlement price should be and who should pay whom.

While Federal Energy Regulatory Commission (FERC) Order 745 does not, on its face, purport to disturb the CAISO's PDR model it proposes a model that may conflict with the PDR design.[3] The FERC has set a July 2011 deadline for ISO submittal of tariffs that conform to FERC Order 745. Though staff has asked FERC for clarification of whether the CAISO's PDR model conforms to FERC Order 745, we do not now know if FERC will approve a tariff that is consistent with the CAISO PDR model. An extension of the statutory deadline set forth in California Public Utilities Code section 1701.5(a) and (b) is necessary to not only allow issuance of an order addressing the cost allocation, tariff language changes and settlement agreement issues at hand at the CPUC, but also to await clarification from the FERC regarding whether PDR may be implemented as already approved by the FERC.

[3] Some market participants have interpreted the new FERC order as eliminating the possibility of the DLA.

IT IS RULED that:

1. The November 9, 2009 scoping memo is amended to accommodate consideration of the anticipated Federal Energy Regulatory Commission response to staff request.

2. It is necessary to extend the deadline for the proceeding beyond the May 9, 2010 deadline.

3. The proceeding will be completed within 18 months of the date of this ruling.

Dated May 9, 2011, at San Francisco, California.

/s/ MICHAEL R. PEEVEY
Michael R. Peevey
Assigned Commissioner