

State of California

Public Utilities Commission
San Francisco

MEMORANDUM

Date : November 13, 2009

To : The Commission
(Meeting of November 20, 2009)

From : Elizabeth Dorman, Legal Division
Karl Meeusen, Energy Division

Subject : Staff Seeks Authority To File Comments On The FERC Staff's
National Action Plan on Demand Response: A Discussion Draft,
FERC Docket No. AD09-10

EXECUTIVE SUMMARY

On October 28, 2009, the Federal Energy Regulatory Commission Staff (FERC) issued *The National Action Plan on Demand Response: A Discussion Draft* (Plan).¹ The Plan is the second stage of a three stage process mandated by the U.S. Congress in the Energy Independence and Security Act (EISA) to assess means of increasing participation of demand response resources in energy markets nationwide. Through issuance of the Plan, FERC seeks input regarding various strategies proposed in order to “maximize the amount of demand response resources that can be developed and deployed.”² The FERC will also host a Technical Conference regarding the Plan on November 19-20, 2009.³ Comments must be filed at FERC by December 4, 2009.

Staff here seeks authority to comment at the FERC regarding the strategies discussed within the Plan and their likelihood of facilitating or inadvertently hindering California and CPUC demand response programs and initiatives and the state’s overarching procurement strategies and activities. FERC will permit comments on matters discussed at the associated FERC Technical Conference. Therefore staff also seeks authority file comments regarding matters discussed at the Technical Conference, along the lines suggested below. Additionally, staff seeks authority to provide information to the FERC regarding the recent efforts of the CPUC to increase the volume of capacity and reliability of demand response resources in California, and existing

¹ The Plan can be found at <http://www.ferc.gov/EventCalendar/Files/20091028124306-AD09-10-000-Discussion.pdf>

² The Plan at p.4.

³ The Final stage, the FERC- U.S. Department of Energy (DOE) Implementation Proposal, requires that the FERC and DOE submit a proposal to Congress regarding the implementation of the National Action Plan.

CPUC positions regarding appropriate state and federal roles in facilitating the expansion of demand response resources.

BACKGROUND

In June 2009, the FERC issued *A National Assessment of Demand Response Potential* (Assessment).⁴ The Assessment studied scenarios detailing four levels of different Demand Response participation: Business as Usual, Expanded Business as Usual, Achievable Participation, and Full Participation.⁵ The Plan is the follow-up to the Assessment. While the Plan does not explicitly focus on achieving the level of demand response estimated by a specific scenario from the Assessment, its goal is to maximize demand response participation in energy markets.

The objectives of the Plan are:

- (1) Identification of requirements for technical assistance to states to allow states to maximize the amount of demand response resources that can be developed and deployed.⁶
- (2) Design and identification of requirements for implementation of a national communications program that includes broad based customer education and support.
- (3) Development or identification of analytical tools, information, model regulatory provisions, model contracts, and other support materials for use by customers, States, utilities and demand response providers.⁷

To achieve these objectives, FERC proposes to identify strategies to support:

- (1) Technical assistance to states,
- (2) A national communications program, and
- (3) Tools and materials needed to support demand response. These strategies may include deploying enabling technology to assist customers in responding to energy prices and/or system needs, dynamic rates, and education of customers.

SUMMARY OF PROPOSED RESPONSES TO FERC QUESTIONS:

⁴National Assessment of Demand Response Potential available at <http://www.ferc.gov/legal/staff-reports/06-09-demand-response.pdf>

⁵ A description of the different scenarios can be found in the Executive summary of the Assessment at p. xi-xii.

⁶ Even though ISO/RTOs are developing ways to better integrate DR resources into wholesale markets, FERC, per direction from EISA, will focus on state and local government assistance.

⁷ The Plan at p.1.

The Plan specifically asks for comments on several questions. Staff requests authorization to respond along the lines suggested below to the following questions posed by FERC:

- Are the three sets of possible strategies and activities described in the Discussion Draft appropriate and effective?

Staff is generally supportive of the strategies proposed by FERC. However, staff wishes to emphasize the need for a local and regional focus that accounts for important differences such as climate, load profile, and customer composition. Despite agreement on broad principles, the recognition of regional differences is critical for the success of any DR implementation plan. Staff will discuss the California experience to provide examples of the strategies that have been used.

- Should any of the possible activities described in the Discussion Draft not be part of the National Action Plan? Should any activities not listed be added to the National Action Plan?

The list of possible activities is extensive. Staff proposes to file comments that support actions that are both collaborative and respectful of jurisdictional boundaries. At this time, the specifics of how the many proposed activities will be implemented are not clearly defined. Staff will seek to provide insight regarding implementation strategies that have been effective in California and request further details on proposals that remain vague

- Is the possible strategy of using a coalition to carry out the objectives discussed in the Plan consistent with EISA?

Staff believes that a coalition may be an effective mechanism for carrying out a national action plan for DR. A coalition would allow for representation of different regions and stakeholder interests. Staff proposes to provide comments that would urge the FERC to set up well defined ground rules, organizational structure, and measurable goals to keep the coalition forward moving and productive. Further, such a coalition must reflect existing institutional authorities and areas of expertise.

- How can such a coalition best facilitate the implementation of the National Action Plan?⁸

As noted above, staff proposes to submit comments urging the FERC to establish both well-defined ground rules for coalition participation and measurable goals.

Additionally, the Plan seeks comments on “what roles federal and state government bodies and agencies, private sector organizations, and non-governmental organizations might have in

⁸ The Plan at p.5.

carrying out the various activities identified in the plan.”² Staff proposes to submit comments that support a cooperative state-federal effort while emphasizing the authority of states in retail rate design and retail DR programs.

There are also numerous questions throughout the body of the Plan that are more specific to the individual sections of the Plan. In response, Staff proposes to file comments that reflect the experience of the CPUC in authorizing, overseeing, and measuring retail DR programs and procurement in general.

ACTION REQUESTED

Staff requests authorization to comment at the FERC on *The National Action Plan on Demand Response: A Discussion Draft* (the Plan) and the discussion of the November 19-20, 2009 FERC Technical Conference along the lines discussed above.

Assigned Staff: **Elizabeth Dorman (EDD, 3-1415); Karl Meeusen (KKM, 3-1567)**

² The Plan at p.8.