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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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| Order Instituting Rulemaking to Oversee the Resource Adequacy Program, Consider Program Refinements, and Establish Forward Resource Adequacy Procurement Obligations. | Rulemaking 19-11-009<br>(Filed November 7, 2019) |

**OPENING COMMENTS OF**
**THE CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT COUNCIL, CPOWER, ENEL X NORTH AMERICA, INC., AND LEAPFROG POWER, INC. ON PROPOSED DECISION ADOPTING LOCAL CAPACITY OBLIGATIONS FOR 2022-2024, FLEXIBLE CAPACITY OBLIGATIONS FOR 2022, AND REFINEMENTS TO THE RESOURCE ADEQUACY PROGRAM**

Dated: June 10, 2021

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# I. INTRODUCTION

The California Efficiency + Demand Management Council ("Council"), [1] CPower, Enel X North America, Inc.,[2] and Leapfrog Power, Inc. (collectively "the Joint Parties") respectfully submits these Opening Comments on the Proposed Decision Adopting Local Capacity Obligations for 2022-2024, Flexible Capacity Obligations for 2022, and Refinements to the Resource Adequacy Program ("Proposed Decision" or "PD"), mailed in this proceeding on May 21, 2021. These Opening Comments are timely filed and served pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure and the instructions accompanying the Proposed Decision.

# II. SUMMARY

The Joint Parties appreciate this opportunity to respond to the Proposed Decision. The Joint Parties are highly concerned by the proposed policies that are hostile and counterproductive to demand response ("DR") resources that will, without basis, expand their resource availability requirements to include Saturdays, and that will limit DR procurement to a level below what was ever intended in Decision ("D.") 20-06-031. The Joint Parties do, however, support adoption of DR as a potential Variable Energy Resource as well as the initiation of a California Energy

[1] The views expressed by the California Efficiency + Demand Management Council are not necessarily those of its individual members.

[2] Enel X North America, Inc. joins these Opening Comments that are focused on Proposed Decision Section 6.1 ("Maximum Cumulative Capacity Buckets) and Section 6.2 ("Supply-Side Demand Response"). Enel X North America, Inc. also joins the Opening Comments of Sunrun, Inc., et al. (the Joint Solar/Storage Parties) focused on Proposed Decision Section 6.4.2 ("Behind-the-Meter Hybrid Resources"), a distinct set of issues.

Commission ("CEC")-led process to develop a new DR Qualifying Capacity ("QC") valuation methodology by March 2022. The Joint Parties provide detailed comments below.

## III. REFINEMENTS TO MAXIMUM CUMULATIVE CAPACITY BUCKETS

### A. Requiring Saturday availability of resource adequacy resources is unsupported and does not address the associated downstream impacts.

The PD adopts the Energy Division recommendation that all Maximum Cumulative Capacity ("MCC") Buckets be modified to require Monday through Saturday because "the August/September heat waves revealed that weekday only resource availability was insufficient to ensure grid reliability."[3] The PD should be revised to reject this recommendation, for several reasons.

The rationale for adopting this modification ignores the primary causes of the blackouts that occurred on August 14 and 15, 2020. In reality, as the Protect Our Communities Foundation described best in Opening Testimony in R.20-11-003, errors in the California Independent System Operator's ("CAISO's") energy market systems were the primary culprit behind the August and September grid emergencies.[4] Had the CAISO market performed as expected during the heat events and the blackouts not occurred, this proposal would very likely not be put forward in this proceeding. Furthermore, revising resource adequacy ("RA") rules - which are based on 1-in-10 system requirements - to include Saturday availability based on 1-in-30 weather conditions - introduces inconsistencies between RA planning and RA valuation of a DR resource.

In addition, some DR RA contracts have already been executed for the 2022 RA year, so adopting a new availability requirement could undermine those commercial activities. DR customers who have little Saturday load to shed will no longer be able to participate or, at the very least, will be forced to derate the amount of capacity they are able to provide, which will have a significant effect on the amount of available DR capacity. For customers forced to derate, the resulting drop in DR revenue may render their participation economically infeasible.

It is also entirely inappropriate to adopt a new availability requirement after the DR Load Impact Protocol ("LIP") process has been carried out. It now lays with the Energy Division to assess DR providers' ("DRP") load impact evaluations and award QC values to their respective

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[3] Proposed Decision, at p. 21.
[4] Prepared Opening Testimony of Bill Powers, P.E., R.20-11-003, January 11, 2021, at pp. 2-5.

portfolios for the 2022 RA year. These evaluations, and the underlying customer recruitment efforts that preceded them, were based on the current RA availability requirements.

The Commission should also be aware that adopting a Saturday availability requirement will trigger significant downstream impacts with regard to investor-owned utility ("IOU") DR program tariffs, DRP customer participation agreements, and RA and Demand Response Auction Mechanism ("DRAM") Pilot contracts. DRP-Load-Serving Entity ("LSE") contracts could need to be renegotiated, and the quantities and prices of DRAM capacity offered and accepted in the DRAM solicitations did not factor in Saturday load and participation. The Commission, in D.21-03-056, also just adopted a weekend option for PG&E's Capacity Bidding Program ("CBP") participants. The PD in this proceeding now seems to be implying that such an "option" is now a requirement for all customers in CBP. If the Commission wants DR to be available on weekends, it should direct the other IOUs to adopt a similar option for their respective CBPs for seven day per week available in return for an additional 25 percent capacity payment.

The Commission should not underestimate the disruptive effects of this MCC Bucket modification to the DR, and broader, RA market. For that reason, the Commission should not adopt this modification unless it is very sure that there will be an appreciable positive reliability impact. Unfortunately, no assessment was made by the Energy Division to determine either the reliability benefits or the market consequences of imposing this requirement. Therefore, the proposal should be rejected. If the Commission insists on adopting a Saturday availability requirement despite the absence of any evidence to support its necessity, it should not take effect until the 2023 RA year. This Decision should also affirmatively state that no requirement here will apply to the separately developed DRAM resources.

### B. The application of the MCC DR Bucket should be revised such that third-party providers are not unfairly disadvantaged relative to IOU DR programs.

The PD rejects both the Energy Division and Joint Parties proposals to revise the 8.3% DR procurement cap on the basis that the treatment of DR adopted in D.20-06-031 should be evaluated before undertaking any additional modifications.[5] The Joint Parties strongly support the rejection of the Energy Division's proposals to further lower the cap, which were hostile toward DR and lacked a supporting evidentiary basis. However, it appears that the PD does not

[5] Proposed Decision, at p. 25.

address the Joint Parties' proposal in full. Applying the DR procurement cap to third-party DR resources only and excluding allocations from IOU DR programs because "DR allocations are generally not procured by competitive solicitations and are credits that lower an LSE's RA obligation,"[6] was one potential option to address the parity issue. In its January 28, 2021 Track 3B.1 proposal, the Joint Parties extensively described how, because the current DR cap is applied at the LSE level, it unfairly prevents some LSEs from procuring cost-competitive DR even when the total DR capacity providing RA remains far below 8.3% at the state level.[7] This distinction is significant because the Commission's rationale in imposing the cap included a determination that the cap presented no immediate constraint to the DR market by comparing current and potential future volumes of DR, where future volumes were calculated using 8.3% of expected total *system* load.[8]

The decision stated, "Thus, we believe a cap will not stifle the growth of DR within any timeframe and will allow sufficient time for an upward revision to the cap if an adjustment is warranted in the future."[9] The flaw in this logic has always been that it presumes that all LSEs desire to procure DR up to their respective caps. In fact, the cap is stifling DR growth now because some LSEs choose not to procure DR. Therefore, the 8.3% LSE-level cap is effectively capping DR procurement at a much lower level than was contemplated in D.20-06-031. Furthermore, DRPs are being crowded out of the RA market because allocations of IOU DR capacity to LSEs get first priority in counting against their respective caps and these programs represent a much larger share of the overall DR market.[10] This problem will only become more acute as IOUs' respective CBP and Base Interruptible Programs ("BIP") grow as a result of revisions approved in D.21-03-056 meant to make the programs more attractive to customers.

To address these market failures, the Joint Parties had put forth three options. The first was to limit application of the DR procurement cap at the state level rather than the LSE level.[11] This would have no effect on the overall DR procurement limit that was contemplated in D.20-06-031 but it would eliminate the current artificial cap. This option would open the door for

[6] Proposed Decision, at p. 23.
[7] Joint Track 3B.1 Proposal of the California Efficiency + Demand Management Council, CPower, Enel X North America, Inc., Leapfrog Power, Inc. and OhmConnect, Inc., at pp. 3-5.
[8] Decision 20-06-031 at p. 57.
[9] Joint Track 3B.1 Proposal of the California Efficiency + Demand Management Council, CPower, Enel X North America, Inc., Leapfrog Power, Inc. and OhmConnect, Inc., at pp. 3-5.
[10] *Id.*, at pp. 4-5.
[11] *Id.*, at p. 5.

willing LSEs to procure more DR if they choose to and utilize as much of the statewide cap as possible. The Joint Parties note that although the Energy Division proposed a MCC DR bucket cap to prevent LSEs from meeting a disproportionately large share of their own RA needs with DR resources[12], no evidence was presented in the record that showed LSEs meeting a large proportion of their RA requirements with use-limited resources. As such, the solution was proposed before the problem was demonstrated.

The Joint Parties' second option was to exempt IOU DR programs from the procurement cap in order to eliminate the current bias against third-party DR. The proposal is reasonable because it is unfair and discriminatory for the Commission to maintain policies that explicitly favor IOU DR programs over competitively procured third-party resources. Finally, the third option was to allow behind-the-meter ("BTM") resources that can meet the Bucket 1 availability requirements to count toward Bucket 1.[13] This would allow energy storage-backed DR to move out of the DR Bucket and free up some DR headroom. The Joint Parties submit that the first two options would address the current situation most directly.

The PD is also ambiguous in terms of the process by which the Commission will review any additional evidence regarding the impacts of the DR cap and undertake additional modifications to the DR Bucket.[14] The final decision should clarify the process and timeline for additional discussion of the DR Bucket cap such that the industry is assured a path forward on the issue.

The DR industry in California has faced mounting regulatory barriers that are not commensurate with its size and that lack a robust evidentiary basis. Unfortunately, a negative narrative about DR performance has been created, starting with misleading statements in the Root Cause Analysis and continuing with similarly imprecise statements in the Department of Market Monitoring's Q3 2020 Report on Market Issues and Performance and its February 25, 2021 report on Demand Response Issues and Performance that have precipitated a "group think" at the Commission.[15] No parties have refuted the inaccuracies highlighted by the Joint Parties in

[12] Administrative Law Judge's Ruling on Energy Division's Proposal, February 7, 2020, Appendix A, at p. 4.
[13] *Id.*, at p. 6.
[14] Proposed Decision, at p. 25.
[15] Opening Comments of the California Efficiency + Demand Management Council, CPower, Enel X North America, Inc., Leapfrog Power, Inc., and OhmConnect on Resource Adequacy Revised Track

their March 12, 2021 comments in this proceeding. The Joint Parties are fully supportive of holding DR and all other resources accountable for their performance; however, the prevailing but misleading narrative that DR performance was poor during the 2020 heat events has never been adequately defended to support preventing the state's LSEs from procuring to the statewide DR cap, let alone the recent trend of policies in this proceeding that are hostile to DR. The Commission should adopt at least one of the first two options proposed by the Joint Parties to eliminate one inequitable and obvious barrier to the development of DR in the state. Otherwise, the existing headroom will continue to remain unfilled, and LSEs will be forced to procure more fossil generation to meet their growing resource needs.

## IV. SUPPLY-SIDE DEMAND RESPONSE

### A. The PD correctly treats demand response as a variable energy resource to be exempted from RAAIM and eliminates the need for an Effective Load-Carrying Capability methodology.

The PD adopts the Energy Division proposal that IOUs include their DR programs in their respective Supply Plans and classifies DR as a Variable Energy Resource, and therefore is exempt from the CAISO's Resource Adequacy Availability Incentive Mechanism ("RAAIM"), without a precondition that an Effective Load Carrying Capability ("ELCC") methodology be used to determine the DR QC value.[16] The Joint Parties strongly support the removal of RAAIM because it will provide the CAISO with the visibility it needs with respect to currently available resources to meet RA needs, while reflecting the variability of some DR resources. The Joint Parties caution, however, that all DR should not be preemptively categorized as variable as further refinements of the RA program continue.

### B. The Joint Parties support a CEC-led process but additional guidance is needed on the timeline.

The PD adopts the Energy Division proposal to initiate a process led by the California Energy Commission ("CEC") to develop a successor DR Qualifying Capacity methodology, with

3.B.1 Proposals, Second Revised Track 3.B.2 Proposals and Track 4 Proposals, March 12, 2021, at p. 6, and Appendix.
[16] Proposed Decision, at p. 30.

a proposal due by March 18, 2022 for implementation in the 2023 RA year.[17] The Joint Parties support this approach but request clarification on the implementation timeline, if the Commission approves a new methodology.

The PD directs that the CEC proposal be submitted by March 18, 2022.[18] This date falls in the middle of the LIP process for DRPs to get their 2023 DR QC values. Therefore, if the Commission plans to potentially approve a new methodology in its June 2022 decision, the LIP process will have already concluded and DRPs will be awaiting the Energy Division's assessment of their load impact evaluations. As the Joint Parties have explained, this creates confusion because DRPs will have already gone through the LIP process for the 2023 RA year by the time the Commission ends up approving a new, superseding methodology.[19] Consequently, the DRPs will have wasted the time and resources devoted to the LIP process. The PD should be revised to direct the Energy Division to postpone the LIP process until the Commission decides whether to adopt the CEC-recommended methodology, presumably in its June 2022 decision.

### C. The Proposed Decision should be clarified regarding the DLF and TLF.

The PD adopts a revised 9 percent PRM Adder that eliminates the 6 percent component associated with avoided operating reserves and directs further study of the remaining 9 percent adder through the CEC-led stakeholder process.[20] In addition, the PD retains the Distribution Loss Factor ("DLF") and Transmission Loss Factor ("TLF") from the T&D Adder but directs the CEC to examine the TLF as part of its process to develop a DR M&V proposal.[21]

The Joint Parties seek Commission clarification on one important element. The PD should be revised to clarify that the T&D Adder and Planning Reserve Margin ("PRM") Adder will be reflected in DR QC values in both year-ahead <u>and</u> month-ahead Supply Plans. The Joint Parties put forth a proposal in the Supply Side Working Group and again in its March 12 comments on Track 3B and Track 4 proposals that the Energy Division include the PRM and T&D Adders in all DR QC values (IOU DR programs, DRAM contracts, and DRP-LSE

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[17] *Id.*, at pp. 34-36.
[18] *Id.*, Ordering Paragraph 11.
[19] Opening Comments of the California Efficiency + Demand Management Council, CPower, Enel X North America, Inc., Leapfrog Power, Inc., OhmConnect, and Sunrun, Inc. on Administrative Law Judge's Ruling on Energy Division's Demand Response Proposal and Seeking Comments on the Proposal, at p. 4.
[20] Proposed Decision, at p. 41.
[21] Proposed Decision, at p. 42. Decision 10-06-036 set a 3 percent TLF Adder.

contracts) rather than the current practice of crediting them through the CAISO's Customer Interface for Resource Adequacy ("CIRA").[22] This approach will greatly simplify the DR QC process because these QC values will be input into LSE Supply Plans while also providing the necessary assurance to LSEs that they will receive full RA value for the DR RA capacity they contract for. Without enveloping all values currently credited into a resource's QC value, the Commission should explicitly direct the Energy Division to enter the credits into CAISO's Customer Interface for Resource Adequacy ("CIRA") during the delivery year to accommodate instances when DR RA contracts are executed mid-year or are otherwise not shown in the year-ahead compliance filings.

## V. CONCLUSION

The Joint Parties appreciate this opportunity to provide these Opening Comments on the Proposed Decision.

Respectfully submitted

June 10, 2021

/s/ GREG WIKLER

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[22] Opening Comments of the California Efficiency + Demand Management Council, CPower, Enel X North America, Inc., Leapfrog Power, Inc., OhmConnect, and Sunrun, Inc. on Administrative Law Judge's Ruling on Energy Division's Demand Response Proposal and Seeking Comments on the Proposal, at pp. 4-5.

## APPENDIX A

## THE CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT COUNCIL, CPOWER, ENEL X NORTH AMERICA, INC., AND LEAPFROG POWER, INC. PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDERING PARAGRAPHS FOR THE PROPOSED DECISION ADOPTING LOCAL CAPACITY OBLIGATIONS FOR 2022-2024, ADOPTING FLEXIBLE CAPACITY OBLIGATIONS FOR 2022, AND REFINING THE RESOURCE ADEQUACY PROGRAM

The California Efficiency + Demand Management Council ("The Council"), CPower, Enel X North America, Inc., and Leapfrog Power, Inc. propose the following modifications to the Findings of Fact, Conclusions of Law, and Ordering Paragraphs in the Proposed Decision Adopting Local Capacity Obligations for 2022-2024, Adopting Flexible Capacity Obligations for 2022, and Refining the Resource Adequacy Program, mailed in R.19-11-009 on May 21, 2021 (Proposed Decision).

Please note the following:

- A page citation to the Proposed Decision is provided in brackets for each Finding of Fact, Conclusion of Law, or Ordering Paragraphs for which a modification is proposed.
- Added language is indicated by **bold type**; removed language is indicated by **bold strike-through**.
- A new or added Finding of Fact, Conclusion of Law, or Ordering Paragraph is labeled as "**NEW**" in **bold underscored** capital letters.

**PROPOSED FINDINGS OF FACT:**

~~**3. [64-65] The August/September 2020 heat waves revealed that weekday only resource availability was insufficient to ensure grid reliability. To address this reliability gap, it is prudent and reasonable to adjust the MCC buckets to require Saturday availability.**~~

8. [65] It is reasonable to not gross up the value of DR by the amount associated with **avoided** ancillary services**/operating reserves**.

**NEW. Eliminating the LSE-specific DR procurement cap will remove procurement barriers while maintaining the 8.3 percent statewide cap.**

**PROPOSED CONCLUSIONS OF LAW**:

~~**4. [66] The MCC Buckets should be adjusted to require availability Monday through Saturday.**~~

**NEW. The LSE-specific DR procurement cap should be eliminated.**

**PROPOSED ORDERING PARAGRAPHS**:

~~**7. [68] The Maximum Cumulative Capacity Buckets shall be adjusted to require availability Monday through Saturday. This is effective for the 2022 Resource Adequacy compliance year.**~~

9. [69] The Maximum Cumulative Capacity Buckets are modified as follows:

| Category Availability | Availability | Maximum Cumulative Capacity for Bucket and Buckets Above |
|---|---|---|
| DR | Varies by contract or tariff provisions, but must be available Monday – **Friday**~~Saturday~~, 4 consecutive hours between 4 PM and 9 PM, and at least 24 hours per month from May – September | 8.3% |
| 1 | Monday – Saturday, 4 consecutive hours between 4 PM and 9 PM, and at least 100 hours per month. | 17.4% |
| 2 | Every Monday – Saturday, 8 consecutive hours that include 4 PM – 9 PM. | 22.2% |
| 3 | Every Monday – Saturday, 16 consecutive hours that include 4 PM – 9 PM. | 34.8% |
| 4 | Every day of the month. Dispatchable resources must be available all 24 hours. | 100% (at least 56.1% available all 24 hours) |

11. [69-70] The California Energy Commission (CEC) is requested to develop recommendations for a comprehensive and consistent measurement and verification (M&V) strategy, including a new qualifying capacity (QC) counting methodology for demand response

(DR) resources addressing ex post and ex ante load impacts for implementation as early as practicable. CEC is requested to launch a stakeholder working group process in the 2021 Integrated Energy Policy Report (IEPR) and make actionable recommendations on the following issues:

(a) Whether the California Independent System Operator's (CAISO) effective load carrying capability (ELCC) proposal is reasonable and appropriate to determine DR QC and/or what modifications, if any, should be considered;

(b) Whether Pacific Gas and Electric Company's Load Impact Protocol + ELCC proposal is reasonable and appropriate to determine DR QC and/or what modifications, if any, should be considered;

(c) Whether other proposals that may be presented in the CEC stakeholder process are reasonable and appropriate to determine DR QC;

(d) Whether and to what extent alignment of DR M&V methods in the operational space for CAISO market settlement purposes with methods to determine Resource Adequacy (RA) QC in the planning space should be achieved, and if so, how;

(e) Whether, and if so what, enhancements to intra-cycle adjustments to DR QC during the RA compliance year are feasible and appropriate to account for variability in the DR resource in the month-ahead and operational space;

(f) Whether implementation of any elements of DR QC methodology modifications that may be adopted by the Commission should be phased in over time; and

(g) Whether, and if so how, any changes to DR adders should be reflected in DR QC methodology, including whether the planning reserve margin adder should be retained and whether the transmission loss factor adder should be retained beyond 2022. The CEC is requested to submit recommendations to the Commission no later than March 18, 2022 and the Commission will consider the recommendations as appropriate for implementation in the 2023 RA compliance year or thereafter.

**The Energy Division is directed to postpone the LIP process for the 2023 RA year until the Commission votes on the CEC-recommended DR QC methodology.**

12. [70-71] The 6% component of the planning reserve margin (PRM) adder associated with ancillary services and operating reserves shall be removed for demand response resources. This is effective **beginning in** ~~**for**~~ the 2022 Resource Adequacy compliance year. The 9% component of the PRM adder associated with forced outages and forecast error shall be retained **and incorporated into DR QC values**.

**NEW. The LSE-specific DR procurement cap is eliminated.**

**NEW. Southern California Edison Company and San Diego Gas & Electric Company are directed to create an option for Capacity Bidding Program participants for seven days per week availability with a 25 percent capacity incentive adder for deployment on January 1, 2022.**