BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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REPLY COMMENTS OF OHMCONNECT, INC. ON THE CALIFORNIA ENERGY COMMISSION'S SUPPLY SIDE DEMAND RESPONSE REPORT

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Pursuant to the February 15, 2023 *Administrative Law Judge's Ruling on Comment Schedule For California Energy Commission's Supply-Side Demand Response Report*, OhmConnect, Inc. ("OhmConnect") hereby submits this reply to party opening comments on the California Energy Commission ("CEC") *Qualifying Capacity of Supply-Side Demand Response Working Group Final Report* ("CEC Report").

I. INTRODUCTION

OhmConnect largely supports the recommendations put forward by the CEC to determine the qualifying capacity ("QC") of demand response ("DR"). Notably, the California Independent System Operator ("CAISO") does not object to the CEC's proposal. However, other parties, such as San Diego Gas and Electric ("SDG&E"), Southern California Edison Company ("SCE"), Pacific Gas and Electric Company ("PG&E"), the California Large Energy Consumers Association ("CLECA"), Demand Side Analytics ("DSA"), and the Public Advocates Office ("Cal Advocates") do not support adoption of CEC's incentive-based approach for DR QC.

As detailed below, these opponents' arguments against the CEC's proposal are unfounded, incorrect or purely attempts to re-litigate issues already discussed. Opponents of the CEC's recommendations argue that: 1) CEC's stewardship of the working group process was unfairly biased; 2) CEC's proposed methodology is less accurate and more complex than the Load Impact Protocols ("LIPs"); and 3) several aspects of CEC's proposal require further refinement. The three investor owned-utilities—including DSA, which partnered with SDG&E

on their proposal—instead favor DSA's proposal, which retains the LIP and adds new output requirements. CLECA also favors retaining the LIPs but agrees that some simplification is warranted as proposed by OhmConnect. Cal Advocates focuses on criticisms of the Demand Response Auction Mechanism ("DRAM"), the future of which is being considered in a separate proceeding.

The first two arguments advanced by opponents of the CEC's recommendations are misplaced and should be rejected by the California Public Utilities Commission ("Commission"). With respect to the third argument, several aspects of CEC's approach do require refinement. This, however, is not disqualifying as adequate time exists for a narrow set of issues to be resolved.

In further response to these criticisms, OhmConnect details below that:

1. The CEC working group process was fair and more than sufficient;
2. Many criticisms of the CEC proposal are unfounded; and
3. The penalty structure should be further refined in a subsequent RA proceeding.

II. REPLY TO PARTY COMMENTS

A. THE WORKING GROUP PROCESS WAS FAIR AND SUFFICIENT

1. CEC's role as both the moderator and proposal sponsor reflects typical practice.

The Commission should determine that the CEC assumed an appropriate role in the working group process, particularly given that the CEC took a similar approach to one that the Commission utilizes often. CLECA and DSA claim that CEC's stewardship of the working group introduced a conflict of interest that reduces the value of the final report.[1] DSA asserts that a conflict exists because "the CEC staff submitted their own proposal from the outset, moderated discussions, and made the final decisions."[2] While the CEC was a moderator, stakeholder and decision-maker, as a regulator it does not have an inherent conflict of interest as another market participant would have assuming the same role. Indeed, the CEC's approach is one often used in proceedings before the Commission. In many Commission proceedings, Energy Division Staff are stakeholders who put forward their own proposals, moderate workshops and working groups that review other stakeholder proposals and serve as advisors to decision-makers.

[1] *See* CLECA Opening Comments at 2, DSA Opening Comments at 5.
[2] DSA Opening Comments at 5.

Regardless of whether this practice should continue at the state's energy agencies, it is simply wrong to suggest that CEC's role in stewarding the working group process was unusual or uniquely disqualifying. As such, this argument against adoption of the CEC recommendations should be rejected.

2. The CEC appropriately considered all proposals prior to making its recommendations.

The Commission should reject arguments that, simply because a set of proposals were not recommended by the CEC for adoption, they were not properly considered. CLECA, DSA, and SDG&E incorrectly assert that, because one approach was judged superior following review, all other proposed approaches were not sufficiently examined. Specifically, SDG&E claims that "[t]he CEC reject[ed] for consideration any proposal that did not include an incentive-penalty structure, although it failed to indicate during the workshop process that an incentive-penalty structure would be a requirement for DR QC proposals."[3] CLECA similarly states that "...the CEC staff did not mention its preference for incentive-based proposals,"[4] while DSA argues that "[h]ad the CEC communicated the automatic rejection of proposals without penalties or that relied [sic] on historical performance, the working group stakeholders would have submitted different proposals."[5]

The argument that one approach was favored in a way that precluded fair consideration of all other options, simply because it was ultimately recommended, is deeply flawed. CLECA, SDG&E, and DSA are confusing the CEC's conclusion, after more than a year of working group meetings, that the incentive-based approach was best, with a predetermined opinion that was simply not shared with the group at the outset. By this same logic, one could argue that, in adopting the slice of day framework, the Commission acted improperly because it "did not mention its preference for a slice of day framework" at the outset, and therefore did not give a fair hearing to proposals that did not include a slice of day component. This conclusion, of course, is unfounded. The CEC did not willfully withhold information from working group members. OhmConnect participated in nearly all working group meetings and notes that all proposals were thoroughly reviewed. Parties can reasonably argue that they do not agree with the

[3] SDG&E Opening Comments at 3.
[4] CLECA Opening Comments at 2.
[5] DSA Opening Comments at 4.

CEC's ultimate recommendations. But the Commission should reject attempts to describe the selection of one particular approach over others as evidence of an inherent and unfair bias.

The Commission should also reject SDG&E and DSA's proposals that the effort to define a new QC methodology for DR be further extended, and that additional proposals be invited that conform to the incentive-based framework. Such proposals are largely attempts to re-litigate issues that were already extensively discussed in the workshops. There is little value to such re-litigation. For example, while DSA, CLECA and OhmConnect's own proposal can be reworked to include a penalty component, it is not clear that this would provide additional value. Respectfully, the principal drawback of DSA's proposal is that it would add new outputs, and therefore cost and complexity, to an already burdensome and costly exercise, *not* that it excludes a back-end penalty. Revision of the proposal to include a penalty would not address existing criticisms of the proposal, criticisms that were extensively discussed in the working group. PG&E correctly states that it "does not believe that additional workshops or comments are needed on the DR QC proposals in this proceeding because the CEC working group has already spent considerable time meeting to develop and refine the various DR QC proposals included in the CEC Report."[6] Given the length of time stakeholders dedicated to the working group process—and similar efforts to reform DR QC methodologies in prior RA proceedings—it is not evident that extending this effort further would yield meaningfully better results. Rather, any such extension would simply prolong uncertainty for the demand response industry.

3. Survey results that favored CLECA and SDG&E/DSA's proposal were not reflective of the overall working group opinion.

CLECA, SDG&E and DSA's argument that CEC's recommendations should be rejected because they do not reflect the results of a survey conducted by the CEC in the working group misrepresents the validity and purpose of the survey results and should be dismissed. In October 2022, the CEC did survey working group members to determine where each stood vis-a-vis the existing proposals. While the results favored SDG&E/DSA and CLECA's proposals, this survey, is not a definitive representation of each party's position, then or today. Further, it would be inappropriate to require a final proposal to be the most "popular" regardless of that proposal's underlying merits and suitability. As the Commission knows from its own similar workshop

[6] PG&E Opening Comments at 3.

processes, taking a popularity-based approach would result in skewed policies that would have unintended consequences.

Notably, not all working group members participated in the survey. OhmConnect, for example, was not able to participate due to internal factors and, although we were an active working group participant, our position was not represented. More importantly, it appears that some participants misunderstood the principles that were to guide their selection, which clearly impacted the aggregate results. CLECA's argument that "[t]he working group rated both the DSA and CLECA proposals highly, based on agreed-upon principles interpreted appropriately by each stakeholder"[7] directly contradicts its own comments to the CEC following the survey. At the time, CLECA noted that "parties had different interpretations on what a principle meant and how it should be applied to a proposal."[8] The CEC Report clearly lays out these caveats and explicitly concludes that "[t]he results are only intended to be a guide for stakeholder discussion and should not be considered conclusive."[9]

Given the issues discussed above, the Commission should reject CLECA, SDG&E and DSA's claims that the outcome of the survey demonstrates explicit and overwhelming support for any one proposal.

B. MANY CRITICISMS OF THE CEC PROPOSAL ARE UNFOUNDED

1. Arguments about accuracy appear to stem from a misunderstanding of aspects of the CEC proposal.

The Commission should determine that many of the criticisms of CEC's proposal appear to stem from a misunderstanding of how it would be applied and that such misunderstandings can be addressed through further implementation examples without delaying the adoption of the proposal. First, in arguing that "[i]t remains to be explained … how BNLI assesses historical performance of a DR resource better than the selected baseline method"[10], SCE incorrectly compares methods currently used to determine *event-based* ex post impact with the CEC's proposed method to determine *aggregate* ex post capacity demonstration. These two "ex post"

[7] CLECA Comments at 2-3 (citing to CEC Report at A-1, A-3).
[8] CEC Report at A-2.
[9] *Id*.
[10] SCE Opening Comments at 8.

methodologies are not serving the same end and should not be treated as replacements for one another.

Current methods (i.e., control group, day matching, weather matching) are intended to assess deliveries in individual events; they do not provide an agreed-upon method to calculate "demonstrated capacity" for the purposes of performance assessment vis-a-vis committed capacity. CEC's bid-normalized load impact ("BNLI") proposal does not change the methodology by which to assess individual event performance ex post. The methods that SCE supports would still be used for settlement and event-specific load impact measurement. The "additive" value of BNLI is to use these ex post data—these would comprise the "delivered" quantities in the BNLI formula—to calculate an aggregate demonstrated capacity value for the purpose of payment and/or penalty. This demonstrated capacity value would be calculated in the same way for all DR programs, which will allow a more apples-to-apples comparison of the performance of third-party and utility-administered DR.

In sum, the CEC did not need to explain how "BNLI assesses historical performance of a DR resource better than the selected baseline method" because it is not intended to be an alternative to a selected baseline method. Rather, the BNLI is a methodology to use event-based deliveries, many of which represent partial dispatches, to derive total demonstrated capacity values. The point of deriving the total demonstrated capacity is to then compare it to the total committed capacity in order to assess overall performance. No such methodology currently exists—outside of the DRAM's much-criticized use of maximum monthly delivery—and would need to be adopted if penalties are to be adopted.

The CAISO also expresses concerns regarding the viability of the CEC's approach based on an apparent misunderstanding of the proposal. Specifically, the CAISO worries that "...the CEC's proposal rewards deviation from CAISO dispatch."[11] OhmConnect understands this concern but submits that the only time a DRP would benefit from delivering *more* than the CAISO dispatch instructions is when it is dispatched for its full bid quantity, across all resources. This is the only scenario where over-delivery on dispatch instructions has any impact on the BNLI calculation. Over-delivery on smaller, partial dispatches, does not benefit the DRP as the BNLI formula caps "delivered" energy at the CAISO schedule. Full concurrent market dispatches are relatively rare. Often, they coincide with emergency grid conditions. Greater-than-

[11] CAISO Opening Comments at 4.

expected load drops under these conditions may actually benefit system reliability. In fact, they are explicitly incentivized via the Emergency Load Reduction Program.

CAISO further notes that it "…faces local reliability issues requiring response in a specific area but resources are not incentivized to respond in that location and instead respond elsewhere."[12] To OhmConnect's knowledge, nothing in CEC's proposal would reward DRPs for dispatching resources in locations *other than* those scheduled by the CAISO. DRPs would be incentivized to respond precisely in the locations that received a market award because that is how event delivery is and will continue to be assessed. Dispatching customers in, for example, PGEB, when the CAISO scheduled resources in PGSB, would result in performance in that event being "zero" and a BNLI data point of "zero". No other dispatch in any other location will erase this zero—it will always be part of the data on which the ex post regression is based.

Finally, while CAISO understandably worries that "...aggregating performance at the DRP level ignores local and sub-load aggregation point needs…"[13] OhmConnect disagrees that it will "...reduce incentives for individual resources to respond to CAISO dispatch."[14] Again, in the CEC's proposed approach to determine demonstrated capacity—and therefore payment/penalty—delivery on every event is plotted and is material. In fact, under-performance in localized events is likely to have a large impact on demonstrated capacity. Because DR events tend to cluster in specific sub-LAPs (i.e., all resources in a sub-LAP are typically dispatched together) under-delivery in one event in one sub-LAP or local area will be scaled to the DRP's full bid, which represents a much broader set of sub-LAPs. In effect, it can be argued that, rather than *hiding* deficiencies in local dispatches, the BNLI formula actually magnifies them and applies them to the entire program portfolio. As such, assessing performance at the DR program level—other than for local commitments, where performance should be evaluated separately—is the much-preferred approach. It simplifies the entire analysis, makes use of the broadest set of data on program capability, and makes "hiding" deficiencies difficult.

2. The CEC methodology is not "more complex" than the current LIP exercise.

[12] *Id.*, at 5.
[13] *Id.*
[14] *Id.*

The Commission should reject arguments that the proposed methodology adds complexity relative to the existing process.[15] There is simply no evidence that this is true. The CEC's proposal would utilize performance data that has already been calculated for the purposes of CAISO settlement, input it into a simple formula to obtain a set of BNLI values, plot them, and run a simple regression through the data points to determine where that line meets the planning temperature. As we discuss in detail above, the first step—calculating ex post performance in individual events—would mirror what is done today. In fact, the proposal simplifies this exercise by permitting DR providers to utilize performance as has already been calculated for the purposes of CAISO settlement while also allowing other approaches to be utilized if judged more accurate. The LIPs nearly always require *recalculation* of event performance based on other methodologies. Every step beyond the calculation of event-based performance is a version of what would be necessary if the Commission were to adopt penalties in order to bolster accountability. Penalties would necessarily require adoption of a methodology to convert a set of event performance values, many of which represent partial dispatches, into an hourly, monthly "demonstrated capacity" value.

While parties can argue that CEC's methodology to obtain this demonstrated capacity value is not appropriate, it is inaccurate to argue that it is *more complex* than the current process. The complexity is simply on the back-end versus the front-end.

C. THE PENALTY STRUCTURE SHOULD BE REFINED IN A SUBSEQUENT RA PROCEEDING.

Parties appear nearly universally aligned on the need for additional refinement of the penalty structure if one is adopted.[16] As OhmConnect noted in opening comments, this part of CEC's proposal is unduly complex and may lack legal support. DSA correctly notes that "[t]he CPUC … does not have direct authority over 3rd party vendors, and is not a party to contracts" and that "[h]aving LSEs reconcile contracts payments with DRPs may also require LSEs to delay payments to DR providers in part [or] in whole."[17] This is simply not currently workable. The Commission should consider OhmConnect's proposal for a fixed $/MW shortfall penalty as a

[15] CLECA Opening Comments at 4.
[16] *See* OhmConnect Opening Comments at 4-5.
[17] DSA Opening Comments at 5.

much more administratively manageable alternative to the CEC's proposed approach. Details of such a penalty would appropriately be discussed and established in a subsequent RA proceeding.

III. CONCLUSION

OhmConnect appreciates the opportunity to reply to party comments and largely supports the recommendations put forward by the CEC to determine DR QC, as explained herein.

Respectfully submitted,

By: _____/s_____

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