

June 5, 2017

To: Julia Payton, BPM Change Process Manager

From: Mona Tierney-Lloyd, EnerNOC, Inc.,
on behalf of the Joint Demand Response (DR) Parties
(415)238-3788
Mtierney-lloyd@enernoc.com

Re: Opposition to Implementing Proposed Revision Request (PRR) 986

The Joint DR Parties are opposed to the adoption of PRR 986 and the implementation of its proposed changes to resource adequacy (RA) availability assessment hours (AAH) for system and local resources in 2018. There are several reasons for this opposition:

1. The CAISO has provided no studies, information, evidence or support for the changes to system and local RA. By contrast, (and notwithstanding CAISO's failure to adhere to other Federal Power Act and tariff requirements), CAISO's tariff states clearly that the AAH must be based on historical actual load data of high demand conditions. CAISO has offered nothing to suggest that its ultra vires arrogation of power that it even chose the appropriate hours based upon historical actual load.
2. The CAISO has provided no studies, information, evidence or support for the need to implement these changes in 2018 or how in one year the AAH could shift 3 hours without any regulatory action on the part of the CPUC or FERC. Worse yet, CAISO's proposal suggests a view that it does not believe that regulatory collaboration or approval is even required. The CAISO's proposed changes to RA AAH for system and local capacity for 2018 have not been introduced into the current CPUC RA Proceeding (R.14-10-010), for which a Proposed Decision has been issued and within which no proposals have been made by any party, including the CAISO, to modify the RA AAH for system and local RA for 2018.
3. The adoption of the proposed RA AAH for system and local RA for 2018 will have significant and severe consequences for DR resources including the DR Auction Mechanism (DRAM) awardees, who submitted offers without knowledge that CAISO

was going to make a unilateral change to resource adequacy requirements. DRAM awardees were recently notified of 2018 awards on May 24, 2017 and approval for these awards must still wind through the utilities' contracting and CPUC's approval processes. Now comes the CAISO unilaterally making unsupported change that destabilizes the regulatory framework over resource adequacy in California.

4. The CPUC is currently considering the investor-owned utilities' (IOUs') DR Applications (A.17-01-012, et. al.), which are proposed to modify 2018 DR Program parameters. The uncertainty or significant and unsupported changes to DR Program RA AAH will have significant, and unexplored, repercussions to DR resources. This is why respecting the jurisdiction of the CPUC, which CAISO has previously professed to recognize, is important. In its tariff, CAISO recognizes that California law has given the essential jurisdictional responsibility over resource adequacy to the CPUC. CAISO is not free simply to change requirements, especially in such an opaque¹ and unsupported manner, as is being used in PRR 986.
5. Pursuant to the CAISO Tariff and California State Law, CAISO cannot implement these changes without coordination and adoption of the RA AAH by the CPUC. CAISO acknowledged in its filing letter to FERC introducing the Reliability Service Initiative that it lacks unilateral authority and the primacy of the CPUC's responsibility over resource adequacy requirements.² Moreover, the unilateral PRR 986 is inconsistent with how CAISO represented itself as working in collaboration with the CPUC and respecting its jurisdiction. Indeed CAISO represented to FERC that its proposal sought to bring *its tariff criteria in line with CPUC rules*, not the other way around. In issuing its order conditionally approving relevant provisions of the CAISO tariff, FERC relied upon CAISO representations that are wholly inconsistent with CAISO's proposed actions now in PRR 986.³

¹ CAISO's original PRR 986 proposed putting a web link in its BPM so that it did not even have to put the AAH in its BPM. It was only after CAISO was put on notice by stakeholders that the AAH must appear in the BPM, that CAISO announced a revision to shift the AAH three hours, wholly without supporting analysis.

² FERC Docket ER15-1825, CAISO Filing Letter, page 2, 5, 13,

³ Order Conditionally Accepting Tariff Revisions, 153 FERC ¶61,002, FERC Docket ER15-1825 (October 1, 2015), ¶¶2, 5-9, 11, 12.

6. At a bare minimum, even if CAISO was authorized to act unilaterally without regulatory approval for its actions (which it is not), it is fundamentally a bad approach to not have coordination with the CPUC in order to have consistent RA AAH as between the CPUC and the CAISO. This is particularly true since many DR programs approved by the CPUC in recent years are designed to be integrated into the CAISO market and unilateral action would create the regulatory risk of have two different and conflicting operating requirements on DR resources.
7. The parties have not had an opportunity to review any study in any venue to support the change to the RA AAH proposed by the CAISO in PRR 986.
8. Modification to the RA AAH is a change to a significant rate, term or condition of service that does not belong in a Business Practice Manual change, as per the Federal Power Act and FERC rules, and orders.
9. The CAISO's Tariff is clear, Section 40.4.1, that the CPUC determines the criteria for what qualifies for resource adequacy and only in the event that the CPUC does not or chooses not to provide that criteria that CAISO Tariff 40.8 applies.
10. Section 40.8 clearly states that this section applies only if the CPUC has not determined criteria for qualifying capacity or has sent CAISO a written instruction to overturn its previous decisions. The CPUC has adopted RA AAH hours in its decisions and it has not sent a letter to the CAISO overturning those hours and deferring to the CAISO relative to this PRR. The current AAH for RA resources was adopted by the CPUC and was reflected in the CAISO's Reliability Service Initiative filing that FERC approved. CAISO is conducting itself in a radically different manner upon receiving FERC approval, acting without collaboration with the CPUC, especially where CAISO itself acknowledged the authority of the CPUC in proposing its tariff.
11. CAISO Tariff Section 40.9.3.1.a. states that the CAISO will determine, on an annual basis, the RA AAH and publish those hours in its BPM and then, in CAISO Tariff Section 40.9.3.1.b., CAISO would determine the extent to which qualifying resources submit bids to provide energy, to meet the must-offer obligation, during those hours. The RA AAH are integral to determining RA eligibility for resource adequacy. Pursuant to these provisions and the aforementioned tariff sections (40.4.1 and 40.8), market participants

are entitled to rely upon more than a decade of precedent that RA requirements would be addressed in conjunction with the CPUC's RA Proceedings (which the CAISO has itself always participated in).

12. As exemplified by PRR 986, the adoption of PRR 986 would clearly result in the CAISO, not the CPUC, determining the criteria that resources would need to meet in order to qualify for RA. Not only is this a clear violation of CAISO's tariff and FERC rules and decisions, it is also a clear violation of California statutes, in Public Utilities Code Section 380, which designates, by law that the CPUC is the lead agency in determining resource adequacy requirements, in consultation with the CAISO (emphasis added). The adoption of PRR 986 puts the CAISO in the position of being the lead agency in determining qualifying resource requirements by determining the RA AAH outside of a CPUC process and without consultation with the CPUC. Accordingly, in the proposed PRR 986, CAISO is seeking to administer its tariff in a way that is violative of California state law – all while the tariff expresses deference to the jurisdiction of the CPUC under California state law.
13. Following questioning to the CAISO about the absence of analytical support for PRR 986, Joint DR Parties were informed by email that CAISO is relying upon the PRR 914, originally proposed by PG&E in May of 2016. PRR 914 is on hold and CAISO has taken no action relative to it. There is nothing in PRR 986 that refers stakeholders to PRR 914 as the basis for the change. That notwithstanding, in reviewing PRR 914 there are several flaws in trying to leap from PG&E PowerPoint to the proposed changes in PRR 986 and leads the Joint DR Parties to conclude that PRR 914 cannot be used to support the proposed changes reflected in PRR 986.⁴
 - a. PG&E's PowerPoint Presentation only discusses system, not local, RA AAH.
 - b. PG&E's PowerPoint Presentation would support a one-hour shift, not a three-hour shift, based upon when peak hours were occurring using 2014 and 2015 data, without verifying the data represented on those slides. The only

⁴ Due to the late notice by CAISO of the connection between PRR 914 and PRR 986, and the assumption by the Joint DR Parties that PRR 914 was inactive, the Joint DR Parties have not independently verified PG&E's PowerPoint or performed any independent analysis of its own.

justification to shift the RA AAH by three hours during the summer months (May-October) would be due to prices in those hours, not load.

14. The Joint DR Parties do not object to adjustments to the RA AAH to reflect changing resource needs. However, those changes must be supported by information, studies, and analysis that is available to the parties to evaluate and review, that is coordinated with the CPUC's RA Proceedings, and provided with adequate time and notice so as not to unduly and negatively affect DR resources.

For the foregoing reasons, the Joint DR Parties oppose PRR 986.