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Organization:	CPower Energy Management
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Description:	CPower Comments on the Distributed Energy Resources for Reliability Draft Solicitation Concept
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STATE OF CALIFORNIA
BEFORE THE
CALIFORNIA ENERGY COMMISSION

In the Matter of: Reliability Reserve Incentive Programs	)))	Docket No. 22-RENEW-01 RE: Distributed Electricity Backup Assets Program

COMMENTS OF ENERWISE GLOBAL TECHNOLOGIES, LLC, D/B/A CPOWER ENERGY MANAGEMENT ON THE DISTRIBUTED ENERGY RESOURCES FOR RELIABILITY DRAFT SOLICITATION CONCEPT

Pursuant to the Notice of Public Workshop for the Distributed Electricity Backup Assets (DEBA) Program – Distributed Energy Resources for Reliability Draft Solicitation Concept issued on February 23, 2024 in the above-captioned proceeding, Enerwise Global Technologies, LLC, d/b/a CPower Energy Management (CPower), hereby submits comments regarding the Distributed Energy Resources for Reliability Draft Solicitation Concept (Draft Solicitation Concept) issued by the California Energy Commission (CEC or Commission) on February 23, 2024, as subsequently revised on February 27, 2024.[1] CPower is a distributed energy resources (DER) aggregator operating throughout California and the United States, managing approximately 6.3 gigawatts of customers' demand side flexibility from over 17,000 customer sites in more than 60 wholesale and retail programs nationwide. CPower participates as an aggregator in programs ranging from emergency capacity demand response to load shifting to fast response frequency regulation.

[1] Docket No. 22-RENEW-01, Distributed Energy Resources for Reliability Draft Solicitation Concept (Feb. 27, 2024) (Draft Solicitation Concept).

I. INTRODUCTION

CPower is eager to help deploy distributed energy assets like energy storage in California, as it has done in many other states across the country. If implemented faithfully to the Legislature's vision,[2] the DEBA program presents a tremendous opportunity for CPower and like companies to deploy significant distributed capacity to support the grid when such support is needed most. CPower recognizes the significant efforts of the CEC to effectuate the Legislature's vision and commends the CEC's diligence and thoughtfulness in drafting the Draft Solicitation Concept.

However, unless amended in the final solicitation, the complexity and onerous requirements of the CEC's Draft Solicitation Concept will likely prevent CPower and other similar companies from participating in the DEBA program. In its final solicitation, the CEC should recognize that there are still significant costs that will not be reimbursed through this program and operational flexibility is critical for applicants to recover such costs.

As this Draft Solicitation Concept recognizes, DEBA is a **reliability** program to incentivize "resources that will provide **emergency** supply or load reduction during **extreme events**."[3] However, the operational requirements of the Draft Solicitation Concept place a far greater burden on projects than would typically be expected from an emergency program and severely limits the flexibility needed to make these projects economic. For example, the trigger thresholds for the performance pathways, such as the $100/MWh market price threshold for

[2] Cal. Pub. Resources Code § 25791.

[3] Draft Solicitation Concept at 3 (emphasis added). This mirrors the applicable statutory language, which directs the CEC to implement and administer the DEBA program to incentivize "distributed energy assets that would serve as **on-call emergency supply or load reduction for the state's electrical grid during extreme events**." Cal. Pub. Resources Code § 25791(a) (emphasis added).

Performance Pathway 2, could result in near constant discharges during net peak load hours in May through October. That is hardly indicative of an "emergency" program.

Rather than requiring complex and restrictive performance standards, the CEC should allow projects to demonstrate performance through existing load flexibility programs and take advantage of the revenues available through such programs. This would help enable projects to obtain the remaining 50 percent of project costs plus necessary profits not funded by DEBA. It would also potentially allow applicants to reduce the funds they require from DEBA, as well as the administrative burden on applicants, customers, and the CEC.

The final DEBA solicitation should also ensure that the costs Load Flexibility Technologies reasonably attributable to the DEBA project are eligible for funding support in all eligible project Groups. Such technologies will be critical to ensure that distributed energy resources (DERs) are able to respond quickly and efficiently to emergency events. Further, truly "new" DER projects will not have an opportunity to participate within the timeframe contemplated by the Draft Solicitation Concept, but CPower also recognizes the need to award certain projects quickly to take advantage of other funding sources. The CEC should therefore distribute funds in separate tranches over time to both facilitate projects with urgent deadlines and allow for planning and development of new projects. Finally, the CEC should consolidate the three distinct project Groups into one with a lower individual project size threshold to simplify the solicitation and focus funding on technologies most likely to achieve the statutory goals. If adopted, these recommendations balance the need to ensure DEBA projects are performing during extreme events with the necessary flexibility to facilitate economic viability, maximizing the full potential of DEBA to contribute to California's strategic reliability reserve.

II. COMMENTS

A. The CEC Should Remove Prohibitions on Participation in Demand Response Programs to Enable Profitability.

By prohibiting participation in supply-side demand response (DR) and other third-party aggregator DR programs, the Draft Solicitation Concept unreasonably discriminates against third-party programs in favor of load-modifying DR. Without explanation, the Draft Solicitation Concept prohibits DEBA projects from being "sited at a service account enrolled in another load reduction program, including supply-side demand response or the Emergency Load Reduction Program (ELRP) or Demand Side Grid Support (DSGS) programs, unless the project is applying the daily dispatch/continuous generation performance pathway."[4] Conversely, the Draft Solicitation Concept not only allows but encourages projects to participate in utility load-modifying programs, such as time-varying rates.

For example, under Performance Pathway 3, DEBA projects are able to demonstrate performance simply by "enroll[ing] customer sites in an hourly dynamic price rate or tariff."[5] Similar to demand response, the primary motivation for customers to enroll in an hourly dynamic price rate is the economic opportunity presented by shifting demand from periods of energy scarcity to periods of abundance. This overlap in economic motivations is why the California Public Utilities Commission (CPUC) recently prohibited customers on the expanded hourly dynamic rate pilots from also participating in supply-side demand response.[6] Accordingly, at least in the eyes of the CPUC, the behavior incentivized by hourly dynamic pricing is substantially similar to the behavior incentivized by demand response programs. It is therefore

[4] Draft Solicitation Concept, p. 17. The "daily dispatch/continuous generation performance pathway" requires projects to "dispatch daily in designated hours that must be inclusive of 4:00–9:00p.m. time window." Draft Solicitation Concept, p. 20. Such continuous dispatch in infeasible for most DERs, as explained herein, effectively nullifying the exception to the general prohibition on participation in DR programs.
[5] Draft Solicitation Concept, p. 19.
[6] R.22-07-005, D.24-01-032, p. 63 (Cal. P.U.C., Jan. 25, 2024).

inconsistent and discriminatory for this solicitation to actively encourage projects to participate in hourly dynamic pricing through the Performance Pathway, but to deny funding for projects participating supply-side demand response and other similar DR programs.

To the extent the CEC is concerned about double recovery, it can be assured that the CPUC is fully cognizant and on guard against the possibility of customers being compensated twice for the same behavior, as demonstrated by its decision described above expanding the hourly dynamic rate pilots. The CEC should also not be concerned that receiving funds from DEBA and supply-side demand response programs implicates double recovery issues, just as it is not concerned with double recovery when participating in dynamic hourly pricing rates. Consistent with the enabling statute, DEBA funds are not intended to directly incentivize load shifting, but rather to incentivize the "construction" of new distributed energy assets that will be available for emergency supply or load reduction.[7] Accordingly, DEBA funding should focus on bridging the gap between the cost of deploying new distributed energy assets and the funding that is already available in the marketplace, including through existing demand response and load flexibility programs. Allowing participation in dynamic rates, but not other load flexibility programs, such as DR, is inconsistent and arbitrarily picks preferred programs.

Finally, the limitation on funding of 50 percent of project costs combined with the prohibition on obtaining alternative sources of available funding puts unnecessary constraints on project economics. Indeed, if projects are allowed to pursue funding available through existing demand response programs, they may be able to internalize such funding into their applications and require less from the DEBA program, allowing the CEC to deploy more resources at lower cost. Again, the entire point of DEBA is presumably to bridge the gap between project needs and

[7] Cal. Pub. Resources Code § 25791(a).

what is currently available in the market to incentivize more capacity capable of responding to emergencies than would otherwise be available. By limiting alternative funding sources, the Draft Solicitation Framework is needlessly limiting the potential of DEBA. Accordingly, in its final DEBA solicitation, the CEC should remove the prohibition on participation in supply-side demand response, ELRP, and the DSGS programs and allow the benefits of such programs to flow through to customers and the DEBA program.

B. The CEC Should Eliminate the Performance Pathways to Reduce the Burden on Applicants and the Commission.

Rather than prohibiting participation in demand response programs, the CEC should dispense with the onerous Performance Pathways and instead allow projects to demonstrate performance through participation in an existing load flexibility program that is aligned with program goals. Such programs would include hourly dynamic pricing, supply-side DR, DSGS, ELRP, or the base interruptible program (BIP). The Commission has recently taken a similar approach with its program to incentivize the deployment of specific technologies, conditioning receipt of certain Self Generation Incentive Program (SGIP) funding on enrollment in a "qualified DR program."[8] Such qualified programs include both economic supply-side market integrated DR programs and load modifying DR programs, with certain limitations.[9] The CEC should take a similar approach here, while, consistent with goals of the enabling statute, modifying the list of eligible programs to include those targeted at or inclusive of emergency events, such as ELRP and BIP, as well as the CEC's DSGS program.

[8] A.22-005-002, et al., D.23-12-005, pp. 25-26 (Cal. P.U.C., Dec. 14, 2023). Notably, in the separate SGIP rulemaking, the Administrative Law Judge recently issued a Proposed Decision that adopted a list of qualified DR programs that is more narrow than the Commission's definition in D.23-12-005. R.20-05-012, Proposed Decision, p. 73 (Cal. P.U.C., Feb. 2, 2024). It is not clear whether this conflicting decision was intentional and several comments on the Proposed Decision strongly advocated for the Commission in its Final Decision in the SGIP rulemaking to reaffirm its definition of qualified DR programs from only a couple of months prior in D.23-12-005.
[9] A.22-005-002, *et al.*, D.23-12-005, p. 25 (Cal. P.U.C., Dec. 14, 2023).

Although CPower appreciates the ambitions and thoughtfulness behind the proposed Performance Pathways, their complexity and operational requirements are likely to box out many potential projects, undermining the DEBA program. As explained above, the frequency of dispatches required by several of the pathways will significantly encumber the resources, limiting their flexibility to obtain value beyond the 50 percent cost funding through DEBA, including, for example, demand charge management. Further, although Pathway 5 more closely aligns with the premise of this program to deploy resources that are available during emergencies, the requirement for resources to be available 24/7/365 and to be able to ramp up to full capacity within 10 minutes will be prohibitive to many projects. The CEC could easily avoid the significant burden that would be caused by the proposed Performance Pathways by instead simply allowing performance through an existing load flexibility program.

Eliminating the Performance Pathways in favor of participation in existing load flexibility programs will also significantly simplify the solicitation, to the benefit of applicants, customers, and the CEC. If projects are allowed to participate in existing load flexibility programs, the CEC could reasonably rely on the economic incentives of those programs to ensure performance during emergency events. However, even if the CEC were to require the reporting of actual performance, it could do so under the parameters of existing programs, rather than creating entirely new constructs, such as the proposed Performance Pathways.

To the extent that there is not a feasible load flexibility program available to any proposed project, the CEC could permit such applicants to propose a measurement and verification process either consistent with one of the Performance Pathways proposals or a new proposal subject to CEC's review and approval. Eliminating the Performance Pathway requirement and opening opportunities for DEBA projects to participate in complimentary load flexibility programs will significantly increase the potential impact of this program and maximize the deployment of distributed, emergency-response resources.

C. The Eligible Costs Should Align with the Eligible Technologies.

In its Draft Solicitation Framework, the CEC lists Load Flexibility Technologies as technologies eligible to receive DEBA funding for Group 1 (Large DER Installations) and Group 3 (Load Flexibility Aggregation Programs), but not Group 2 (Virtual Power Plants (VPPs)).[10] There is no apparent reason why Load Flexibility Technologies should not be allowed for the VPP group but should be allowed for the other two groups. From the CEC's explanation during the March 6, 2024 DEBA Draft Solicitation Concept Workshop, it appears that the exclusion of Load Flexibility Technologies from Option 2 may have been unintentional. To the extent the CEC maintains separate grouping in the final DEBA solicitation (discussed further below), it should clearly allow for funding of the same Load Flexibility Technologies in Group 2 that are allowed in Groups 1 and 3.

Relatedly, the CEC should allow for funding of Load Flexibility Technology costs that are reasonably attributable to the project. In the Draft Solicitation Concept, the costs listed under the "Eligible Project Costs" for Group 1 and 2 projects appear to only contemplate the recovery of capital costs.[11] However, the costs of "demand flexibility software",[12] for example, does not fit neatly into this list of eligible costs, particularly if the applicant uses its own proprietary software developed in-house to enable load flexibility. The solicitation should clearly provide that the list of "Eligible Project Costs" is not exclusive of other reasonable project costs that are not explicitly excluded by the terms of the solicitation. The CEC can also retain the right to

[10] Draft Solicitation Concept, p. 15.
[11] Draft Solicitation Concept, pp. 14-15.
[12] Draft Solicitation Concept, p. 14.

reject unreasonable costs that the applicant fails to demonstrate are necessary for project development and operations.

D. The Commission Should Adopt a Staggered Application Process to Balance the Time Necessary to Develop New Projects with Impending Deadlines for Alternative Funding Sources.

The application and development timeline and process proposed in the Draft Solicitation Concept is inconsistent with the statutory goal of incentivizing "new" distributed energy assets,[13] *i.e.*, assets that would not exist but for the DEBA funding. The Draft Solicitation Concept proposes to release the final solicitation in April 2024, with application deadlines in June 2024 for general applications and July 2024 for the disadvantaged community set-asides, with awards finalized in September 2024 and October 2024, respectively. Proposed projects are expected to begin deploying resources by Summer 2025 and be completed and online no later than May 1, 2027.

In order to meet such a schedule, it is likely that many of the projects to be included in applications were planned for development regardless of DEBA funding. It will take significantly longer than two months for applicants to develop a plan for completely "new" projects at the scale contemplated by this solicitation and to make the necessary arrangements (*e.g.*, developing vendor support and identifying necessary permitting) to ensure such projects are feasible and not wholly speculative.[14] It will also take more than roughly six months between awards and resource deployment to actually develop these "new" projects, particularly if interconnection applications have not already been submitted.

However, the CEC also has a legitimate interest in maximizing the opportunity for projects to defray costs with funding from other sources, such tax incentives and Grid Resilience

[13] Cal. Pub. Resources Code § 25791(b)(2).
[14] *See, e.g.*, Draft Solicitation Concept, p. 31 (identifying the Project Readiness and Workplan scoring criteria).

and Innovation Partnerships (GRIP) Program funding, some of which may have impending deadlines. Accordingly, the CEC should stagger distribution of the DEBA funds among applications with different deadlines (*e.g.*, two, four, and six months from release of the final solicitation) and different commercial operations deadlines. Such a process would balance the desire to maximize alternative funding opportunities with the statutory requirement to incentive "new" distributed energy assets.

E. Consolidating the Groups and Lowering the Project Size Would Allow the CEC to Focus on the Best Possible Overall DER Projects to Meet the Statutory Goals.

Finally, the final solicitation should strive to simplify the DEBA requirements relative to the layers of complexity embodied in the Draft Solicitation Concept. CPower has reviewed the California Efficiency + Demand Management Council's comments on the complexity of the Draft Solicitation Concept and generally supports its recommendations on this issue. CPower also recommends reducing complexity by eliminating Group 3 and potentially combing Groups 1 and 2. The load serving entities (LSEs) eligible for Group 3 funding can receive such funding from their ratepayers for cost-effective projects and it is not clear why taxpayers should fund an LSE program, particularly if the program will have benefits specific to that LSE, such as lowering its resource adequacy procurement obligation. Instead, the CEC should simplify the program by, in part, focusing funding on Group 1 and 2 projects and, if feasible, incorporating third-party aggregator programs that may have participated in Group 3 into one consolidated Group.

Further, lowering the minimum project size in a consolidated Group to one MW of incremental rated capacity will allow more distributed energy resources to participate. The current six MW minimum for Group 1 and 15 MW for Groups 2 and 3 is not reflective of how most distributed resources are sized. Such a high capacity threshold for participation with reduce the number of participating projects, limiting the potential of this program to spur economic development and innovation. Accordingly, the CEC should reduce the minimum size for all participating projects to no higher than one MW.

III. CONCLUSION

WHEREFORE, consistent with these comments, CPower respectfully requests that the CEC issue a final DEBA solicitation that: allows projects participation in DR programs and enables projects to demonstrate performance through such participation; provide funding for Load Flexibility Technology costs reasonably attributable to projects under all Groups; provide more time for applicants to identify new distributed projects; and consolidate all eligible projects into a single group with a minimum project size of one MW.

Respectfully submitted,

/s/ Lee Ewing___________

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