

Council Comments on Penalty Enforcement Mechanism

Supply-Side DR QC Working Group

October 19, 2023



Introduction

- The Council provides some high-level thoughts about how the Penalty Enforcement Mechanism (PEM) can be implemented, addresses some questions posed by Staff in prior WG session, and highlights some additional key questions that must be addressed



Key elements

- **Which agency/organization should be responsible for administering the PEM process and determining the penalty amount?** CPUC w/ CEC support is most appropriate b/c CPUC has jurisdiction over Resource Adequacy and ED Staff is the lead agency on DR QC values
- **How would penalties be assessed?**
 - DRPs: Assuming total penalty cannot exceed contract value, support Leap suggestion to derate contract QC value; avoids additional collateral requirement; CPUC can send notice to DRP and contracting LSE
 - IOUs: Two options: 1) Energy Revenue Recovery Account (ERRA) process; this may only be appropriate for bilateral contracts b/c ERRA addresses energy costs only; 2) through Annual Electric True-up (AET) process because it is where DR program costs are recovered

Key elements (cont.)

- **When should the PEM be deployed?** Support PG&E proposal for a 4-year phase-in; this will mitigate potential financial shocks; recommend we agree on an annual check-in process for any needed changes
- **On what capacity value (\$/kW) should a penalty be based?**
 - DRPs: Contract price
 - IOUs: Recommend \$8.88/kW-mo. proxy value for tariffed DR programs; contract price for bilateral contracts



Key elements (cont.)

- **What positive and negative performance buffers should be adopted?** Support PG&E proposal for a positive performance buffer; propose a 90%-100% negative performance buffer and 100%-105% positive performance buffer; the latter can be used to offset underperformance but would not qualify for a higher payment beyond 100% of the QC value
- **How frequently would the PEM be applied?** Further discussion is required but penalties should not be assessed more frequently than performance is evaluated
 - Should the cadence of performance evaluation be linked to frequency of testing requirements?

Key elements (cont.)

- **How would the PEM be applied under Slice-of-Day?** Further discussion is needed but recommend performance be evaluated at the resource level to prevent excessive over-performance canceling out excessive under-performance; aggregate up to the program- and contract-level (as applicable) for each hourly slice



Discussion/Q&A

Thank You!

Please contact me if you have any questions.

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