

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Oversee the
Resource Adequacy Program, Consider Program
Refinements, and Establish Annual Local
Procurement Obligations

Rulemaking 11-10-023
(Filed October 20, 2011)

**SIERRA CLUB REPLY COMMENTS ON PROPOSED DECISION ADOPTING LOCAL
PROCUREMENT OBLIGATIONS FOR 2014,
A FLEXIBLE CAPACITY FRAMEWORK, AND
FURTHER REFINING THE RESOURCE ADEQUACY PROGRAM**

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Dated: June 24, 2013

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A FLEXIBLE CAPACITY FRAMEWORK, AND
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Sierra Club submits the following Reply Comments on the Administrative Law Judge's Proposed Decision Adopting Local Procurement Obligations for 2014, a Flexible Capacity Framework, and Further Refining the Resource Adequacy Program, filed May 28, 2013 ("Proposed Decision").

I. The Proposed Decision Should Temper Commission Commitment to Implement Flexible Capacity Procurement in 2015 Pending Resolution of Future Uncertainties Including Implementation of a Must Offer Obligation and a More Robust Understanding of the Need for and Cost of Flexible Capacity Procurement

Sierra Club agrees with DRA and TURN that the Proposed Decision's apparent commitment to implement a flexible capacity procurement regime for 2015 is premature given the significant remaining uncertainties that could render implementation in 2015 unneeded and/or ineffectual. As DRA notes, the reliability benefits of flexible capacity procurement depend upon incorporation of an enhanced Must Offer Obligation (MOO) by the CAISO. Absent an enhanced MOO, ratepayers will bear the cost of flexible capacity procurement without any assurance of receiving its purported benefits. Similarly, while development of eligibility criteria for demand response and energy storage to participate in flexible capacity procurement is an important first step, barriers to participation of these resources in the CAISO markets must also be addressed. Accordingly, the Proposed Decision should be revised to indicate that implementation of flexible capacity procurement for 2015 is contingent on completion of parallel processes at the CAISO.

In addition, as TURN observes, significant questions remain regarding the need for flexible capacity procurement. Indeed, Sierra Club filed a Motion for Evidentiary Hearing jointly with TURN out of frustration with the delinquent, piecemeal and ultimately incomplete demonstration of the extent and timing of future flexible capacity needs. The Proposed Decision denies the Motion on the grounds that the Motion raises issues that are not material or in dispute because the Proposed Decision does "not adopt a flexible capacity requirement for RA year 2014." (Proposed Decision at 35.) Having denied the Motion on this basis, the Proposed Decision cannot then simultaneously conclude that flexible capacity procurement will be

necessary and must commence in 2015. This conclusion is not adequately supported by the record and is the very material and disputed question raised in the Sierra Club/TURN Motion. Moreover, it may be that additional analysis that will presumably take place in the coming year reveals less of a need for flexible capacity procurement than the Proposed Decision appears to anticipate. Finally, a better understanding of costs – for which there is no information at this juncture - may also militate against 2015 implementation.

Given these continued uncertainties, it is both unnecessary and imprudent for the Commission to commit to operationalize flexible capacity procurement for the 2015 RA Year. Sierra Club supports recommended changes to the Proposed Decision to make implementation of flexible capacity procurement contingent on MOO implementation as proposed by DRA *and* on a need showing as proposed by TURN.

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Respectfully submitted,

/s/

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