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## SIERRA CLUB RESPONSE TO PHASE TWO FOUNDATIONAL QUESTIONS

### I. INTRODUCTION

The Sierra Club (Sierra Club) is pleased to offer these responses to the foundational questions listed in Attachment One to the Commission's November 14, 2013 Scoping Memo.<sup>1</sup>

Sierra Club is a non-profit, member-based, "public benefit" California corporation with over 600,000 members nationwide and more than 140,000 members living in California, many of whom are customers of California's three Investor Owned Utilities (IOUs). Sierra Club's governing documents authorize and require it to represent the environmental interests of its members, including California IOU customers. While these interests encompass a broad range of energy and environmental issues, our highest current priority is to eliminate the need for fossil fuel-fired power plants through the development of energy efficiency and affordable clean energy, curbing global warming and building a clean, sustainable economy that lowers energy bills and creates new jobs.

The Commission's goal in this proceeding – to enhance the role of demand response programs in meeting California's long-term clean energy goals while maintaining system and local reliability – is entirely congruent with the priorities of Sierra Club and its members, and we expect to participate actively to help the Commission reach its goal.

The following responses to the Phase Two foundational questions focus largely on bifurcation. We support the Commission's proposal to bifurcate, but suggest alternatives to the "demand-side"/"supply-side" nomenclature, and to the underlying basis for bifurcation. To address the perceived tension between different forms of demand response, we encourage flexible program design that treats different resources appropriately to their functions; simplifies program administration; and streamlines Commission dockets. We also favor cost allocation that treats demand response comparably with generation supply. Finally, we support the Commission's policy in D.11-10-003 to disallow resource adequacy credit for fossil-fueled emergency back-up generators used for demand response, and monitoring and enforcement toward that end.

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<sup>1</sup> *Joint Assigned Commissioner and Administrative Law Judge Ruling and Scoping Memo* issued November 14, 2013 in R.13-09-011.



## II. RESPONSES TO FOUNDATIONAL QUESTIONS

### 1. BIFURCATION

- a. *In the Order Instituting Rulemaking (OIR), the Commission proposes to bifurcate the current demand response programs into demand-side and supply-side resources. (See Figure 1 below for the proposed realignment.) The OIR defines the demand-side programs as customer- focused programs and rates, and supply side resources as reliable and flexible demand response that meets local and system resource planning and operational requirements. Please comment on the terms, demand-side and supply-side resources, and the definitions provided. If you disagree with the terms and/or definitions, please provide your recommended changes and explain why your recommendation is more appropriate.*

Sierra Club supports the Commission’s proposal in the September 25 OIR to bifurcate demand response resources into two classes. We agree that the performance of these two classes of resources will benefit from distinctly different strategies for improvement, and we offer two responses to this question. First, we offer comments on the nomenclature used to describe the two classes of resources, and we propose alternative terms to capture the Commission’s stated goal and purposes presented in the OIR. Second, we offer an alternative scheme for classifying two groups of demand response resources.

#### **Alternative 1: Using different nomenclature for the two groups of DR**

In the OIR, the Commission proposes to divide demand resourseresources into two groups: those whose primary purpose is to promote customers’ voluntary reduction of their load (and help relieve the grid during emergencies), and those whose primary purpose is to support the CAISO grid (and also benefit customers who opt to provide them). The latter category includes resources that can be acquired through competitive procurement.

We recognize that the Commission’s proposed labeling of this bifurcation as “demand - side” and “supply-side” resources has been used in this and prior proceedings and in the stakeholder workshops held during October. To the extent that participants have adopted this distinction, it is probably workable. However, we are concerned that this terminology creates ambiguity and potential contradictions, and that the boundaries the Commission intends to establish may become less clear over time.



In many other contexts in California and elsewhere, “demand side” refers to activities on the customer’s side of the meter. However, this is not how the term “demand side” is used in the bifurcation proposal. For example, the OIR lists Air Conditioning Cycling as a “supply side” measure even though the program manifestly operates on the customer’s side of the meter.

In the other direction, demand response providers may be able to effect measurable change in consumers’ demand behavior with aggregations of activities that reside on the “demand side” of the bifurcation. However, such aggregations might also be enlisted to support CAISO’s grid if they are afforded access to the market.

Sierra Club suggests alternative nomenclature that directly tracks the Commission’s stated goal and purpose for this rulemaking<sup>2</sup> Specifically, Sierra Club proposes that the bifurcation be made between “DR-C” resources, which primarily target *customer* behavior, and “DR-S” resources, which primarily support CAISO’s *system* planning and operations. DR-C resources generally involve programs, tariffs, and consumer behavioral changes that do not presently appear amenable to acquisition using a market-based competitive mechanism. DR-S resources include those that may be amenable to acquisition through such mechanisms. This nomenclature avoids any confusion that might arise using the familiar terms “supplyside” and “demand-side.”

Using this classification, the Commission would populate DR-C and DR-S resources in this docket. Any new measure can be assigned to one class or the other depending on whether it primarily targets customer behavior, on the one hand, or supports system planning, operations, and reliability, on the other.

**Alternative 2: Using a different basis for bifurcation.**

Another way to bifurcate demand response resources is to classify resources on the basis of whether or not they are amenable to acquisition using a market-based competitive mechanism.

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<sup>2</sup> See *Order Instituting Rulemaking to Enhance the Role of Demand Response in Meeting the State’s Resource Planning Needs and Operational Requirements*, issued September 25, 2013 in R. 13 -09-011 (OIR); p. 2.



Specifically, Sierra Club suggests that the Commission consider bifurcating demand response into two categories, depending on whether the resources are being acquired (or could be acquired) through a market mechanism. In this scheme, DR-M would consist of demand response resources that are amenable to acquisition by the ISO or the LSE using such a *market* mechanism; and DR-T would consist of resources that are amenable to acquisition through a utility *tariff* or other non-market-based tool.

There are two reasons Sierra Club suggests the Commission might consider this alternative: 1) the bifurcation is straightforward, avoids ambiguity, and does not depend on the location of the resource in the grid; and 2) the Commission's consideration of measures to improve performance of demand response resources in the future will likely break down along the lines of this bifurcation, i.e., whether the resource is acquired using a market-based competitive mechanism.

Using this alternative classification, the Commission would populate the DR-M and DR-T resource categories in this docket. Each measure would explicitly be assigned to one class or the other depending on whether it is amenable to acquisition using a market mechanism, rather than appearing to depend on which side of the meter it functions. New measures could be assigned to one class or the other on the same basis. Finally, the Commission could re-classify demand response measures based on a change in their measure's suitability for market-based acquisition.

In sum, Sierra Club suggests that the two alternative classification schemes presented above track more directly with the Commission's purposes, are more transparent and understandable to stakeholders, and afford the Commission appropriate flexibility as markets and technology evolve.

- b. Are there any potential problems or concerns with the proposed bifurcation or realignment of demand response programs into demand-side and supply-side resources? For example, are there any legal issues or other concerns such as missed opportunities for integration?*

Sierra Club is not aware of any legal impediments or missed opportunities arising from the Commission's proposal to bifurcate demand response measures as described in the OIR , or



as proposed in our response to question 1a, but would like to reserve comment on this question as the record in this proceeding develops.

- c. The OIR describes an ongoing tension between the supply-side and demand-side requirements for demand response. The OIR states that demand response as resource adequacy resources are held to the same requirements as generation resources for system reliability and economic efficiency. Simultaneously, the needs and technical capabilities of customers and providers should also be considered in program design. How could the proposed bifurcation or realignment of supply-side and demand-side resources be designed to serve both sets of requirements?*

As the record develops, we expect that the proposed realignment (or the alternatives we propose above) will afford utilities, demand response providers, aggregators and others more flexibility. These actors will be able to offer different types and levels of incentives, reflecting different levels of commitment, risk and reward that end-users will need or want to undertake in offering DR-C, DR-S (or DR-M, DR-T), or some combination of those resources. We also suggest that any program design need not result in a single standard for reliability, economic efficiency, or technical performance applicable to all demand response resources, without regard to the primary function(s) that each is intended to serve but can treat different resources differently.

However defined, bifurcation should afford the Commission and the parties improved administrative efficiency. Because the Commission is likely to use different regulatory approaches to each of the two classes of demand response resources, bifurcation should have the effect of streamlining dockets. A “DR ” docket will no longer need to deal with all demand response resources, but instead can focus on issues pertaining to the class of resources requiring attention.

- d. What role, if any, will the load impact protocol serve in this realignment? Are revisions required? Should the Commission develop separate sets of evaluation criteria and/or processes for the demand and supply sides?*

Based on Sierra Club’s review of the Load Impact Protocol for estimating the impact of demand response activities on electric load, bifurcation will not require Protocol revisions. However, as this rulemaking unfolds and the Commission begins to consider potentially



different regulatory treatments of the two classes of demand response resources some revisions may make sense, so we respectfully reserve the right to respond further to this question.

## 2. COST ALLOCATION 쉼□η

- a. *Current policy requires the utilities to identify, in their demand response applications, the rates used for cost recovery of each program and the justification for that rate. What, if any, additional information should the Commission require to ensure equitable cost allocation and why?*
- b. *If the Commission bifurcates the demand response programs into demand-side and supply-side, does it need to revise its requirements for cost allocation in order to ensure equitable cost allocation? How and why?*

Sierra Club does not offer a response at this time, but reserves that option for future comments or testimony.

- c. *In resource adequacy procurement, costs are allocated across the LSE's. If the Commission bifurcates demand response programs into demand side and supply side, should costs for supply-side procurement be allocated in the same fashion as resource adequacy procurement? If not, recommend other frameworks?*

Sierra Club supports the expanded use of economic demand response measures to meet resource adequacy needs in California. Demand response can be as reliable and more economical than generation resources and has significant environmental benefits, including zero emissions and zero or negligible impacts on water and land use. Absent clear reasons to do otherwise, the Commission should treat the costs of demand response measures the same way it treats the cost of generation supply.

## 3. BACK-UP GENERATORS 쉼□η

- a. *In D.11-10-003, Conclusion of Law No. 5 states, "fossil-fueled emergency back-up generation resources should not be allowed as part of a demand response program for resource adequacy purposes." The decision required the utilities to work with Commission staff to identify data regarding the use of back-up generators. The Utilities shall provide a description of data they have on customer back-up generator usage in demand response programs. We request other parties to share this information as well.*



Sierra Club does not have responsive data on customer back-up generator usage in demand response programs, but we support the compilation of such data and the monitoring and enforcement of back-up generator usage.

*b. If the Commission bifurcates demand response programs, how should the Commission develop rules that are consistent with the D.11-10-003 policy statement?*

As the Commission has recognized, back-up generation typically uses high emitting fossil fuels. Disallowing their use for demand response programs for resource adequacy purposes is consistent with the Energy Action Plan's loading order. If the Commission bifurcates demand response programs, the policy announced in D.11-10-003 should apply across both classes of demand response resources to ensure consistent treatment for loading order and RA purposes. Sierra Club agrees with the Commission that demand response programs that rely on fossil-fueled back-up generation contradict California's demand response vision and its loading order requirements, with or without bifurcation, and that the Commission's policy should apply in either case.

*c. What are the current laws and regulations regarding back-up generation, including those by the Air Resources Board, local air quality management districts and/or any other related regulatory body?*

Sierra Club does not offer a response at this time, but reserves that option for future comments or testimony.

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Sierra Club appreciates the opportunity to offer these comments, and looks forward to contributing to the Commission's effort to enhance the role of demand response in California.

Respectfully submitted,

*/s/ John Nimmons*

*/s/ William B. Rostov*

Counsel for Sierra Club





**VERIFICATION**

I am the attorney for Sierra Club in this proceeding. Sierra Club is not located in the County of Marin, California, where I have my office, so I make this verification for that reason.

The foregoing:

**SIERRA CLUB'S RESPONSE  
TO  
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has been prepared and read by me and its contents are true of my own knowledge and based on information furnished by my client which I am informed and believe to be true. I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 13, 2013, at Mill Valley, California.

*/s/ John Nimmons*  
Counsel for Sierra Club