

rbinz@rbinz.com

jna@speakeasy.org

Sierra Club submits the following list of material issues of fact pursuant to the Joint Assigned Commissioner and Administrative Law Judge Ruling and Revised Scoping Memo¹ issued on April 2, 2014, as modified by ALJ Hymes' May 16, 2014 email Ruling.

Sierra Club observes that until rebuttal testimony is served on May 22, it is unclear whether and to what extent these issues will be disputed, but we believe they merit attention in any evidentiary hearings the Commission may decide to hold as this case proceeds. The issues identified below relate specifically to portions of Sierra Club's opening testimony, and are intended not to duplicate issues identified in other parties' lists, many of which we would likely concur in. Also, because the parties have not yet served prepared rebuttal testimony, Sierra Club may identify additional factual issues in dispute once it receives and reviews such testimony.

Relative to Sierra Club's opening testimony, issues that do or may warrant evidentiary showings include:

1. Whether there are operational or other barriers to Sierra Club's proposal to phase in a requirement that utilities offer Supply DR portfolios into the CAISO market.
2. How and under what conditions a utility will be able to reserve the use of a Supply DR resource for local reliability or distribution system needs.
3. Which existing utility DR programs should be required to be offered into the CAISO market, without jeopardizing the growth of economic DR in California.
4. As to Load Modifying Resource offerings, whether price signals are clear and correct; whether tariff designs are user-friendly; and what is required for utilities to effectively market the measures.
5. Whether the DRAM's proposed capacity cost cap (the average of prices bids without outliers) will result in accepting the economically correct level of DR capacity in a DRAM auction.
6. Whether the lack of progress in integrating DR resources into CAISO's market is primarily related to high resource costs or prices, such that DRAM is an appropriate mechanism to enhance wholesale market integration.
7. Whether downward price pressure imposed by a DRAM mechanism is likely to increase or decrease participation of DR resources in California markets.

¹ *Joint Assigned Commissioner and Administrative Law Judge Ruling and Revised Scoping Memo Defining Scope and Schedule for Phase Three, Revising Schedule for Phase Two, and Providing Guidance for Testimony and Hearings*, issued April 2, 2014 in R.13-09-011.

8. Whether the transactions costs of participating in DRAM auctions are likely to outweigh the potential benefits of such participation, especially for smaller, less well-established, or more innovative providers, and inadvertently limit market participation and/or DR growth in California.
9. How, under what conditions, and to what extent DR resources can meet the CAISO's needs for flexible ramping and ancillary services; what resource characteristics will be needed to do this; and how to value them.
10. What project and provider viability criteria, if any, should be incorporated in any DRAM mechanism?
11. If some form of DRAM is used, what are the advantages and disadvantages of adopting a single price clearing mechanism to improve bidding efficiency?

* * *

Respectfully submitted,

/s/ John Nimmons

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
MATERIAL ISSUES OF FACT IN DISPUTE**

has been prepared and read by me and its contents are true of my own knowledge and based on information furnished by my client or its witness(es) which I am informed and believe to be true. I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 20, 2014, at Mill Valley, California.

/s/ John Nimmons
Counsel for Sierra Club