BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding Policies, Procedures and Rules for the California Solar Initiative, the Self-Generation Incentive Program and Other Distributed Generation Issues.	Rulemaking 12-11-005 (Filed November 8, 2012)

COMMENTS OF THE CALIFORNIA ENERGY STORAGE ALLIANCE ON THE ASSIGNED COMMISSIONER'S RULING PROVIDING FUND TRANSFER AND OTHER PROPOSALS

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In accordance with the Rules of Practice and Procedure of the California Public Utilities Commission ("Commission"), the California Energy Storage Alliance ("CESA") hereby submits these comments on the *Assigned Commissioner's Ruling Providing Fund Transfer and Other Proposals for Comment* ("Ruling"), issued by Assigned Commissioner Clifford Rechtschaffen on August 6, 2020.

I. INTRODUCTION.

CESA is very appreciative and supportive of the Ruling and the Commission's responsiveness to our requested relief requested in the *Motion of the California Energy Storage Alliance to Issue a Ruling that Transfers Funds to the Equity Budget* ("Motion"), submitted on June 9, 2020. We recognize that the Commission determined the funding allocations across the budget categories for the Self-Generation Incentive Program ("SGIP") in Decision ("D.") 20-01-021 based on the best available data at the time.[1] We thus appreciate the Commission's responsiveness to new market uptake data that indicates a larger-than-expected demand for Non-Residential and Residential Equity projects. By adopting the fund transfer as proposed by the Commission in the Ruling and as modified in accordance with our comments below, we believe that the Commission will support timely economic stimulus through the support of shovel-ready waitlisted projects in the Equity budget categories. Furthermore, given the long-held Commission

[1] Ruling at 4-5.

goal of supporting equitable access to distributed energy resources ("DERs"), the significant waitlist and the fund transfer represents a great outcome that positions SGIP to continue its focus on Equity customers.

However, while generally supportive of the proposal in the Ruling, CESA recommends several modifications to achieve the intended effects of the fund transfer to support timely and immediate economic stimulus for Equity customers and to support a significant portion of resiliency-focused projects in the process. Specifically, CESA's modified proposal can be summarized as follows:

- Transfer $100 million from the General Large Storage Budget to the Non-Residential Storage Equity Budget and $8.5 million from the General Large Storage Budget to the Residential Equity Budget, as proposed in the Ruling
- Apply a random-order lottery for same-day waitlisted applications received on May 12, 2020 to distribute the proposed fund transfers for the Non-Residential Storage Equity Budget and Residential Equity Budget, instead of the additional lottery prioritization criteria for systems providing backup power, as proposed in the Ruling
- Defer the development of additional lottery prioritization criteria for systems providing backup power, as proposed in the Ruling, and address the adoption of these criteria to the resolution of the *California Energy Storage Alliance's Petition for Modification of Decisions 20-01-021 and 16-06-055* ("Petition") submitted on June 10, 2020
- Reinstitute limited Program Administrator ("PA") fund transfer authority, where starting on January 1, 2021, the PAs may request up to $50 million to be transferred from any budget category, as the Commission sees fit, to support waitlisted Non-Residential Equity Storage projects with additional lottery prioritization criteria in place.
- Consider removing the $5 million per entity cap for large-scale non-residential storage projects

The following comments highlight CESA's perspective that transferred funds should be dispersed quickly without significant administrative burden where certain aspects of the proposal in the Ruling could potentially lead to delays. Further CESA appreciates the invitation to provide input on the eight proposal topics for incremental improvements below.

II. TRANSFER $100 MILLION FROM THE GENERAL LARGE STORAGE BUDGET TO THE NON-RESIDENTIAL STORAGE EQUITY BUDGET AND $8.5 MILLION FROM THE GENERAL LARGE STORAGE BUDGET TO THE RESIDENTIAL EQUITY BUDGET, AS PROPOSED IN THE RULING.

CESA is very supportive of this proposal. Even as the merits of a larger transfer were outlined in our Motion, CESA is nonetheless very appreciative of the Commission's willingness to adapt the SGIP program to best meet the goals of the program as statewide public health, energy availability, and policy conditions and circumstances continue to evolve. This transfer of funding will directly to the deployment of hundreds of shovel-ready projects, but we offer recommendations for several potential modifications in the subsequent sections to ensure that these projects are supported in a timely fashion to deliver the intended economic stimulus benefits during these challenging times due to the COVID-19 pandemic. Given the variation in uptake and waitlist levels of budget categories for each PA, the Commission may wish to better right-size the fund transfer with respective to each PA territory.

III. APPLY A RANDOM-ORDER LOTTERY FOR SAME-DAY WAITLISTED APPLICATIONS RECEIVED ON MAY 12, 2020.

In allocating 63% of Senate Bill ("SB") 700 authorized funds to the Equity Resiliency Budget, the Commission emphasized that the highest priority of the program was to support Equity customers with the greatest immediate need for resiliency.[2] As a result, in making the request to transfer a portion of funds from the Equity Resiliency Budget and a portion from the General Large Storage Budget categories to support the shovel-ready Equity projects, CESA highlighted how many of the waitlisted applications in the Non-Residential Equity Storage Budget category could be assumed to provide backup services to meet the "spirit" of the Equity Resiliency Budget. In addition, to support the prioritization of resiliency-focused projects among the waitlisted projects, CESA alternatively recommended modifications to the lottery prioritization criteria in line with the Ruling's proposed approach if the fund transfer amount is less than the number and incentive amount of waitlisted projects.

CESA agrees that backup power for Equity projects represents an important priority, especially if funds are transferred from the Equity Resiliency Budget and if the fund transfer amount is less than the total incentive claims of the waitlisted projects. However, given that the

[2] D.20-01-021 at 20 and Finding of Fact 6.

Commission is not proposing to transfer any funds from the Equity Resiliency Budget, CESA believes it is less imperative to ensure the transferred funds meet the spirit of the Equity Resiliency projects. Rather, the funds will be redirecting General-Market funds with the added benefit of supporting and targeting Equity customers. Instead of creating additional lottery criteria for systems providing backup power, CESA recommends that the Commission consider a random-order lottery for same-day waitlisted projects, justified on the following grounds.

First, implementing a random-order lottery without lottery prioritization criteria is less administratively burdensome. Given the need to provide documentation to verify backup capabilities, the running of the lottery could be potentially delayed to confirm the lottery eligibility and priority traits of various applications. At a recent SGIP workshop, for example, the PAs indicated a high percentage of applications are not adequately meeting the administrative requirement to prove backup capabilities; to ensure that all of these applications "cure" these deficiencies, the process to prepare and launch a lottery with new criteria could be a prolonged process. As CESA understands it, the PAs and Energy Solutions would also have to make modifications to the application portal and to the IT system to be able to process applications and conduct the lottery, which could further delay the launch of the lottery and ultimately the deployment of projects. Even though the intention is not explicitly explained in the Ruling, reduced administrative burden is in line with the presumed purpose of the proposed fund transfer to provide immediate stimulus.

Second, a random-order lottery priority will provide waitlisted project developers with greater certainty and avoid retroactive changes to ensure fairness in the application process. Many developers engineered and designed their projects to meet the applicable rules at the time. Had they known the resiliency requirement for all Equity and General Market storage systems with duration greater than two hours would be modified pursuant to D.20-07-015 and that the lottery prioritization criteria would be modified, developers would have submitted applications with differently configured storage systems. Granted, some projects may just be engineered "on paper" and could be adjusted to reflect the new lottery priorities, but such a process could add time before a lottery could be prepared and run. CESA is appreciative of the Commission making the changes adopted in D.20-07-015 and directing the PAs to propose a one-time streamlined process to allow applicants to modify their application in order to avoid losing their priority position, but the Center for Sustainable Energy ("CSE") noted how our proposed approach in comments to the Proposed

Decision could have "unintended complexity and could impact database functions for other budget categories."[3] Rightly, fairness in light of retroactive changes were recognized in D.20-07-015, and we support the same principles here. However, given that funds will not be transferred at all from the Equity Resiliency Budget, these protections to adhere to the prioritization related to the Equity Resiliency Budget are less applicable based on the source of the Commission's proposed fund transfer in the Ruling. Rather than having to wait for the lottery prioritization criteria to be implemented and for the one-time modification process to fully proceed, it will be administratively efficient and fair to applicants and developers to apply a random-order lottery for same-day applications.

Third, even with a random-order lottery for waitlisted Non-Residential Equity Storage projects, CESA believes that many of the proposed fund transfer will still support projects with the intention to provide backup power and resiliency. As noted in our Motion, approximately 88% of waitlisted projects were submitted with greater than two hours of duration,[4] which, according to the rules applicable at the time, can be assumed to include many or some that were intending to provide resiliency. While such requirements are no longer in place with the adoption of D.20-07-015 and may be modified in light of the changes, the data shows that many of these projects were originally planned to meet the spirit of Equity Resiliency projects but do not qualify for the Equity Resiliency Budget because they may not meet certain eligibility criteria. As a result, via the proposed fund transfer, the Commission is faced with the choice to either:

- **Option 1 (CESA's modified proposal):** Support shovel-ready projects more immediately by pursuing a more administratively simple, efficient, and fair pathway with a random-order lottery, which will support some or many projects in line with the spirit of Equity Resiliency Budget but not be able to surgically target them, such as done through a resiliency-focused lottery prioritization criteria; or

- **Option 2 (Commission's proposal):** Better ensure all or as many transferred funds support projects in line with the spirit of the Equity Resiliency Budget projects through the adoption of a resiliency-focused lottery prioritization criteria but risk significant delay in conducting the lottery and getting funds out the door to support shovel-ready projects.

Though not explicitly stated in the Ruling, CESA assumes that the Commission recommended Option 2 summarized above in order to align with the Commission's stated priority

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[3] D.20-07-015 at 50.

[4] Motion at 10-11.

in D.20-01-021 to support resiliency projects for the most vulnerable. However, for the reasons stated above and because of the potential lost benefits of getting funds out expeditiously to provide the stimulus effect during these tough economic conditions, CESA recommends Option 1 above, which offers a more balanced impact of providing more immediate stimulus while supporting many resiliency projects for Equity customers. For resiliency-focused projects that are funded through a timely random-order lottery, these projects would also have more lead time to be better assured of being deployed and prepared for the 2021 wildfire season. The random-order lottery should apply to both the Non-Residential and Residential Equity Storage Budget categories.

Finally, CESA agrees with the Commission that the lottery should be conducted for the waitlist generated from same-day applications received on May 12, 2020. This would be in line with today's rules, and the data shows that the vast majority of projects were submitted on May 12, 2020,[5] such that it would ensure a fair process and potentially support the vast majority of projects. Lottery on same-day applications from May 12, 2020 will also avoid creating incentives for applicants to come in and join the lottery at a later time.

IV. DEFER THE DEVELOPMENT OF ADDITIONAL LOTTERY PRIORITIZATION CRITERIA TO WHEN THE COMMISSION ADDRESSES THE CESA PETITION.

As outlined in the Petition,[6] CESA believes that modifications to the lottery rules will require a modification to D.16-06-055. Procedurally, CESA is concerned that this would delay adoption and implementation of the new lottery rules as proposed by the Commission in the Ruling, or alternatively, as proposed by CESA in our Petition since it would require a Proposed Decision and additional comments. Instead, CESA believes that the immediate \$100-million and \$8.5-million fund transfers for the Non-Residential and Residential Equity Storage Budgets, respectively, with random-order lottery for same-day applications would not require such a lengthy process and could be done through a Commission Ruling.

The development of additional lottery prioritization should be deferred to the resolution of CESA's Petition, which would afford more time for resolution as well for PA implementation. As discussed in the next section of these comments, CESA proposes that the development of

[5] According to the SGIP Public Report on the Non-Residential Equity Storage Budget as of August 13, 2020, the SGIP report shows 322 out of 334 of waitlisted applications (96%) were submitted on May 12, 2020, totaling \$299 million out of the total \$309 million (96.7%).

[6] Petition at 7.

additional lottery prioritization criteria be coupled with limited PA fund transfer authority that would provide flexibility for the Commission to assess the grid and budget(s) situation following the 2020 wildfire season and potentially target an incremental fund transfer to the projects that meet the resiliency-focused lottery prioritization criteria.

V. REINSTITUTE LIMITED AUTHORITY, WHERE STARTING ON JANUARY 1, 2021, THE PROGRAM ADMINISTRATORS MAY REQUEST UP TO $50 MILLION TO BE TRANSFERRED FROM ANY BUDGET CATEGORY.

In the Ruling, the Commission proposed to not change its decision to limit PA fund transfer authority until December 31, 2022, likely for many of the same reasons discussed in the adopting decision.[7] However, CESA encourages the Commission also consider reinstituting some limited fund transfer authority before this date. The proposed $108.5-million total fund transfer is significant and very appreciated, as it will support immediate economic stimulus and support many resiliency-focused projects, but there will still be close to $200 million of waitlisted Non-Residential Equity Storage projects that could be stranded, even assuming that there may be some "attrition" of projects dropping out of the waitlist. Rather than leaving these waitlisted projects with no potential source of funds until December 31, 2022, CESA instead recommends that the Commission reinstitute *limited* authority for the PAs to, starting on January 1, 2021, request *up to* $50 million to be transferred from any budget category to support waitlisted projects. CESA believes this limited fund transfer authority may be warranted for the following reasons.

First, the fund transfer authority will be limited to $50 million across all of the SGIP PAs, with each PA's maximum allowable requested transfer authority to be based on the allocation percentages adopted in Table 1 of D.20-02-021. Given differences in uptake levels by PA, alternative approaches to differentiate transfer limit could be considered as well. By limiting the transfer amount, the Commission can still adhere to the goal of D.20-01-021 to ensure that the budget allocations "remain stable for several years."[8] This maximum allowable transfer amount in the interim would provide additional PA flexibility, avoid depleting any particular SGIP market segment, and potentially support additional waitlisted shovel-ready projects that would otherwise be stranded and lost. Especially as each PA territory is experiencing varying degrees of uptake for

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[7] D.20-01-021 at Conclusion of Law 34 and Ordering Paragraph 34.

[8] D.20-01-021 at 59.

each budget category, a limited fund transfer authority may provide program flexibility that alleviates some of the issues identified in this Ruling. CESA notes that the PAs each supported this flexibility in comments to the CESA Petition as well as in comments to the Proposed Decision leading to the adoption of D.20-01-021.

Second, a start date of January 1, 2021 for limited fund transfer authority would allow the 2020 wildfire season to conclude, so that the Commission and PAs can assess market uptake levels in the other budget categories and examine strategies to re-balance the SGIP budget categories to better address or target the urgent needs at that time. By allowing limited fund transfer requests to occur starting in January 1, 2021, the Commission and the PAs may be able to implement the lottery prioritization criteria targeting resiliency-focused projects, which as discussed above, could be administratively complex and lengthy. In addition, it would provide a potential pathway for these projects to deliver additional economic stimulus, as the trajectory of the current COVID-triggered recession appears to likely persist beyond 2020. With limited fund transfer authority in early 2021, it would also provide lead time for lottery-selected projects to be deployed ahead of the 2021 wildfire season as well.

Third, while an immediate fund transfer with a random-order lottery would more immediately support shovel-ready projects without targeting resiliency-focused projects, the Commission could adopt the proposed lottery prioritization criteria to ensure that the potential limited fund transfer is specifically targeted toward such projects. Resiliency-focused project applications at this point in time would be aiming to mitigate the 2021 wildfire season anyways, where such shovel-ready projects could support backup power needs for Equity customers. While the immediate fund transfer as proposed by CESA would support some range of resiliency-focused projects, this subsequent limited fund transfer could better target such projects. Together, these two approaches can support multiple objectives and still adhere to the Commission's priority to support resiliency for the most vulnerable customers.

Finally, the Commission would still retain ultimate authority to review and approval fund transfer via Tier 2 Advice Letters, ensuring due process for stakeholders and Commission discretion to assess the grid and budget situations. As noted in our Petition, the Commission can ultimately deny this fund transfer as appropriate, and we would respect the Commission exercising its best judgment as economic, public health, and wildfire conditions have been dynamic in recent weeks and months. As we have seen from the ongoing wildfires and the recent power outages, the Commission is appropriately positioned to make these important decisions on behalf of customers.

VI. CONSIDER REMOVING THE $5 MILLION PER ENTITY CAP FOR LARGE-SCALE NON-RESIDENTIAL STORAGE PROJECTS.

CESA has some concerns with the introduction of a new entity cap rule, which may increase administrative burden and delay, especially as "entity" would represent a new term in the SGIP Handbook and could further complicate the lottery by essentially adding another constraint or criteria. The intent of this proposal is not immediately clear and further clarification is needed, though we assume it may be tied to concerns that the fund transfer will be disproportionately benefiting a small subset of customers. It is possible that a single water or school district may span many locations and serve different communities such that limiting the funds for any given entity does not mean storage benefits and funds are concentrated in one location or set of customers. Furthermore, any risk of a single district claiming a disproportionate level of funds is mitigated by a random-order lottery. Other controls are also in place to limit individual projects to $5 million in funds. As such, CESA recommends that the Commission consider removing this entity cap rule given the potential for administrative delay, stakeholder/customer confusion, and other controls in place today.

VII. CONCLUSION

CESA appreciates the Commissions responsiveness to CESA's requested relief and this opportunity to submit these comments on the Ruling.

Respectfully submitted,

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Date: August 21, 2020.