

January 7, 2021

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**Re: Response of the California Energy Storage Alliance to Advice Letter 4373-E  
of Southern California Edison Company**

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Dear Sir or Madam:

Pursuant to the provisions of General Order 96-B, the California Energy Storage Alliance (“CESA”) hereby submits this response to the above-referenced Advice Letter 4373-E of Southern California Edison Company (“SCE”), *Submission of Southern California Edison Company System Reliability Standard Track Contracts for Review and Approval Pursuant to Decision 19-11-016* (“Advice Letter”), submitted on December 18, 2020.

## **I. INTRODUCTION & BACKGROUND.**

In the Integrated Resource Planning (“IRP”) proceeding (R.16-02-007), the Commission issued Decision (“D.”) 19-11-016 on November 13, 2019 that directed all load-serving entities (“LSEs”) serving load within the California Independent System Operator (“CAISO”) balancing authority area to conduct incremental procurement for resources to meet project System Resource Adequacy (“RA”) shortfalls from 2021 to 2023. Interim procurement targets were established whereby LSEs must procure at least 50% of the LSE-specific targets to come online by August 1, 2021, 75% by August 1, 2022, and 100% by August 1, 2023. Any resulting contracts from the investor-owned utilities (“IOUs”) are required to be submitted for Commission approval via a Tier 3 advice letter.

Pursuant to D.19-11-016, SCE launched their 2019 System Reliability Request for Offers (“RFO”) on September 19, 2019, seeking offers in a Fast Track for projects that can meet commercial online dates (“CODs”) by August 1, 2021 and in a Standard Track for projects that can meet CODs by August 1, 2022 and August 1, 2023. SCE subsequently submitted this Advice Letter on December 18, 2020 seeking Commission approval of five agreements for 590 MW of incremental storage nameplate and Resource Adequacy (“RA”) capacity for in-front-of-the-meter (“IFOM”) and behind-the-meter (“BTM”) energy storage operating as demand response (“DR”) resources. Each

of the agreements span at least 10-year contract terms, with 260 MW of the total contracted capacity in the Advice Letter expected to come online in 2022 and another 330 MW by 2023.<sup>1</sup>

In reviewing the Advice Letter, CESA provides this response in support of timely Commission approval of the proposed contracts included in SCE's Advice Letter. By procuring new, incremental IFOM/BTM energy storage resources, SCE will bring online resources that can not only provide incremental System RA to address the 2021-2023 reliability need but also provide renewable integration and flexibility.<sup>2</sup> Importantly, by procuring energy storage resources to address the near-term need, SCE also reduces the need to default to the use of once-through-cooling ("OTC") facilities, improving the odds that they remain last-resort System RA resources given their carbon and environmental impacts. SCE's proposed contracts thus advance the state's decarbonization goals while providing reliability and flexibility at the same time. However, to ensure this outcome, the Commission should expeditiously approve the proposed contracts.

## **II. DISCUSSION.**

In this response, CESA details our comments for supporting expedited approval of the submitted contracts.

### **A. The proposed contracts are consistent with the requirements of D.19-11-016.**

As detailed in SCE's Advice Letter, the proposed contracts represent procurement of entirely new storage resources, as well as incremental System RA relative to the baseline adopted in D.19-04-040.<sup>3</sup> Accounting for SCE's procurement requirement and the opt-out load-serving entity ("LSE") requirement, SCE has demonstrated compliance with their 2022 and 2023 procurement needs, with reasonable levels of procurement above the minimum requirement,<sup>4</sup> which should hedge against project development risks and possibly some margin of additional procurement needed depending on the progress and success of other LSE procurement efforts, which would otherwise fall on SCE to procure.<sup>5</sup> Furthermore, these new storage resources represent preferred resources and are contracted with term lengths at or exceeding 10 years, thus meeting this requirement,<sup>6</sup> and SCE complied with the requirement in D.19-11-016 to detail its bid evaluation methodology.<sup>7</sup> Finally, with SCE ultimately opting not to pursue any utility-owned storage projects,<sup>8</sup> consideration of whether the solicitation was conducted without bias

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<sup>1</sup> SCE Advice Letter at 2 and 5.

<sup>2</sup> D.19-11-016 at Finding of Fact ("FOF") 17.

<sup>3</sup> SCE Advice Letter at 20-21 and D.19-11-016 at FOF 18 and Conclusion of Law ("COL") 14.

<sup>4</sup> SCE Advice Letter at 7.

<sup>5</sup> See D.20-12-044 that established a backstop process for the investor-owned utilities ("IOUs") to conduct backstop procurement pursuant to D.19-11-016 depending on whether other LSEs meet their milestones and trigger points.

<sup>6</sup> *Ibid* at COL 28.

<sup>7</sup> SCE Advice Letter at 11-16.

<sup>8</sup> SCE Advice Letter at 5.

towards any ownership model in the treatment of bids/bidders and during bid evaluation, pursuant to D.19-06-032 and D.19-11-016, is moot.<sup>9</sup> In accounting for the above, CESA believes the proposed contracts are compliant with the procurement parameters of D.19-11-016.

**B. Resolutions E-5100 and E-5101 set the precedent for review of SCE’s contracts for approval and should support streamlined approval where appropriate.**

To support streamlined review, the Commission should leverage the precedent established with the approval of new 2021 resource procurement by Pacific Gas and Electric Company (“PG&E”) and SCE through the issuance of Resolutions E-5100 and E-5101, respectively. These Resolutions determined, among other things, that additional greenhouse gas (“GHG”) emissions impact analysis is not a prerequisite for approval of the proposed energy storage contracts<sup>10</sup> and that interim cost tracking mechanisms and balancing accounts can be used in the interim until a modified cost allocation mechanism (“CAM”) is adopted for costs associated with procurement directed through D.19-11-016.<sup>11</sup> These issues have been raised in protests, responses, and comments, and were ultimately either dismissed or deferred in approving the resulting contracts.

Importantly, in Resolution E-5101, the Commission weighed the issue of the treatment of debt equivalence (“DE”) costs in the bid evaluation, where the Commission recognized how its use in evaluating different contract types is “complicated” and ultimately “outside the scope of this resolution.” Despite this determination, the Commission commented on the need to revisit this issue in the future.<sup>12</sup> SCE exhaustively details how it approached DE costs and structured contract terms to account for how rating agencies impute DE costs, while the Independent Evaluator (“IE”) found that SCE did a “reasonable job” of evaluating RA Put Option and tolling agreements.<sup>13</sup> In particular, for tolling agreements, the contract term length for 14 years and 10 months was reached after evaluating whether certain accounting tests would be passed and whether certain lease treatment would be applied.<sup>14</sup> CESA appreciates the IE’s explanation on this matter and agrees with the IE on SCE’s diligence and performance in accounting for this component of the bid evaluation. While the Commission may wish to revisit this matter in the future, CESA recommends that the Commission affirm its previous determination to deem this particular issue as outside the scope of the approving Resolution and find SCE’s demonstration of its diligence and efforts on this issue to be sufficient and reasonable.

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<sup>9</sup> Appendix A of D.19-06-032 at 2 and D.19-11-016 at OP 8-9.

<sup>10</sup> Resolution E-5101 Finding 9 and Resolution E-5100 Finding 1.

<sup>11</sup> Resolution E-5100 Finding 3.

<sup>12</sup> Resolution E-5101 at 12-13.

<sup>13</sup> SCE Advice Letter at 14 and 19-20 and Attachment D: Independent Evaluator Report at 9.

<sup>14</sup> SCE Advice Letter Attachment D: Independent Evaluator Report at 28

Given these prior determinations, the Commission should streamline review wherever possible for issues that have already been addressed or were previously deemed as outside the scope of the Commission review and approval processes.

**C. The IE Report finds the solicitation process to be fair and reasonable.**

In the public version of SCE’s Advice Letter, the Independent Evaluator (“IE”) report suggests a robust and fair outreach process and rigorous evaluation using the least-cost, best-fit (“LCBF”) methodology was conducted – a result that the IE affirmed in its own independent and parallel evaluation process.<sup>15</sup> CESA was also encouraged to see SCE’s responsiveness to some of the issues or recommendations made by the IE throughout the solicitation and bid evaluation process, such as the ability to provide “shaped” capacity offers by month for DR resources and consistent security posting requirements.<sup>16</sup> In sum, based on our review of publicly-available information, CESA agrees with the IE’s recommendation that the proposed contracts merit approval.

**D. Expedited contract approval, with a Draft Resolution in February 2021 and Final Resolution in March 2021, is needed to ensure timely construction and deployment by August 1, 2022 and August 1, 2023.**

D.19-11-016 directed the use of Tier 3 advice letter for any IOU procurement approval requests, finding it to be an appropriate vehicle to balance a need for expedited approval and appropriate due process for parties.<sup>17</sup> Given the near-term nature of the looming reliability need, SCE requested that the Commission issue a Final Resolution by June 24, 2021, pointing to the “right to terminate” clauses in the executed contracts if a final, non-appealable Commission decision is not received by August 9, 2021.<sup>18</sup>

CESA agrees with the need to ensure timely approval of contracts but recommends a more aggressive timeline than proposed by SCE for a Final Resolution. SCE’s proposed timeline is likely the maximum allowable period before contracts can be terminated, but CESA believes that the Commission should strive to accelerate contract review and approval to account for the equipment procurement (*e.g.*, battery supplies) and financing commitments required ahead of the August 9, 2021 contractual trigger, as highlighted by SCE. SCE’s proposed timeline by June 24, 2021 runs the risk of developers incurring additional costs and risks related to late financing and project

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<sup>15</sup> SCE Advice Letter at 21 and Attachment D: Independent Evaluator Report at 13-14, 25-26, 33, and 37.

<sup>16</sup> SCE Advice Letter Attachment D: Independent Evaluator Report at 6.

<sup>17</sup> D.19-11-016 at FOF 28 and OP 9.

<sup>18</sup> SCE Advice Letter at 2-3.

deployment delays given the extremely compressed time for permitting, construction, and equipment procurement.

While the Commission, LSEs, and developers were hard-pressed to meet 2021 COD timelines for PG&E's Phase 1 contracts approved in Resolutions E-5100 and SCE's Fast Track contracts approved in E-5101, the Commission should not repeat the experience for the regulatory review and approval of 2021 contracts,<sup>19</sup> which left only 11 months for developers to bring projects online – an untenable situation with immense risk that should not serve as a good precedent for the proposed 2022/2023 contracts. Developers have reported significant (now global) demand for battery storage project equipment, where such supplies must be procured at least 12 months prior to the start of deliveries.

In a Petition for Modification (“PFM”) of D.19-11-016, CESA detailed the financing challenges and various development risks faced by developers if final Commission approval takes the usual procedural timeline.<sup>20</sup> D.20-07-009 was subsequently issued that ultimately denied CESA's PFM but made an important determination that the “Commission staff should consider shortening or eliminating comment periods on resolutions where no protests were received in response to the advice letter filing.”<sup>21</sup> Granted, the intent of these determinations was focused on procurement to meet 2021 COD timelines, CESA still sees parallels to these 2022/2023 contracts, where urgency is still needed to streamline and expedite the issuance of a Draft Resolution as soon as possible. The need to shorten or eliminate the comment period upon issuance of the Draft Resolution may not be needed, so long as the Commission ensures a quick and efficient turnaround from Advice Letter submission to Draft and Final Resolution issuance. Especially with the procurement and bid evaluation issues and contract forms not being materially different from the first tranche of 2021 contracts, CESA recommends an even-more accelerated regulatory timeline to have a Draft Resolution issued in February 2021, with a Final Resolution by March 2021. Such an alternative timeline would also not be too different from those leading to Resolutions E-5100 and E-5101, so ultimately, CESA is requesting that the Commission roughly follow its previous timelines and not “relax” with longer timelines under the assumption that it can afford to do so.

Finally, while the assessment of compliance and grounds for approval are not tied to issues in Rulemaking (“R.”) 20-11-003, the recent analyses from key stakeholders and the emergency reliability procurement order issued by the Commission should serve as important context. In it, SCE itself conducted 1-in-10 loss-of-load expectation (“LOLE”)

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<sup>19</sup> For those contracts submitted for Commission approval, PG&E and SCE submitted advice letters in May 2020, followed by a Draft Resolution and Final Resolution issued in August and September 2020, respectively.

<sup>20</sup> *California Energy Storage Alliance's Petition for Modification of Decision 19-11-016* filed on April 1, 2020 in R.16-02-007. <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M331/K080/331080307.PDF>

<sup>21</sup> Conclusion of Law 8 and Order 3 of *Proposed Decision Denying California Energy Storage Alliance Petition for Modification of Decision 19-11-016* issued on June 3, 2020 in R.16-02-007.

study on Summer 2021 needs that found the reliable 0.09 LOLE result being heavily dependent on the on-time delivery of the 1,650 MW of procurement ordered by D.19-11-016<sup>22</sup> – an analysis that likely extends to 2022/2023 given the nature of how this issue does not just go away after one year. Not only has the Commission recently ordered the IOUs to contract for capacity wherever they can in a Ruling on December 28, 2020, the Commission is also contemplating how to expedite IRP procurement in a recent Staff Proposal in R.20-11-003.<sup>23</sup> Accordingly, the Commission and stakeholders recognize the need to procure additional capacity beyond what is required in D.19-11-016 – the effectiveness of these actions which depend on ensuring that procurement pursuant to D.19-11-016 come online on time, let alone come online faster (if possible). To this end, CESA strongly urges the Commission to pursue our accelerated regulatory timeline to have a Draft Resolution issued in February 2021, with a Final Resolution by March 2021.

### III. CONCLUSION.

CESA appreciates the opportunity to submit this response in support of SCE's Advice Letter and looks forward to collaborating with the Commission and stakeholders in this proceeding.

Respectfully submitted,



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Service lists R.20-05-003 and R.16-02-007

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<sup>22</sup> Southern California Edison Company's (U 338-E) Comments on Order Instituting Rulemaking to Establish Policies, Processes, and Rules to Ensure Reliable Electric Service in California in the Event of an Extreme Weather Event in 2021 filed on November 30, 2020 in R.20-11-003 at 2-3 and Appendix A. <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M352/K313/352313771.PDF>

<sup>23</sup> Attachment 1 of Administrative Law Judge's Ruling Introducing a Staff Proposal and Questions to the Record and Seeking Responses from Parties in Opening and Reply Testimonies issued on December 18, 2020 in R.20-11-003 at 9. <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M355/K738/355738415.PDF>