

November 1, 2021

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**Re: Response of the California Energy Storage Alliance to Advice Letter 4617-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 4617-E of Southern California Edison Company (“SCE”), *Submission of Southern California Edison Company Emergency Reliability Engineering, Procurement, Construction, and Maintenance Contract for Utility-Owned Storage Resources for Review and Approval Pursuant to the Phase 1 Decisions and Assigned Commissioner’s Ruling issued in Rulemaking 20-11-003* (“Advice Letter”), submitted on October 21, 2021. In accordance with the October 23, 2021 letter from the California Public Utilities Commission (“CPUC”) Energy Division that shortened the protest period, CESA is timely submitting this response on November 1, 2021.

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

In the Emergency Reliability proceeding (R.20-11-003), the Commission issued Decision (“D.”) 21-02-028 that ordered the investor-owned utilities (“IOUs”) to procure incremental capacity that can come online between June and September 2021. In the aftermath of the August 2020 rolling outage events and the stack analysis identifying a risk of a Summer 2021 capacity shortfall, the Commission explained that it is “exercising its policy prerogative” to avoid future outages and affirmed the previous “least regrets” approach to procurement directed for 2021-2023 System Resource Adequacy (“RA”) needs pursuant to D.19-11-016.<sup>1</sup> Subsequently, upon further analysis and in anticipation of more frequent extreme weather events, the Commission issued D.21-03-056 that directed and authorized minimum IOU procurement targets of at least the 17.5% effective planning reserve margin (“PRM”), up to a hard cap as determined by an 19% effective PRM, to support months of need in Summers 2021 and 2022. This would equate to SCE being directed to pursue at least 450 MW and up to 675 MW of incremental capacity.<sup>2</sup>

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<sup>1</sup> D.21-02-028 at 9-10.

<sup>2</sup> D.21-03-056 at Ordering Paragraph (“OP”) 13-14 and Attachment 1 at 20-23.

In the midst of stressed grid conditions in early Summer 2021, the Governor issued an Emergency Proclamation on July 30, 2021, which, among other things, ordered that:<sup>3</sup>

“all energy agencies shall act immediately to achieve energy stability during this emergency...[and] are requested, to work with the State's load serving entities on accelerating plans for the construction, procurement, and rapid deployment of new clean energy and storage projects to mitigate the risk of capacity shortages and increase the availability of carbon-free energy at all times of day.”

To this end, the Governor signaled the emergency nature of current and near-term grid conditions, resulting in the Commission launching Phase 2 of R.20-11-003 to consider additional mitigation measures to address potential emergency reliability needs in Summers 2022 and 2023 beyond those already established and directed pursuant to the Phase 1 decisions. Extensive Phase 2 proposals, testimonies, and briefs were submitted in response, among which, the IOUs shared proposal concepts and sought authorization from the Commission regarding the procurement of utility-owned generation (“UOG”) and/or utility-owned storage (“UOS”) for Summers 2022 and 2023. Specifically in response to SCE’s requests in their Phase 2 testimony, an Assigned Commissioner’s Ruling was issued on September 17, 2021 that clarified that the IOUs could submit UOG and/or UOS for Commission approval via Tier 2 Advice Letter that can meet Summer 2022 needs and adhere to procurement parameters established in D.21-02-028 and D.21-03-056.<sup>4</sup>

With these clarifications and affirmations, SCE submitted the Advice Letter on October 21, 2021 seeking expedited approval of an Engineering, Procurement, Construction, and Maintenance (“EPCM”) contract with Ameresco for three UOS projects on SCE-owned and operated sites to meet Summer 2022 emergency reliability needs. The 537.5 MW in project capacity are expected to come online by August 1, 2022 and are located at three sites adjacent to SCE substations using lithium-ion batteries with four-hour dispatch capability. Given the short lead time to address the Summer 2022 emergency reliability need and the cost/scale of the contracts, Energy Division balanced these competing priorities and granted a shortened protest period, with its approval via a Resolution requiring Commission vote instead of staff disposition.

## **II. SUMMARY OF RESPONSE.**

In reviewing the Advice Letter, CESA’s biggest conclusion is that the state and the Commission *must* more aggressively plan and add storage to the electrical grid. The most appropriate way to do this is to: (1) have longer-lead times on procurements and planning; (2) ensure accelerated and reasonable interconnection timelines; and (3) solicit from both third-party-owned storage (“3POS”) and UOS solutions simultaneously while adding a diverse array of storage projects

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<sup>3</sup> Order 2 of Governor’s Emergency Proclamation.

<sup>4</sup> *Assigned Commissioner’s Ruling Clarifying Issues Regarding Utility-Owned Generation and Storage Procurement in 2022* issued on September 17, 2021 in R.20-11-003 at 5.

to the system to ensure reliable, cost-effective, safe, and clean operations for all Californians. CESA supports all types of storage, including 3POS and UOS.

Novel approaches such as those proposed by SCE require non-standard and, in CESA's view, less-than-ideal processes and solutions to be pursued or allowed. Such novel approaches also surely unfairly affect interconnection queue participants, and resulting impacts discourage investment, raise multiple serious concerns and compliance risks, and must be avoided in future circumstances. While CESA understands the proposed approach may be necessary in this instance, such actions must not set precedents or be repeated.

On this current matter, CESA acknowledges the difficult position that the Commission and the state face with respect to near-term emergency reliability. CESA recognizes that electrical reliability through storage is critical to the well-being of ratepayers and society and how it is imperative that the "lights stay on" in the face of increasing levels of extreme weather risk. Simultaneously, the Commission is tasked with ensuring that it does not detract from important priorities to maintain the state's trajectory toward long-term decarbonization goals and minimize ratepayer costs through competitive markets and open-market principles and processes.

That said, this Response raises critical concerns that must be addressed by SCE in Reply to clarify questions and augment the record, and that must incorporate several major modifications and findings in the Commission's Resolution to avoid problematic precedents. These concerns and questions focus on how SCE approached the procurement, how, in allowing unusual and novel approaches, the Commission should enact guardrails and eliminate problematic precedents, and how further planning and longer-lead time procurements are needed. Core to CESA's concerns is the matter of how SCE arrived at conclusions that the contracted UOS projects were the sole feasible and viable resources eligible for both meeting emergency reliability needs and required CODs, and how the UOS projects were the only types that could be deemed eligible for the novel Proxy RA capacity proposed by SCE. In using the Proxy RA concept for the UOS projects, which deviates from normal processes and requirements, SCE should clarify how 3POS projects were or will be granted similar treatment in the current or future procurements, and how concerns or precedents about an unlevel playing field will be addressed. A focus on future solutions and mitigations is appropriate as part of this effort.

CESA elaborates with the following comments that are applicable across CESA's primary and alternative modifications to the UOS projects:

- The EPCM contract appears to be largely compliant with D.21-02-028 and D.21-03-056, but the operations of the projects should align with SCE's proposed cost recovery mechanism.
- Further details are needed regarding the operationalization and interconnection of the non-CAISO-integrated energy storage resources.
- The Commission should validate whether SCE allowed both UOS and 3POS projects to submit bids for the novel "proxy RA" product.

November 1, 2021

Page 4 of 18

- The Commission should validate SCE’s assertions that there were no other viable 3POS projects that could meet the target commercial online dates (“CODs”).

With the above in mind, CESA offers our main recommendations to align the various operations, benefits/costs, and cost recovery mechanism for the UOS projects as a distribution asset for emergency use only:

- SCE’s UOS projects should not be eligible for RA or reducing the Mid-Term Reliability (“MTR”) requirement, and should remain a distribution asset used only for distribution or emergency reliability events to align with the intent of the procurement authorization and mitigate discrimination concerns.
- Exemptions from the Wholesale Distribution Access Tariff (“WDAT”) interconnection tariff and WDAT storage demand charges and recovery through distribution rates for the UOS projects should only be allowed if the UOS projects remain non-market distribution assets utilized for emergencies only.

The above represents CESA’s preferred path to ensure that the UOS projects limit harmful and discriminatory impacts to other projects and market participants and ensure consistency and alignment with various policies and principles. Such modifications as the one proposed above are necessary in CESA’s view and will also guard against poor precedents set by the Commission.

At the same time, recognizing the limited time and opportunities to offer comment before the Commission issues a Resolution, CESA also offers comments on a potential alternative set of recommendations if the Commission deems it appropriate to allow for market integration, day-to-day operations, and future RA eligibility for the UOS projects. This alternative pathway is still riddled with issues and not the preferred path, but it mitigates some identified concerns with SCE’s proposal as is:

- If used as a frequently-operated RA-like resource, then the SCE UOS projects should be required to submit a CAISO Transmission Plan Deliverability (“TPD”) affidavit and receive Full Capacity Deliverability Status (“FCDS”) to accrue credit for RA reductions or supply-side benefits and also utilize consistent cost recovery via the Cost Allocation Mechanism (“CAM”).
- If allowed to operate in non-emergency periods, then the UOS projects should be interconnected and integrated into the CAISO market as soon as possible but should not be given advantages in the queue process or RA counting for compliance.
- If allowed to operate like similarly-situated WDAT storage resources, then the UOS projects should be interconnected as soon as possible but subject to the same tariffs and charges, or SCE should grant similar exemptions to 3POS projects and/or provide remedies.

- To ensure fairness, SCE UOS project milestones must be honored with SCE bearing risk commensurate to that of 3POS.

In sum, CESA believes that there are two pathways by which SCE’s UOS projects could be modified:

	<b>Preferred Modifications for SCE UOS Projects as Distribution Asset Only</b>	<b>Alternative Modifications for SCE UOS Projects as Immediate Market Assets</b>
<b>Cost recovery</b>	Distribution rates	CAM once interconnected
<b>Market integration</b>	Never	As soon as possible following normal processes
<b>Interconnection</b>	No	As soon as possible by following normal processes
<b>Operations</b>	Emergency conditions only	Energy only, and eventually RA
<b>RA eligible</b>	No	Yes, but ELCC based on FCDS and RA deliverability date
<b>MTR eligibility</b>	No	No, unless demonstrated via full application

Finally, CESA implores the Commission to get the state out of just-in-time procurement as soon as possible, which often leads to these difficult tradeoffs. To date, the lack of sufficient forward planning and incrementalism with new resource procurement have put the state in this situation where stakeholders in California’s clean and reliable electric future are left with sub-optimal choices. The pace and magnitude of extreme weather events may not have been foreseeable, but the trend lines are now clear where the Commission must adapt its planning and procurement strategies to plan for such events and more aggressively support and expedite new procurement, deployment, and interconnection of new clean generation, energy storage (including long-duration energy storage), and behind-the-meter (“BTM”) hybrids and energy storage. Across all procedural venues, such as R.20-05-003 for new resource planning and procurement, R.21-10-002 for RA refinements and slice-of-day reforms, and various others touching on interconnection and infrastructure buildout, the Commission must get ahead and avoid such emergency procurements and processes.

### **III. DISCUSSION.**

In the response below, CESA explains how the EPCM contract appears to be largely compliant with Commission procurement authorizations, but we also highlight a number of areas of concern and question. Given the unusual and exceptional nature of this procurement, CESA recommends that the Commission establish key guardrails to SCE’s UOS projects and take measures to learn from this process and avoid repeat events. Importantly, the Commission must affirm the

non-precedential nature of this UOS project and make the appropriate findings and conclusions in the Resolution accordingly. Similarly, when the Phase 2 decision in R.20-11-003 is issued, and rules on the various proposals and strategies approved and/or authorized for Summers 2022 and 2023, the Commission should align with the Resolution herein in affirming the non-precedential nature of this UOS project and establish clear/specific and fair/competitive procurement parameters to avoid circumstances where ambiguity or general parameters were used to pursue UOS projects under a novel approach without sufficient review or guardrails.

**A. The EPCM contract appears to be largely compliant with D.21-02-028 and D.21-03-056, but the operations of the projects should align with SCE’s proposed cost recovery mechanism.**

In directing and authorizing the IOUs to seek incremental capacity for emergency reliability in Summers 2021 and 2022, the Commission set general procurement parameters. Overall, in CESA’s assessment, the Advice Letter appears to be largely compliant with these parameters.<sup>5</sup>

First, the Commission required any procured resources to be deliverable during both the peak and net peak demand periods for the particular months of interest (June through September). Assuming that the projects can meet the COD for the months of need, SCE’s described operations of the UOS resources appears to meet this requirement. Although the term “deliverable” typically refers to RA deliverability, the Commission clarified how the emergency procurement authorization did not necessarily require procurement of RA-eligible resources given the fact that the procurement targets are set based on an effective PRM in excess of load-serving entity (“LSE”) RA requirements and because the Commission clarified that there would be no RA capacity benefits allocated to all LSEs as a result of any IOU procurement.<sup>6</sup> The Commission even recognized as such, saying that “a combination of RA eligible and non-eligible resources will be used to meet the effective 17.5% PRM.”<sup>7</sup> To this same end, the Commission has approved non-RA resources and did not hinge approval on the specification of energy delivery terms, except to affirm that any incremental procurement must merely “cover the gross load peak and net load peak but does not delineate acceptable or unacceptable delivery terms.”<sup>8</sup> As a result, SCE’s description of its proposed operations of the energy storage resource to charge during high solar or low load periods and deliver energy during net load peak periods meets this general requirement.

Second, SCE procured incremental capacity from eligible resources, up to the “hard cap” authorization. The EPCM contracts represent incremental capacity by virtue of being entirely new energy storage projects. The projects also have the added benefit of representing

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<sup>5</sup> D.21-02-028 at 11-12 and OP 2-3.

<sup>6</sup> See, e.g., D.21-03-056 Attachment 1 at 21-22.

<sup>7</sup> *Ibid* at 22.

<sup>8</sup> See Commission Energy Division Staff Disposition of Pacific Gas and Electric Company (“PG&E”) Advice Letter 6089-E on March 18, 2021 at 4.

a resource class (energy storage) that the Commission has directed the IOUs to give preference to,<sup>9</sup> as well as aligning with the Governor’s order as mentioned above.

Third, SCE adhered to the directed procurement processes, which involved the usual oversight/review bodies, required a demonstration of cost competitiveness, and allowed the IOUs to initiate new bilateral negotiations and revisit previous competitive solicitation offers. As a general matter, SCE complied with these requirements by revisiting their MTR Request for Offers (“RFO”) and proceeding to engage in an expedited RFI and RFP process thereafter for utility-owned projects at five identified substation sites upon not being able to accelerate any potential MTR projects.<sup>10</sup> As explained further below, however, CESA has concerns with the evaluation criteria to arrive at the conclusion that 3POS projects were infeasible to meet the target COD and that the UOS projects are cost competitive with other bilateral offers, but it appears that SCE adhered to the “letter of the law” in meeting these general procurement parameters.

Fourth, and finally, the Commission was unambiguous in requiring any procurement pursuant to the emergency reliability needs for Summers 2021 and 2022 shall have costs and benefits allocated to all benefiting customers through the CAM.<sup>11</sup> Yet, SCE proposes to recover the costs of these resources through distribution rates during the “non-market” period in which the resources would not be operating in the California Independent System Operator (“CAISO”) wholesale market, only to allocate costs through the CAM upon fully interconnecting through the applicable jurisdictional process, which in this case would be SCE’s WDAT.<sup>12</sup> CESA contends that, regardless of whether the resource provides RA benefits, D.21-02-028 and D.21-03-056 only directed the use of the CAM. However, if the Commission affirms the recovery of costs for the UOS projects through distribution rates, the Commission should maintain the resource as a distribution asset used only for emergency reliability events. They should also not be eligible to qualify for RA and receive RA capacity benefits and payments due to the fact that the UOS projects violated open-access rules. It is wholly unreasonable for SCE to be deemed a distribution asset when it is convenient to bypass the usual interconnection processes, be exempt from distribution demand rates, and take up available charging and generation capacity on the distribution system, and then be able to qualify as a RA supply-side capacity resource after reaping these benefits that are unavailable to 3POS resources.

**B. Further details are needed regarding the operationalization and interconnection of the non-CAISO-integrated energy storage resources.**

SCE provides little information about how it will interconnect and operate the UOS projects outside of the CAISO wholesale market, except to say that “projects will still

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<sup>9</sup> D.21-03-056 at Finding of Fact (“FOF”) 75.

<sup>10</sup> Advice Letter at 9-10 and 12-14.

<sup>11</sup> D.21-02-028 at 12, D.21-03-056 Attachment 1 at 23, and ALJ Ruling at 5.

<sup>12</sup> Advice Letter at 9 and 26

provide incremental capacity and reliability by discharging to the grid during the net peak and charging during high solar or low load periods.” Absent the must-offer obligations (“MOOs”) and penalties via the RA Availability Incentive Mechanism (“RAAIM”), as well as the economic price signals available through the CAISO’s day-ahead and real-time market prices, it is unclear how SCE will ensure that the energy storage resources will be online and responsive to system-wide grid conditions. For example, CESA has some of the following questions regarding the proposed interconnection and planned operation and reliability benefits of the UOS resources:

- How will SCE interconnect the energy storage resource?
- How will SCE charge the energy storage resource, and would there be any “prices/costs to charge” it?
- As a distribution asset, will the operations of the energy storage resource be treated as transmission and distribution “losses” on the system like unaccounted for energy (“UFE”)?
- Even if not RA deliverable, will the UOS projects be able to deliver reliability benefits during emergency conditions? In other words, has SCE demonstrated the excess capacity available on the system to be able to discharge the stored energy during net load peak periods?

Based on the questions to the above, CESA also seeks to understand how and potentially the degree to which the out-of-market energy storage charge and discharge capacity would impact the quantity of energy through the wholesale market to serve load, as well as the impact on CAISO market prices. Considering the size of the project, there will likely be significant impacts on wholesale market prices, even as the drivers are not visible to CAISO market participants or attributable to the UOS projects with its status as a load-modifying resource. Responses to the above questions should be elaborated in SCE’s Reply.

**C. The Commission should validate whether SCE allowed both UOS and 3POS projects to submit bids for the novel “proxy RA” product.**

SCE details how it pursued available incremental capacity to meet Summer 2022 needs, including for third-party opportunities, by revisiting offers from its MTR RFO, but then ultimately concluded that none of the projects could be accelerated and/or were found to be uneconomic. Similarly, SCE also reported similar outcomes as part of their bilateral negotiations.<sup>13</sup> By contrast, SCE detailed how UOS projects can meet these CODs unlike

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<sup>13</sup> Advice Letter at 9-10.



3POS projects and were cost competitive relative to the limited set of bilateral 3POS proposals.<sup>14</sup>

However, what SCE failed to detail or substantiate was the standard of review by which these determinations were made. Specifically, eligible projects in the MTR RFO or as part of bilateral negotiations were likely not offered the same pathway to procurement and contracts without RA deliverability, as allowed for the UOS projects. In other words, 3POS projects were measured against a substantially higher bar, as attested by CESA members who participated in these solicitations and negotiations, where they are deemed “infeasible” because they were subject to interconnection timelines and requirements to be deliverable and RA eligible. As reported to CESA by several developers, third-party developers were not offered the same “proxy RA” or EO options under long-term contracts. This is clearly discriminatory to 3POS projects<sup>15</sup> and raises into question SCE’s assertions that 3POS projects were not viable by August 1, 2022. Several developers who are CESA members reported that they could have made their capacity online by Summer 2022 if they were offered similar product options and/or similar expedited interconnection processes.

CESA adds that D.19-06-032 clearly established the procurement guidelines that projects be evaluated without any bias towards any ownership model. CESA understands that these established policies may need to be relaxed in the interest of emergency reliability; we also acknowledge that the guidelines in D.19-06-032 affords flexibility for the IOUs to demonstrate that a straight utility build project approach, or other approach, is appropriate, and/or whether particular value streams are only obtainable by UOS assets.<sup>16</sup> However, SCE egregiously violates this principle of “without any bias” and insufficiently demonstrated how proxy RA benefits could only be achieved or obtained by UOS projects. In fact, in Phase 2,<sup>17</sup> CESA proposed this very concept of pre-RA deliveries and proxy RA strategies with EO energy storage resources to support near-term emergency reliability needs,<sup>18</sup> but this was never proposed as a benefit or attribute that could only be realized by UOS projects, nor has SCE demonstrated as such. With FERC also granting the CAISO the ability to allocate interim deliverability for independent study projects in the interim period until deliverability assessments and network upgrades are completed, there is also a more conventional pathway for projects to be RA eligible in the near term.<sup>19</sup> As a result, CESA finds SCE’s assertions to be false and biased in favor of UOS projects, which should be reflected in the Commission’s findings in the forthcoming Resolution.

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<sup>14</sup> *Ibid* at 19 and 23 and Attachment D Independent Evaluator Analysis at 18.

<sup>15</sup> CESA adds that D.19-06-032 clearly established the procurement guidelines that projects be evaluated without any bias towards any ownership model. CESA understands that these established policies may need to be relaxed in the interest of emergency reliability, and the guidelines in D.19-06-032 about the process followed by SCE egregiously violates this principle.

<sup>16</sup> See D.19-06-032 Appendix A at 2-3.

<sup>17</sup> CESA acknowledges that the Phase 2 Proposed Decision allows for Proxy RA if resources can deliver at peak and net peak hours.

<sup>18</sup> See CESA Opening Testimony at 27-34 and Opening Brief 2-5 in R.20-11-003.

<sup>19</sup> *Order Accepting Tariff Revisions* issued on May 25, 2021 in Docket No. 1536-000.

Going forward, as Phase 2 issues of R.20-11-003 are resolved and considered, the Commission should ensure that a level playing field is established, and 3POS projects are also afforded the opportunity to support near-term emergency reliability needs using similar expedited interconnection processes and proxy RA products. CESA has submitted record evidence in support of such flexibility for all types of energy storage projects, and we will comment accordingly with the issuance of the Phase 2 Proposed Decision on October 29, 2021.

**D. The Commission should validate SCE’s assertions that there were no other viable 3POS projects that could meet the target CODs.**

CESA understands that the Commission is limited in time to review and consider approval of the EPCM contracts and the nature of the UOS projects. Some of the questions, clarifications, and/or remedies raised below likely cannot be addressed in the time between now and the issuance of a Resolution while still ensuring sufficient lead time to meet the August 1, 2021 COD. Given this situation, CESA recommends that the Commission conduct an after-the-fact audit and investigation of SCE’s assertions to understand the full range of circumstances that led SCE down its process and the potential collateral impacts of the UOS projects. Upon completing this audit, the Commission should also consider adopting CESA’s recommended preferred or alternative modifications below. This is a critical follow-up action item for the Commission, which should be a condition attached to any decision that the Commission makes regarding the contracts.

The Independent Evaluator (“IE”) Report details how the EPC projects are designed to meet deliverability requirements but without going through the interconnection process as distribution assets.<sup>20</sup> However, CESA is aware that there are 3POS projects located at and near the Springville, Etiwanda, and Hinson Substations where the UOS projects will be sited. Thus, the UOS projects directly impact the 3POS projects by reducing the available deliverability at these sites and materially harming developers who followed long-standing interconnection rules that serve as the foundation of California’s competitive market. It is critical to note that 3POS projects strategically pursue interconnection based on available deliverability and a number of other factors (*e.g.*, nodal pricing), and invested real dollars in project development (*e.g.*, site control, permitting). These developers understand that there are competing projects at nearby sites, and there is no guarantee of securing an off-take contract, but it is unreasonable for them to expect that they would be “blindsided” by competing projects that jump the interconnection queue by connecting as a distribution asset – again, a path that has not been established by the Commission and was not made available to third-party developers at the time.

As a result of the UOS projects, certain projects are likely materially and permanently harmed from further viability. They also cannot merely offer its project capacity to other

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<sup>20</sup> Advice Letter Attachment D Independent Evaluator Analysis at 6.

LSEs after accounting for the potentially significant location-specific economic and power flow impacts (e.g., nodal pricing, available deliverability). The Commission should thus consider remedies to the harms caused by these UOS projects that followed unprecedented processes. Some remedy ideas may include WDAT demand charge holidays or charging capacity upgrades, or may include refunds for study fees and financial securities, among others, even though these remedies may still be insufficient to account for the full scope of harms caused.

#### **IV. PROPOSED PREFERRED MODIFICATIONS FOR THE UTILITY-OWNED STORAGE PROJECTS AS A DISTRIBUTION ASSET.**

Upon our review, CESA recommends the following preferred modifications to SCE's proposals to ensure consistency with Commission procurement authorizations, precedent, and other relevant rules and regulations. CESA believes that the changes recommended in this Section IV mitigate many of the concerns and potential for poor precedents to be set by virtue of approving the UOS projects for Summer 2022 emergency reliability.

##### **A. SCE's UOS projects should not be eligible for RA or reducing the MTR requirement, and should remain a distribution asset used only for distribution or emergency reliability events to align with the intent of the procurement authorization and mitigate discrimination concerns.**

SCE proposes that the UOS projects would connect to non-CAISO-controlled portions of the electric system and not participate in the CAISO wholesale market and provide supply-side non-RA capacity even though it is treated like a distribution asset in terms of cost recovery and bypassing of the interconnection process. As a distribution asset, SCE appropriately did not include ancillary services as a potential benefit attributable to the project, yet it described how the project would still provide capacity benefits based on its intended operations, akin to a load-modifying resource.<sup>21</sup>

This represents a novel and unprecedented case for the use of in-front-of-the-meter ("IFOM") energy storage resources – a pathway that has *not* been established by the Commission and was *not* made available to 3POS projects at the time. Essentially, even though the resource is operating like a supply resource, it is being treated like a distribution asset despite the projects not being tied to any identified distribution need. While innovation is encouraged and some flexibility is needed to support emergency reliability needs where options are limited, CESA sees many questions and concerns with treating or categorizing "RA-like" or "supply-like" assets as distribution.

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<sup>21</sup> Advice Letter at 9 and 15-16.

As discussed above, nothing in the Commission’s decisions or rulings preclude the use of non-RA resources to meet the emergency reliability need, but CESA urges the Commission to only allow SCE to operate the resource as a distribution asset during emergency reliability conditions (*e.g.*, CAISO Flex Alert days, or similar to emergency demand response [“DR”] that are triggered on high temperature days, when wholesale prices exceed a certain threshold such as \$900/MWh, etc.). In other words, the UOS projects should maintain its non-market status since that is how SCE proposed the projects’ path to COD and cost recovery through distribution rates. Its infrequent operation except on the most extreme days or grid conditions will also mitigate the frequency of distortionary and “invisible” wholesale market price impacts. By extension, SCE’s UOS projects should not be eligible for RA and thus should not be able to count the capacity of the projects toward its MTR procurement requirements pursuant to D.21-06-035.

Allowing the projects to qualify for RA is fraught with many issues and would violate Federal Energy Regulatory Commission (“FERC”) open-access rules and regulations if allowed to operate on a regular basis like a supply asset during SCE’s proposed non-market period and bypass the interconnection queue of other supply resources that are following these rules and regulations. Exempting these rules and regulations by virtue of the resource being called a distribution asset would set a bad precedent and allow the IOUs to exercise and exploit this path whenever emergency grid conditions arise. In addition, even if deliverability is not allocated to the UOS projects when they are operating as a distribution asset, its frequent operations like a supply asset would reshape the baseline and reduce the charging and deliverable capacity that other interconnection customers would have available. As a result, the Commission should only allow SCE to operate the UOS project on an emergency basis when certain defined emergency reliability conditions are triggered. After all, the Commission is authorizing the procurement of resources to meet an effective PRM such that these resources are only needed for extreme weather events and conditions.

Moreover, the Commission should disqualify the UOS projects from qualifying for RA given the anti-competitive and discriminatory path by which these projects were allowed to come online. Unlike the procurements authorized in the Emergency Reliability proceeding (R.20-11-003) that afforded the IOUs great latitude by setting general procurement parameters, the MTR procurement decision established a much higher standard of review with parameters guided by D.19-11-016, which cites D.19-06-032 and thus requires the IOUs to ensure that procurement pursuant to meeting the MTR procurement requirements to occur without bias toward any ownership model.<sup>22</sup> In addition, a full application would typically be required for UOS projects used to meet their MTR procurement requirements.<sup>23</sup> Clearly, as explained in Section III.C above, allowing SCE to count the UOS projects to their MTR requirements would be a violation of these guidelines since the solicitations and bilateral negotiations for Summer 2022 capacity were biased in the requirements for UOS

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<sup>22</sup> See D.21-06-035 at Conclusion of Law (“COL”) 24 and D.19-11-016 at FOF 27 and OP 8

<sup>23</sup> See D.21-06-035 at OP 13.

projects versus that for 3POS projects.<sup>24</sup> A full application process may also provide a procedural venue by which some of the cited concerns can be more fully investigated and vetted by the Commission and other stakeholders.

**B. Exemptions from the WDAT interconnection tariff and WDAT storage demand charges and recovery through distribution rates for the UOS projects should only be allowed if the UOS projects remain non-market distribution assets utilized for emergencies only.**

SCE describes how WDAT demand charges would apply once the projects interconnect as a generating facility, which is assumed after 2027.<sup>25</sup> However, CESA reiterates our views that this WDAT demand charge exemption or avoidance is discriminatory to similarly-situated 3POS projects and disagrees with proposing the UOS projects as distribution assets when they are being proposed in R.20-11-003 to address an identified *supply* capacity shortfall at the net load peak period. SCE is “calling” this a distribution asset to bypass the interconnection queue, but in many ways, they are still being operated in a way that resembles a supply-side asset. On average, WDAT-interconnected and market-integrated 3POS projects will charge during high solar and low load periods and discharge during peak and net load peak periods,<sup>26</sup> similar to how SCE described its planned operations for the UOS projects. Yet, the UOS projects would not only be able to bypass the interconnection queue but also avoid WDAT storage demand charges for its use of the distribution system.

As such, if the Commission deems it appropriate to treat the UOS projects as distribution assets with costs recovered through distribution rates, it should adopt CESA’s recommendations above to ensure that the projects remain non-market distribution assets, are only be operated under emergency conditions, and are not eligible for RA. This would justify the inclusion of the UOS projects in the distribution revenue requirement, for which other 3POS projects would contribute through WDAT storage demand charges.

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<sup>24</sup> At minimum, if the Commission deems it reasonable to count these resources toward SCE’s MTR procurement requirements, the UOS projects should not be immediately granted eligibility. As D.21-06-035 lays out, any UOS procurement is subject to a full application process.

<sup>25</sup> Advice Letter at 18 and Attachment D Independent Evaluator Analysis at 16.

<sup>26</sup> See CESA Opening Testimony served on September 1, 2021 in R.20-11-003 at 21-23 and “Energy Storage Performance Panel” by Gabe Murtaugh (CAISO) at the CEC Midterm Reliability Analysis and Jurisdictional Plant Upgrade Workshop presented on August 30, 2021.

<https://efiling.energy.ca.gov/GetDocument.aspx?tn=239554&DocumentContentId=72991>

V. **PROPOSED ALTERNATIVE MODIFICATIONS TO MINIMIZE NON-MARKET PERIOD.**

Recognizing the limited time and opportunities to offer comment before the Commission issues a Resolution, CESA offers comments on a potential alternative set of recommendations if the Commission deems it appropriate to allow for market integration, day-to-day operations, and future RA eligibility for the UOS projects. This alternative pathway is still riddled with issues, but it mitigates some identified concerns. CESA ultimately proposes that the Commission require SCE to minimize the non-market period if the projects will be used akin to a supply-side resource to account for its operations and market price impacts.

**A. If used as a frequently-operated RA-like resource, then the SCE UOS projects should be required to submit a CAISO TPD affidavit and receive FCDS to accrue credit for RA reductions or supply-side benefits and also utilize consistent cost recovery via the CAM.**

Altogether, as explained in Section II.A above, CESA believes that the Advice Letter is compliant with the authorizing decisions, except for the issue of the proposed cost recovery mechanism. To be compliant, the Commission should modify the proposed cost recovery mechanism to be done via the CAM, as directed through D.21-02-028 and affirmed with subsequent decisions and rulings in R.20-11-003.<sup>27</sup>

CESA contends that, regardless of whether the resource provides RA benefits, D.21-02-028 and D.21-03-056 only directed the use of the CAM and similarly affirmed such cost recovery treatment in approving PG&E's energy-only import contracts and power purchase agreements ("PPAs") with various cogeneration and biomass facilities "additional energy deliveries" for Summer 2021<sup>28</sup> – neither of which would technically have RA benefits and costs to allocate through the CAM. As such, it is unclear why SCE should deviate from the same CAM treatment and instead have costs recovered through distribution charges, which

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<sup>27</sup> Immediately prior to the submission of this response, the Commission unfortunately issued a Phase 2 Proposed Decision ("PD") that would accept SCE's proposed cost allocation for its UOS procurement via distribution rates, finding this to be an acceptable alternative "when operating the resources as non-CAISO controlled grid assets prior to deliverability to CAISO markets." *Phase 2 Decision Directing Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company to Take Actions to Prepare for Potential Extreme Weather in the Summers of 2022 and 2023* issued on October 29, 2021 in R.20-11-003 at 101. But as expressed above, CESA finds the justification for this approach to be woefully short in being reasonable when assessed against fairness to other similarly-situated resources and when the UOS projects would look and act like any other supply resource but be treated as a distribution asset to bypass normal processes applicable to supply-side assets. CESA will detail some of the concerns above in the record via comments to the Phase 2 PD, but we reiterate the importance of aligning the findings and conclusions of the Resolution with that of the Phase 2 decision in accordance with our recommendations above.

<sup>28</sup> See Commission Energy Division Staff Disposition of PG&E Advice Letter 6089-E on March 18, 2021 at 2 and 4, where Energy Division rejected protestants dispute with the CAM treatment of energy-only import contracts with no associated RA value. See also Commission Energy Division Staff Disposition of PG&E Advice Letter 6088-E on March 18, 2021 at 2 and 4-5, where Energy Division rejected the same protestants on similar grounds that the IOUs are not required to demonstrate the RA benefits of procurement.

hinges on the mere fact that SCE is proposing the UOS projects as distribution assets. For all intents and purposes, as we understand it, the UOS projects are not tied to an identified distribution need and are operating like a supply-side capacity asset, yet will be granted favorable treatment over other 3POS projects in not only bypassing the interconnection process but also having its distribution revenue requirement paid for by WDAT-interconnected 3POS projects that are similarly situated in providing supply-side capacity and using SCE's distribution system. The UOS projects and other 3POS projects are similarly situated in providing supply-side capacity and using SCE's distribution system, yet have disparate and discriminatory treatment by virtue of the cost recovery mechanism proposed.

**B. If allowed to operate in non-emergency periods, then the UOS projects should be interconnected and integrated into the CAISO market as soon as possible but should not be given advantages in the queue process or RA counting for compliance.**

If the Commission determines to make the UOS projects eligible for RA capacity benefits in the future, CESA believes that the Commission should direct SCE to interconnect these resources as soon as possible as an energy-only ("EO") resource in the interim, thus integrating the resource into the CAISO market to avoid distortionary market price impacts without transparency, ensure the resource is exposed to price-based economic signals to reflect grid conditions, and provide visibility to the CAISO market operators on the operations and capabilities of the resource, just like any other supply-side asset. In addition, considering the potential impacts on the available interim deliverability at the three locations, CESA believes an immediate pursuit of interconnection is needed to give the CAISO and other market participants greater visibility into the amount of such available interim deliverability.

To be able to "count" on these resources for summer reliability and provide the greatest level of visibility and dispatchability at the hands of the CAISO market operator, CESA believes that CAISO market integration should be pursued as soon as possible. There are pathways to bring EO resources in relative short order through the interconnection process, even as it may take time for the resources to be interconnected with Full Capacity Deliverability Status ("FCDS"), allocated deliverability, and secure a net qualifying capacity ("NQC") value. SCE has not demonstrated why the project must operate as a non-market distribution resource for a prolonged period when EO interconnection and near-term market integration pathways are available. In fact, the "ease of interconnection" was cited as one reason why the project sites were selected.<sup>29</sup> In addition to the above concerns about market integration and operations, treating these UOS projects as supply resources as soon as

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<sup>29</sup> Advice Letter at 13-14.

possible is necessary to apply the appropriate CAM-based cost recovery mechanism rather than subjecting them to distribution charge-based cost recovery.<sup>30</sup>

Finally, the Commission should deny SCE's requested 100% effective load carrying capability ("ELCC") value for MTR procurement compliance<sup>31</sup> since these projects would not completely be a fully-integrated and deliverable market asset until 2027 or later. Considering incremental ELCC declines over time with storage penetration, granting an incremental ELCC value for the UOS projects based on 2022 values is non-sensical and discriminatory to energy storage projects that can come online earlier.

**C. If allowed to operate like similarly-situated WDAT storage resources, then the UOS projects should be interconnected as soon as possible but subject to the same tariffs and charges, or SCE should grant similar exemptions to 3POS projects and/or provide remedies.**

As explained above, the Commission should minimize the non-market period for the UOS as a distribution asset and direct SCE to interconnect these projects as EO energy storage resources immediately in order to ensure comparable and non-discriminatory treatment with 3POS projects, along with all of the other reasons explained above. Exempting the UOS projects from WDAT storage demand charges over the proposed full 6-year non-market period would be discriminatory to other similarly-situated WDAT-interconnected 3POS resources, which face these same charges.<sup>32</sup> Otherwise, SCE's UOS projects would benefit from "free" as-available charging despite its use of the distribution system, as asserted by SCE in justifying its original proposal before FERC to revise the WDAT in July 2019.<sup>33</sup> The fact that the energy storage resource is owned and operated by SCE should not exempt the UOS from seeking WDAT interconnection, beyond what is necessary to bring the projects online in time for Summer 2022 emergency reliability, and should subject the UOS projects to the same WDAT demand rates.

In addition, CESA also has significant concerns that the UOS projects would be jumping the queue and take up any existing As-Available Charging Distribution Service capacity and away from other 3POS projects that could have leveraged this existing capacity.

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<sup>30</sup> CESA reiterates that the Commission required CAM-based cost recovery for all procurement authorized and approved pursuant to D.21-02-028 and D.21-03-056. However, if the Commission determines otherwise (*i.e.*, if the Commission finds the distribution charge to be appropriate during the period when the UOS projects are non-market distribution resources), then the Commission should immediately direct these resources to interconnect and operate in the CAISO market, at which point CAM-based cost recovery should apply.

<sup>31</sup> Advice Letter at 31.

<sup>32</sup> *So. Cal. Edison Co.*, 177 FERC ¶ 61,033 (2021). FERC approved SCE's Offer of Settlement in Docket Nos. ER19-2505-000, *et al.* on October 21, 2021 that addressed WDAT revisions to establish inbound charging distribution service and Firm/As-Available Demand Rates for storage resources.

<sup>33</sup> *So. Cal. Edison Co.*, 170 FERC ¶ 61,036 (2020). FERC recounted the positions for and against SCE's Section 205 filing in the Order issued on January 24, 2020 accepting and suspending the tariff revisions and directing parties to settlement procedures.



Though the project would not be interconnecting through the WDAT, the net effect as a load-modifying resource may still be the same in consuming as-available charging capacity from other 3POS projects, which followed the standard processes and procedures and may have planned and developed projects with some level of as-available charging capacity in mind. Such impacts should be remedied in some way, such as by requiring SCE to pay for Firm Charging Distribution Service to mitigate impacts to 3POS projects and maintain as-available charging capacity for impacted 3POS projects in the queue, or to credit or pay for their firm upgrades or exempt their otherwise applicable demand charges.

Finally, by virtue of having costs for the UOS projects recovered through distribution revenue requirements, CESA also questions whether there could be a perverse outcome where WDAT-interconnected 3POS projects would be paying for some portion of the UOS projects through the WDAT demand rates that the former would be subject to. Again, this is highly discriminatory and further justifies the need for the Commission to modify cost recovery to come through the CAM and minimize the non-market period of the UOS as a distribution asset, by having these projects interconnect and integrate into the CAISO market as soon as possible.

**D. To ensure fairness, SCE UOS project milestones must be honored with SCE bearing risk commensurate to that of 3POS.**

In Section IV.A, CESA explained why the UOS projects should remain a non-market distribution asset, only be operated under emergency conditions, and not be eligible for RA. This remains CESA's primary position, and a strong case can be made to affirm this determination.

However, if the Commission finds it reasonable to allow these resources to qualify for RA, then the Commission must establish additional guardrails and accountability measures. The IE Report attached to the Advice Letter detailed the cost-effectiveness methodology and results, which revealed that SCE is assuming RA capacity benefits for Year 6 (2027) and beyond.<sup>34</sup> Depending on when these UOS projects can actually interconnect as RA-eligible resources, CESA believes that these are major assumptions that could ultimately impact the final cost-competitive results. Furthermore, these assumptions are subject to significant levels of uncertainty given the "superclusters" most recently experienced with CAISO Queue Cluster ("QC") 14, in addition to many reported delays in the construction of transmission network upgrades. Considering these factors, CESA recommends that the Commission subject the SCE to the same standard for delays in securing RA deliverability by Year 6 that would typically apply to third-party developers. Typically, in third-party contracts, LSEs like SCE would screen third-party projects based on viability criteria (*e.g.*, whether a Phase 1 study is completed and whether deliverability is secured) and negotiate

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<sup>34</sup> Advice Letter at 15 and 17.

terms and conditions that include penalties for day-for-day delays, or something along those lines.

It is therefore imperative that the Commission hold SCE to similar standards for delays given that SCE is essentially writing their own pathway to deliverability and RA benefits by Year 6. These penalties should be borne by SCE shareholders if incurred, not by all ratepayers. At the same time, to avoid perverse outcomes of SCE favoring the timely interconnection and upgrades for its UOS projects at the expense of 3POS because of these penalty structures in place, CESA recommends that the Commission also establish guardrails through transparent progress reporting to Energy Division. For example, third-party developers cite how it typically takes 48 months or so to build interconnection facilities for their 3POS projects, yet in this situation, SCE has demonstrated it can build interconnection facilities for its own UOS projects within 8 months. Such discrepancies on interconnection and upgrade construction timelines must be eliminated. Importantly, given the demonstrated ability to achieve faster timelines, the Commission should hold SCE and other IOUs to higher and consistent standards to complete these key roles and responsibilities in a timely manner to not only meet Summer 2022 emergency reliability needs but also significant resource buildout needs for the 2023-2026 period, and beyond.

## VI. CONCLUSION.

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

Respectfully submitted,



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