

December 6, 2021

CPUC Energy Division Tariff Unit
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Re: Comments of the California Energy Storage Alliance to Resolution E-5183. Southern California Edison request for approval of Emergency Reliability Engineering, Procurement, Construction, and Maintenance Contract for Utility-Owned Storage Resources

Dear Sir or Madam:

Pursuant to the provisions of General Order 96-B, the California Energy Storage Alliance (“CESA”) hereby submits these comments to the above-referenced Draft Resolution E-5183 (“Draft Resolution”) issued on November 12, 2021, approving with modifications Advice Letter 4617-E, *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”), of Southern California Edison Company (“SCE”).

I. INTRODUCTION & SUMMARY.

In the Emergency Reliability proceeding (R.20-11-003), the Commission issued Decisions (“D.”) 21-02-028 and D.21-03-056 directing and authorizing the investor-owned utilities (“IOUs”) to procure incremental resources in Summers 2021 and 2022, as measured by an effective planning reserve margin (“PRM”), to mitigate capacity shortfalls in the event of extreme weather. Since then, the Governor issued an Emergency Proclamation on July 30, 2021 that underscored the emergency nature of current and near-term grid conditions, and the Commission issued a Ruling on September 17, 2021 clarifying the authorization for utility-owned storage (“UOS”) procurement. With these clarifications and affirmations around the authorizations, 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, totaling 537.5 MW in project capacity and expecting to come online by August 1, 2022.

Upon reviewing the Advice Letter, CESA submitted a response on November 1, 2021 expressing our understanding of the need to address near-term emergency reliability as well as the need to pursue novel approaches and less-than-ideal processes and solutions. However, like the

fifteen parties who submitted protests or responses, CESA raised many critical concerns regarding the inconsistent treatment and unlevel playing field of UOS and third-party-owned storage (“3POS”) projects and the problematic precedents of jumping the interconnection queue and allowing nominal and non-market-integrated distribution assets to support capacity shortfalls. With these concerns in mind, CESA offered major modifications along either a preferred pathway (*i.e.*, remain a distribution asset for emergency use only) and alternative pathway (*i.e.*, immediate market integration and pursuit of deliverability) to mitigate many of these concerns.

In light of these concerns, CESA is disappointed that the Draft Resolution does not discuss or incorporate many of our proposed modifications. SCE’s reply to protests and responses on November 5, 2021 shed some additional light on some of the questions, but they are still high level in nature and do not sufficiently address the many areas of issues raised by parties. The Draft Resolution, as is, also falls short in *not* clarifying or rectifying the blurred lines between market-integrated supply-side resources and non-market-integrated distribution assets, where the proposed UOS projects will operate in much the same way as other market-integrated supply-side resources yet be granted favorable and inconsistent treatment in cost recovery and path to commercial operations. Given many of these unaddressed concerns, CESA reiterates our recommendation that the Commission direct SCE to report on key project milestones and validation of assumptions made in the contracting and operations of the UOS projects.

At the same time, CESA supports the Draft Resolution’s deferral on the issue of how to count the UOS projects toward the Mid-Term Reliability (“MTR”) procurement requirements pursuant to D.21-06-035, finding the issue to be out of scope and more appropriately addressed in the Integrated Resource Planning (“IRP”) proceeding.¹ As elaborated further below, CESA agrees and urges the Commission to maintain this finding as well as the full application process as established in D.21-06-035, in spite of SCE requesting that the Commission allow the UOS projects count toward the 2024 MTR procurement requirements.² There are many factors between now and the project becoming deliverable as a Resource Adequacy (“RA”) resource that must be demonstrated before determining the appropriate “count” for MTR procurement compliance purposes.

Finally, CESA recommends that the Commission adopt a new finding that affirms the non-precedential nature of this procurement pathway:

Finding 16: The approval and findings of reasonableness for the Emergency Reliability Engineering, Procurement, Construction, and Maintenance Contract for Utility-Owned Storage as requested in Advice Letter 4617-E shall not apply to future utility procurement of energy storage resources.

¹ Draft Resolution at 23-24 and Finding 16.

² SCE reply at 17.

II. COMMENTS.

In these comments, short of the preferred or alternative pathways laid forth in our response, CESA offers three major modifications to the Draft Resolution.

1. **Given many of the unaddressed issues and concerns, the Commission should direct SCE to report on key project milestones and validation of assumptions made in the contracting and operations of the UOS projects.**

Other than a handful of issues raised by parties and stakeholders, the Draft Resolution does not address the complexities, outstanding questions, and collateral impacts of the approval of the UOS projects. For example, the Draft Resolution does not address the issues raised by CESA regarding the exemptions from Wholesale Distribution Access Tariff (“WDAT”) storage demand charges and recovery of costs through distribution rates; even as distribution assets exempt from WDAT interconnection, the UOS projects would be operating like supply-side assets and be granted favorable treatment from other similarly-situated WDAT-interconnected 3POS projects. In addition, while SCE elaborates that the UOS operation schedules will become embedded in the daily day-ahead load bid,³ these explanations do not fully determine the specific capacity-like contributions to the effective PRM. By bypassing the interconnection study process, the technical reliability (*e.g.*, curtailment risks, charging constraints, short-circuit duty contributions) and collateral impacts of the projects are also not fully known.⁴

Importantly, the Commission does not adequately address the potential impact on deliverability to other similarly-situated projects, with the Draft Resolution simply explaining that SCE took “reasonable actions” to minimize these impacts.⁵ SCE explains how the required distribution upgrades will minimize impacts on other projects and, in fact, increase the available capacity on the grid.⁶ Though this is helpful to mitigate some of the collateral impacts, CESA is unclear on whether the Commission’s presumption that “SCE will receive no preference in the WDAT interconnection process”⁷ will truly be the case if the UOS projects are load-modifying resources that reshape the load curve but is then able to claim this “deliverability” when the projects are “flipped” from the load side to the supply side. In other words, once the UOS projects are removed from the load forecast, then there will be a sudden availability of deliverability, which may be then claimed by SCE. Does SCE plan to make this deliverable capacity available to all projects in the queue as they enter the queue? Or, will the load forecast be adjusted by removing the UOS

³ SCE reply at 7.

⁴ See, *e.g.*, Clearway Energy Group’s protest at 3.

⁵ Draft Resolution at 21-22. See *also* D.21-12-015 issued on December 6, 2021 in R.20-11-003 at Conclusion of Law (“COL”) 62 and OP 90 that concluded: “UOS allowed in this decision should not displace existing resources in the interconnection queue.”

⁶ SCE reply at 9-10.

⁷ Draft Resolution at 22.

projects as load-modifying resources only when it is convenient for them to claim this immediately available capacity for their project? These are open questions that must be addressed that the Commission cannot affirmatively determine at this time until further and follow-up information is provided. The novelty of the approach and assumptions made in submitting these projects and contracts for Commission approval must be tracked and validated to support, for example, determinations on whether the projects should count for MTR procurement compliance and affirm the “minimal” impacts to other projects. As a result, the Draft Resolution should include additional compliance filings on a biannual basis (twice a year) to report on the progress and details of the project until the projects are fully interconnected and brought online.

2. The Commission should minimally maintain the finding and determination that MTR procurement counting should be addressed in the IRP proceeding.

Our preferred modifications would have maintained SCE’s UOS projects as distribution assets only due to the proposed distribution rate cost recovery and approval via abnormal processes to support emergency conditions, thus not being eligible for MTR procurement compliance. These preferred modifications would ensure consistency with Commission procurement authorizations, precedent, and other relevant rules and regulations,⁸ but in the alternate, CESA recommends that the Commission adopt the list of alternative modifications laid out in our response.⁹

In particular, CESA supports and requests that the Commission maintain/affirm the determination and finding that MTR procurement eligibility and counting be made in the IRP proceeding.¹⁰ Although flexibility may be afforded resource procurement pursuant to D.21-02-028, D.21-03-056, and most recently, D.21-12-015 in R.20-11-003 to address an effective PRM, the MTR requirements are intended to address identified capacity shortfalls interconnected with Full Capacity Deliverability Status (“FCDS”) and net qualifying capacity (“NQC”) status. The shortfalls in the MTR needs assessment were measured, and the procurement compliance would be counted in terms of September NQC MW.¹¹ With the UOS projects *not* having an NQC by virtue of *not* proceeding through the interconnection process, securing deliverability allocations, and integrating in the California Independent System Operator (“CAISO”) market, automatic MTR counting determinations in this Resolution would not only be out of scope but be contrary to the procurement parameters of D.21-06-035. In addition, making a determination in line with SCE’s request would contradict D.15-11-042, which determined that, without a valid and substantive methodology, event-based load-modifying demand response has no capacity

⁸ CESA’s response at 11-13.

⁹ CESA’s response at 14-17.

¹⁰ Draft Resolution at 23-24 and Finding 15.

¹¹ D.21-06-035 at 14, 25, 48, and 67.

value since they are not integrated in the wholesale market to respond to dispatch signals and do not dependably modify load to reduce LSEs' procurement obligation.

Taken together, MTR procurement eligibility and counting should only be determined in accordance with when the UOS projects secure an NQC value, and the IRP MTR effective load carrying capability ("ELCC") counting value should be determined accordingly as well. There should be no favorable treatment to be granted *a priori* MTR eligibility and counting in this proceeding, especially if SCE plans to bring these projects online in 2027 or later, beyond the 2023-2026 procurement obligation period of the MTR decision.

Finally, D.21-06-035 clearly established a full application process for UOS projects intended to meet MTR procurement obligations.¹² Since the contracts would already be approved if the Draft Resolution is adopted, CESA believes that the full application process would have focused on other key procurement parameters of D.21-06-035, including demonstrations that the projects were procured without bias pursuant to D.19-06-032. In CESA's view, this full application process would have provided time for SCE to address some of the unaddressed issues and concerns above and afford parties an opportunity to further due process that is not available in this compressed review timeframe, including the ability to assess whether project milestones are honored, with SCE bearing the development and deployment risk of bringing resources online in a timely manner as a market-integrated and deliverable resource, commensurate with 3POS projects.

However, to make matters more complicated, the Commission adopted the Phase 2 Decision (D.21-12-015) that waived the "requirement established in D.21-06-035 obligating the IOUs to submit an application for utility-owned resources procured to meet IRP MTR resource requirements...[for] UOS resources that are brought online in response to this order."¹³ Rather than deferring any determinations to the IRP proceeding to make these findings and conclusions, the Commission affirmed MTR procurement eligibility without a full application process. Yet, despite this decision on MTR procurement eligibility and approval process, the Resolution E-5183 should maintain that the procurement *counting* issue must be addressed in the IRP proceeding.

3. The Commission should adopt a new finding that affirms the non-precedential nature of this procurement pathway.

In recognition of the emergency nature of this procurement, the Draft Resolution generally finds it reasonable to deviate from normal processes and procedures around cost competitiveness, cost recovery treatment, path to commercial operations, and exemptions to permitting processes. At the same time, this use of non-standard procurement processes

¹² D.21-06-035 at OP 13.

¹³ D.21-12-015 at COL 64 and OP 89.

and solutions should be avoided and disallowed for all future procurement subject to Commission approval for all the issues and concerns raised by parties and stakeholders in protests and responses. SCE even expressed that it “does not see it as business-as-usual or a new model for standard practice” and does not intend “to establish a new standard operating procedure for future reliability needs or normalize ‘just in time’ procurement.”¹⁴

However, without an affirmative finding that this procurement pathway is limited in scope to this specific project/case, CESA fears that similar approaches could be pursued again if the Commission does not aggressively plan and add storage to the electric grid with longer lead times and the IOUs do not make sufficient efforts to accelerate and ensure reasonable interconnection timelines. Especially given the current and near-term tight supply conditions and the risks of extreme weather events for the foreseeable future in the face of growing climate change impacts, the Commission and the IOUs may be tempted to resort to this previously-approved procurement pathway yet again, as soon as for Summer 2023 needs to address emergency reliability needs identified in R.20-11-003. Until this specific novel approach is further vetted and analyzed, the Commission should affirm the non-precedential nature of this procurement pathway and disallow such approaches going forward by making the following new finding:

Finding 16: The approval and findings of reasonableness for the Emergency Reliability Engineering, Procurement, Construction, and Maintenance Contract for Utility-Owned Storage as requested in Advice Letter 4617-E shall not apply to future utility procurement of energy storage resources.

If the Commission wishes to maintain this procurement pathway as a potential off-ramp or “safety valve” for any potential future emergency reliability needs, the Commission should instead initiate a formal process in an existing or new proceeding (*e.g.*, another phase of R.20-11-003, R.20-05-003, or new Energy Storage rulemaking) to develop a framework and pre-approved/authorized procurement pathways to allow energy storage projects to come online in an expeditious manner, recognizing key principles and rules/regulations in place to ensure open and non-discriminatory access pursuant to Federal Energy Regulatory Commission (“FERC”) tariffs and unbiased procurement regardless of ownership model pursuant to Appendix guidelines from D.19-06-032, among others. This framework would also need to establish the appropriate role and guardrails for the bypassing of usual processes for UOS as distribution assets, the appropriate cost recovery mechanism and allocation of costs and benefits, appropriate guardrails and reasonable assurances of benefits delivered for leveraging non-deliverable and non-RA energy storage resources, streamlined processes to assess cost competitiveness, and otherwise streamlined contract approval processes that balance expediency with due process. In doing so, the Commission will avoid the many issues and controversy of similar projects being proposed

¹⁴ SCE reply at 6 and 14.

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in the event of similar conditions and procurement need and still create a pathway for energy storage to be available and brought online in short order.

Notwithstanding the potential development of such a framework, CESA underscores the need to avoid just-in-time emergency procurement to begin with and the critical importance of affirming the non-precedential and one-off nature of SCE's UOS projects.

III. CONCLUSION.

CESA appreciates the opportunity to submit these comments to Draft Resolution E-5183 and looks forward to collaborating with the Commission and the IOUs.

Respectfully submitted,



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Service list of R.20-11-003