

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking Regarding
Microgrids Pursuant to Senate Bill 1339 and
Resiliency Strategies.

Rulemaking 19-09-009
(Filed September 12, 2019)

**RESPONSE OF THE CALIFORNIA ENERGY STORAGE ALLIANCE
TO BLOOM ENERGY CORPORATION'S PETITION FOR MODIFICATION OF
COMMISSION'S DECISION ADOPTING MICROGRID RESILIENCY SOLUTIONS
TO ENHANCE SUMMER 2022 AND SUMMER 2023 RELIABILITY, D.21-12-004**

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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 this response to *Bloom Energy Corporation’s Petition for Modification of Commission’s Decision Adopting Microgrid Resiliency Solutions to Enhance Summer 2022 and Summer 2023 Reliability, D.21-12-004* (“Petition”), submitted by the Bloom Energy Corporation (“Bloom Energy”) on April 18, 2022.

I. INTRODUCTION.

In its Petition, Bloom Energy requests that the Commission remove two sentences from Decision (“D.”) 21-12-004 to avoid mischaracterizations of the Commission’s conclusions. In particular, that the Commission has preemptively and prematurely concluded that some third-party proposals would create prohibited cost shifting, even though the Commission acknowledges in the decision that more information is needed to make this conclusion.

Therefore, Bloom Energy is requesting the removal of two sentences from the decision:

- “Additionally, we are not adopting new subsidies that would result in a cost-shift prohibited by Section 8371.”¹
- “This decision protects ratepayers from proposals that could create more cost-shifting subsidies that are statutorily prohibited by Senate Bill 1339.”²

II. THE PETITION SHOULD BE GRANTED EXPEDITIOUSLY.

CESA supports the request by Bloom Energy to eliminate the two sentences which suggest that various non-utility proposals advanced in the Microgrid proceeding, R.19-09-009, would lead to improper cost-shifting. Generally, the Commission found that a variety of proposals submitted could not be adopted for Phase 1 of Track 4 because they were not “directly related to microgrid and resiliency strategies to enhance summer 2022 and/or summer 2023 reliability,”³ or because the proposals needed, “stronger review under Section 8371(d)’s prohibition against cost shifting than the schedule of Expedited Phase 1 allows.”⁴ Both of these reasons were due to the expedited nature of Track 4 to address summer 2022 and 2023 reliability rather than for its technical and policy merits and/or consistency with statute.

Despite that, there are two places in D.21-12-004 which inadvertently suggest the Commission actually did conclude that tariffs, particularly Applied Medical Resources Corporation’s (“AMR”) recommendation to modify natural gas generation schedules and Bloom Energy’s proposed capacity services tariff, were prohibited by Cal. Pub. Util. Code § 8371 as a prohibited cost shift.⁵ As Bloom correctly points out in its Petition, not only are these decisions

¹ D. 21-12-004 at 36.

² *Id.* at 45.

³ *Id.* at 34.

⁴ *Id.* at 35.

⁵ The two problematic sentences are as follows:

beyond the scope of the proceeding, as found by the Commission itself, but also problematic as a legal matter given the Commission’s broad authority to conduct ratemaking.⁶ While the Legislature was clear in enacting Section 8371 of the Public Utilities Code that it wanted to prevent cost shifts that burdened non-microgrid customers, it did not intend to limit the Commission’s authority under its constitutionally provided ratemaking role to take actions that could benefit all ratepayers, including non-microgrid customers. We therefore agree with Bloom Energy regarding the precedent these sentences could cause if given any weight in the future.⁷

Accordingly, CESA respectfully requests that D. 21-12-004 be modified to remove the two problematic sentences.

III. CONCLUSION.

CESA appreciates the opportunity to submit this response to the Petition and looks forward to working with the Commission and stakeholders in this proceeding.

Respectfully submitted,



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Date: May 18, 2022

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- “Additionally, we are not adopting new subsidies that would result in a cost-shift prohibited by Section 8371.” D. 21-12-004 at 36.
 - “This decision protects ratepayers from proposals that could create more cost-shifting subsidies that are statutorily prohibited by Senate Bill 1339.” *Id.* at 45.

⁶ See Bloom Energy Petition at 4-6.

⁷ See Bloom Energy Petition at 1-2.