

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

Application of Southern California Edison  
Company (U338E) for Approval of Contracts  
Resulting From Its 2014 Energy Storage  
Request for Offers (ES RFO).

Application 15-12-003  
(Filed December 1, 2015)

And Related Matter.

Application 15-12-004

**COMMENTS OF THE CALIFORNIA ENERGY STORAGE ALLIANCE  
ON PROPOSED DECISION APPROVING ENERGY STORAGE  
AGREEMENTS AND PROVIDING GUIDANCE ON CALCULATING  
ABOVE-MARKET COSTS FOR STORAGE**

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August 9, 2016

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In accordance with Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), the California Energy Storage Alliance (“CESA”)<sup>1</sup> hereby submits these comments on the *Proposed Decision Approving Energy Storage Agreements and Providing Guidance on Calculating Above-Market Costs for Storage*, issued on July 20, 2016 (“Proposed Decision”).

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<sup>1</sup> 1 Energy Systems Inc., Adara Power, Advanced Microgrid Solutions, AES Energy Storage, Amber Kinetics, Aquion Energy, Bright Energy Storage Technologies, Brookfield, California Environmental Associates, Consolidated Edison Development, Inc., Cumulus Energy Storage, Customized Energy Solutions, Demand Energy, Eagle Crest Energy Company, East Penn Manufacturing Company, Ecoult, Electric Motor Werks, Inc., ElectriQ Power, ELSYS Inc., Enphase Energy, GE Energy Storage, Geli, Gordon & Rees, Green Charge Networks, Greensmith Energy, Gridscape Solutions, Gridtential Energy, Inc., Hitachi Chemical Co., Ice Energy, Innovation Core SEI, Inc. (A Sumitomo Electric Company), Invenergy LLC, Johnson Controls, K&L Gates, LG Chem Power, Inc., Lockheed Martin Advanced Energy Storage LLC, LS Power Development, LLC, Mercedes-Benz Research & Development North America, Nature & PeopleFirst, NEC Energy Solutions, Inc., NextEra Energy Resources, NGK Insulators, Ltd., NRG Energy LLC, OutBack Power Technologies, Parker Hannifin Corporation, Powertree Services Inc., Qnovo, Recurrent Energy, RES Americas Inc., Saft America Inc., Samsung SDI, Sharp Electronics Corporation, Skylar Capital Management, SolarCity, Sovereign Energy, Stem, SunPower Corporation, Sunrun, Swell Energy, Trina Energy Storage, Tri-Technic, UniEnergy Technologies, Wellhead Electric, Younicos. The views expressed in these Comments are those of CESA, and do not necessarily reflect the views of all of the individual CESA member companies. (<http://storagealliance.org>).

## I. INTRODUCTION.

CESA supports the Proposed Decision's approval of the Applications. Without commenting on the specific contracts discussed in the Proposed Decision, CESA also strongly supports the Proposed Decision's Admonishment to Pacific Gas and Electric Company, ("PG&E"):

"PG&E's agreement includes a term that the Seller has no stake in (i.e., cost recovery), but which results in PG&E's ability to terminate the agreement based solely on Commission action. We do not approve this constraining term within the contracts and caution PG&E that in the future it should refrain from establishing contract terms designed to limit the Commission's exercise of its regulatory authority."<sup>2</sup>

CESA notes here that comparable policy determinations are presently before the Commission in San Diego Gas & Electric Company's Application, that will be specifically addressed by CESA in that context.<sup>3</sup>

## II. PG&E SHOULD NOT BE ALLOWED TO INCLUDE A PROVISION THAT PG&E MAY TERMINATE CONTRACTS IF IT DOES NOT RECEIVE COMMISSION APPROVAL OF ITS PROPOSED COST RECOVERY.

PG&E stated in its Application that:

"... as part of its contracts, it included a term which allows it to terminate the contract if it does not receive 'CPUC Approval.' CPUC Approval is contractually defined as part of its pro- forma definitions as: a final and non-appealable order of the CPUC, without conditions or modifications unacceptable to the Parties, or either of them, which contains the following terms: (a) approval of this Agreement in its entirety, including all related payments to be made by Buyer and Buyer's proposed cost recovery treatment, subject only to CPUC review of the Buyer's administration of the Agreement; (b) a finding that the procurement under this Agreement counts

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<sup>2</sup> Proposed Decision, p. 24.

<sup>3</sup> *Proposed Decision Approving Storage Procurement Framework for the 2016 Biennial Procurement Period*, issued July 29, 2016, A.16-03-001, *et al.*

as proposed by Buyer toward the energy storage target established by D.13-10-040.”<sup>4</sup>

CESA strongly agrees with the Proposed Decision’s reaction to PG&E’s constraining contract term:

“PG&E’s pro forma terms attempt to constrain the Commission’s ability to evaluate the appropriateness of proposed cost recovery terms, by threatening to not pursue cost-effective storage contracts, in opposition to state policy. Unlike PG&E’s agreements, SCE’s contractual language does not tie the outcome on cost recovery to SCE’s willingness to move forward with the contract.”<sup>5</sup>

### III. CONCLUSION.

For all of the foregoing reasons, the Commission should approve the Applications, with the exception of PG&E’s proposal to include a provision in its contracts that PG&E may terminate contracts if it does not receive Commission approval of its proposed cost recovery.

Respectfully submitted,



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Date: August 9, 2016

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<sup>4</sup> Proposed Decision, pp. 23-24.

<sup>5</sup> Proposed Decision, p. 24.