

September 22, 2015

Billie C. Blanchard / Frank McMenimen
CPUC / BLM
c/o Aspen Environmental Group
235 Montgomery Street, Suite 935
San Francisco, CA 94104

Re: Comments of Palen Solar Holdings, LLC on the Draft Environmental Impact Report for the West of Devers Upgrade Project

Dear Ms. Blanchard and Mr. McMenimen:

In accordance with the August 7, 2015 Notice of Availability of the Draft Environmental Impact Report/Environmental Impact Statement (“DEIR/EIS”) on Southern California Edison Company’s (“SCE”) application to build and operate the West of Devers Upgrade Project (“WODUP”), Palen Solar Holdings, LLC (“Palen Solar”) submits its comments on the DEIR/EIS.

Palen Solar has a significant interest in the WODUP because Palen Solar anticipates interconnecting its 500 MW solar thermal project (“Palen Project”) with the Red Bluff Substation and, according to the Palen Project’s Large Generator Interconnection Agreement (“LGIA”), the WODUP must be completed in order for the Palen Project to achieve Full Capacity Deliverability Status. Under SCE’s proposal (“Proposed Project”), SCE will remove its existing 220 kV transmission lines and replace them with higher capacity lines, upgrade its substations, and remove and relocate some of its 66 kV subtransmission lines and 12 kV distribution lines in the Blythe and Desert Center areas. Currently, the transmission lines in the Blythe and Desert Center areas have a total power transfer capability of 1,600 MW. SCE proposes increasing its power transfer capability in these areas by 3,200 MW to achieve a total transfer capability of 4,800 MW.

The DEIR/EIS finds SCE’s Proposed Project to be the “least environmentally preferred” option.¹ Instead of supporting the Proposed Project, the DEIR/EIS proposes other environmentally-preferred alternatives. It declares the “Environmentally Superior Alternative” to be the Phased Build Alternative; the “Second Preferred Alternative” is a combination of the Tower Relocation Alternative, the Iowa Street 66 kV “Underground Alternative,” and SCE’s Proposed Project.

¹ DEIR/EIS, Executive Summary at ES-1.

Palen Solar believes the Phased Build Alternative must be reevaluated to properly account for SCE's need for 4,800 MW of total transfer capability. Any other alternative should also recognize the 4,800 MW total transfer capability need as one of the project's primary objectives. Furthermore, the Phased Build Alternative must consider the environmental impact of any future phases that will allow for a 4,800 MW total transfer capability; failure to do so violates the California Environmental Quality Act's ("CEQA") prohibition against a piecemeal review of alternative options. Finally, Palen Solar requests confirmation that any alternatives will allow full deliverability for its 500 MW Palen Project and clarification of the length of delays any alternatives will cause.

Palen Solar urges correcting the deficiencies in the DEIR/EIS's analysis and selecting SCE's Proposed Project as environmentally superior. If the final Environmental Impact Report/Environmental Impact Statement ("EIR/EIS") finds the Proposed Project as not environmentally superior, the California Public Utilities Commission ("CPUC") / Bureau of Land Management ("BLM") should adopt a Statement of Overriding Consideration showing that the benefits of the Proposed Project justify its approval. While the Proposed Project will, like any construction project, have some environmental concerns, the benefit the Proposed Project will produce outweighs its impacts. Alternatively, the Second Preferred Alternative should be selected as the Environmentally Superior Alternative. The final result should find the Phased Build Alternative as not viable for the reasons expressed below.

COMMENTS ON DRAFT ENVIRONMENTAL IMPACT REPORT

The DEIR/EIS is fundamentally flawed and based on inadequate analysis of project alternatives in place of SCE's WODUP. The DEIR/EIS fails to account for SCE's objective to increase total transfer capability in the transmission corridor to be 4,800 MW and improperly analyzes project alternatives in piecemeal fashion. The final EIR/EIS, instead, should find SCE's Proposed Project to be environmentally superior. If the final EIR/EIS identifies another alternative as the Environmentally Superior Alternative, it must take into account SCE's need for 4,800 MW total transfer capability and not conduct a piecemeal environmental review.

Fundamental Flaws in the DEIR/EIS

1. The DEIR/EIS Fails to Properly Incorporate SCE's Primary Objective to Obtain 4,800 MW of Total Transfer Capability

Both the Phased Build Alternative and the Second Preferred Alternative fail to meet one of SCE's primary objectives: to increase total transfer capability in the corridor to 4,800 MW. The Phased Build Alternative and Second Preferred Alternative identify three project objectives: (1) to increase system deliverability; (2) to support goals for renewable energy; and (3) to maximize any remaining space within the corridor.² These objectives are derived from an

² *Id.*, Section C at C-19 to C-20, C-26.

earlier discussion in Section A that identifies six project objectives for SCE.³ The three CPUC / BLM project objectives are distilled from what the DEIR/EIS identifies as SCE's six objectives.⁴ While the DEIR/EIS's objectives recognize *a need* to increase system deliverability, none of the objectives acknowledge SCE's *specifically stated need* for a total transfer capability of 4,800 MW.

The Phased Build Alternative's First Objective Does Not Meet the Capacity Requirements for Full Transfer Capability

The DEIR/EIS identifies the first objective of the Proposed Project as allowing SCE "to meet its obligations to integrate and fully deliver the output of new generation projects located in the Blythe and Desert Center areas that have requested to interconnect to the electrical transmission grid."⁵ This ostensibly requires a project build-out to the 4,800 MW that SCE requires for full transfer capability. When describing the first Basic Project Objective under the Phased Build Alternative, however, the DEIR/EIS states that it "would allow SCE to fully deliver about 3,000 MW of the output from new generation projects . . ."⁶ This is 1,800 MW less than the capacity SCE believes is required to ensure full deliverability for numerous generation projects in the Blythe and Desert Center areas. Though the DEIR/EIS states its 3,000 MW figure satisfies the California Independent System Operator's ("CAISO") 2024 Reliability Base Case, which includes specific generation projects the CAISO believes are most likely to be constructed,⁷ this analysis fails to include additional projects in the CAISO queue that are included in the CAISO planning processes.⁸ The DEIR/EIS further states this alternative is "technically feasible."⁹ Technical feasibility, however, does not justify a shortfall of 1,800 MW.

This substantial shortfall is particularly surprising in light of the fact that the WODUP has always been planned as a 4,800 MW project, and has been included in the CAISO's Transmission Planning Process ("TPP") since 2010 at the 4,800 MW capacity. The final EIR/EIS should take into account SCE's need for 4,800 MW of total transfer capability, which SCE has repeated continuously throughout this proceeding. SCE's application for the Proposed Project, pending in front of the CPUC, states that achieving "*full deliverability*" of new generation projects in the area is a primary need.¹⁰ The application is clear that to meet this need requires SCE to increase the transfer capability by 3,200 MW, which would result in a total

³ *Id.*, Section A at A-5.

⁴ *Id.*, Section A at A-11 to A-13.

⁵ *Id.*, Section A at A-5.

⁶ *Id.*, Section C at C-26. This objective is categorized as "Increase system deliverability."

⁷ *Ibid.*

⁸ *See id.*, Section A at A-9 to A-10, Table A-4. The Phased Build Alternative would only allow an increase in deliverability by 1,400 MW, yet the DEIR/EIS's Table 4 recognizes that there is a total of 4,961 MW of planned or on-hold generation projects seeking to rely on the WODUP. *See ibid*; *see also id.*, Section C at C-26.

⁹ DEIR/EIS, Section C at C-26.

¹⁰ Application (A.)13-10-020 at 2 (emphasis added).

transfer capability of 4,800 MW.¹¹ SCE's Proponent's Environmental Assessment also states a need for a total transfer capability of 4,800 MW.¹² Additionally, when the CPUC sent a data request to SCE to better understand SCE's objectives, SCE replied that a primary need was to have a total transfer capability of 4,800 MW.¹³

The DEIR/EIS's CPUC / BLM Objectives Must be Revised to Reflect SCE's 4,800 MW Transfer Capability Need

The Phased Build Alternative's conclusion that a total transfer capability of only 3,000 MW and not 4,800 MW will meet the objectives of the WODUP is unfounded. SCE has stated numerous times that it needs to construct a project with a total transfer capability of 4,800 MW. The DEIR/EIS even identifies the purpose of the WODUP as increasing total transfer capabilities to 4,800 MW.¹⁴ It then goes on to state that "[i]ncreasing the system transfer capacity in the corridor is SCE's proposed solution to achieving its Project Objectives, and to integrate growth in generation."¹⁵

Accordingly, the CPUC and BLM should be well aware that an alternative calling for anything less than 4,800 MW would be a serious concern for SCE. It is also a serious concern for renewable generation owners such as Palen Solar that are relying on the WODUP for interconnection and full deliverability status. The DEIR/EIS's failure to include the required 4,800 MW of total transfer capacity in the project objectives must be remedied.

The Total Transfer Capability in the Tower Relocation Alternative and Underground Alternative Must be Clarified to Include a Total Transfer Capability of 4,800 MW

The DEIR/EIS is unclear as to whether the Second Preferred Alternative would provide a total transfer capability of 4,800 MW. While the Tower Relocation Alternative would provide "the same transfer capability and deliverability as the Proposed Project,"¹⁶ the same is not apparent for the Underground Alternative. The final EIR/EIS must clarify that the Underground Alternative will allow a total transfer capability of 4,800 MW. If the Underground Alternative cannot allow for a total transfer capability of 4,800 MW, it cannot be considered a viable project alternative in the final EIR/EIS.

¹¹ *Ibid.*

¹² Southern California Edison's West of Devers Upgrade Project, *Proponent's Environmental Assessment*, Section 1.0 "Purpose and Need" at 1-16.

¹³ *Response to SCE Data Request #8*, Data Response PD-24 A (Oct. 14, 2014).

¹⁴ DEIR/EIS, Section A at A-5, *Review of SCE's Purpose and Need*.

¹⁵ *Ibid.*

¹⁶ *Id.*, Section C at C-19.

Basic Project Objective 1 for both the Tower Relocation Alternative and the Underground Alternative must also be revised to explicitly declare a need for 4,800 MW of total transfer capability. Even if the final EIR/EIS concludes these alternatives would allow for a total transfer capability of 4,800 MW, not altering Basic Project Objective 1 to reflect this objective would be unsatisfactory. The final EIR/EIS for both of these alternatives should assure (1) a primary objective of 4,800 MW total transfer capability and (2) that the actual alternatives will allow for a total transfer capability of 4,800 MW.

2. The Phased Build Alternative Includes an Improper Piecemeal Review Prohibited by CEQA

Under CEQA, the lead agency must conduct an EIR/EIS when construction of a proposed project will have a significant environmental effect.¹⁷ The EIR/EIS cannot break up a project and analyze certain aspects while excluding analysis of other aspects in order to find the proposed alternatives will have a less significant environmental impact. Such piecemeal review is prohibited under CEQA. The California Supreme Court has established a two-part test to ensure an EIR/EIS does not undergo a piecemeal review:

[A]n EIR must include an analysis of the environmental effects of future expansion or other action if: (1) it is a reasonably foreseeable consequence of the initial project, and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects.¹⁸

The DEIR/EIS states that the Phased Build Alternative will “[a]llow for future capacity expansions of the existing corridor *with several options for future phases.*”¹⁹ The DEIR/EIS, however, does not analyze the environmental impact of these future phases. Under the *Laurel Heights* two-part test, the final EIR/EIS must consider these future phases.

First, it is reasonably foreseeable that the WODUP will need additional transfer capability above 3,000 MW to account for other generation projects not considered in the Phased Build Alternative. Many of these generation projects not considered have either entered into LGIAs with SCE, have begun negotiations for LGIAs, or anticipate interconnecting with the WODUP.²⁰ The DEIR/EIS therefore acknowledges it is reasonably foreseeable that additional transfer capacity above 3,000 MW will be needed in the future. Furthermore, the Legislature’s recent passage of SB 350, which requires a Renewable Portfolio Standard of 50 percent by 2030,

¹⁷ Cal. Pub. Resources Code § 21100.

¹⁸ *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.*, 47 Cal. 3d 376, 396 (1988).

¹⁹ DEIR/EIS, Section C at C-25 (emphasis added).

²⁰ *Id.*, Section A at A-8; see also *id.* at A-9 to A-10, Table A-4.

makes it even more likely that future renewable generation facilities will need to interconnect to transmission lines such as the WODUP.²¹

Second, any future expansion occurring through future phases will have environmental impacts. If SCE is required to undertake a second phase under the Phased Build Alternative to increase total transfer capability, SCE will have to re-mobilize construction crews. After re-mobilization, additional rounds of construction will occur. The Phased Build Alternative is only an interim solution to mitigate short-term environmental consequences. In the long run the Phased Build Alternative delays an inevitable increase in transfer capacity, which would then require additional environmental disturbance. The Phased Build Alternative would be more environmentally destructive than the Proposed Project, as it would require construction crews to mobilize and undertake construction more than once. As a result of the additional impacts caused by phasing the work that will be required for full buildout, Palen Solar contends that the superior environmental option is SCE's Proposed Project, which only requires mobilization, construction, and expansion of the WODUP in one single construction project. Because the DEIR/EIS clearly anticipates future phases in the Phased Build Alternative, CEQA mandates that the final EIR/EIS must analyze the "environmental effects of future expansion"²²

3. Developers with CAISO Queue Positions or LGIAs Need Assurance They Will Receive Timely, Full Capacity Deliverability Status

The DEIR/EIS is unclear whether developers with CAISO queue positions or developers with executed LGIAs will receive full capacity deliverability status. It is also unclear whether developers will receive full capacity deliverability status in the timeframe proposed in SCE's CPUC application or whether the alternatives proposed in the DEIR/EIS will cause substantial delay. In keeping with the State policy to support renewable development, the CPUC / BLM should work with the California Energy Commission and CAISO to coordinate transmission planning and to inform project developers of changes in project schedules.²³ Working together will ensure that developers are not blindsided by changes to transmission projects that may negatively affect the deliverability of their particular renewable project. The WODUP was always designed as a 4,800 MW project; the Phased Build Alternative causes great disruption and surprise by proposing a project that reduces that capacity. The CPUC's final decision on the application cannot adopt the DEIR/EIS's recommendation without ensuring that it does not have a negative effect on existing planned projects, like the Palen Project. As of now, the CAISO cannot give Palen Solar assurance that the Phased Build Alternative will not

²¹ Sen. Bill No. 350 (2015-2016 Reg. Sess.) § 2. While the governor has yet to act on SB 350, by the time the final EIR/EIS is released the final results of the legislation will be available. The final EIR/EIS should take the legislation into account.

²² See DEIR/EIS, Section C at C-25; *Laurel Heights*, 47 Cal. 3d at 396.

²³ See *Alignment of Key Infrastructure Planning Processes by CPUC, CEC and CAISO Staff*, available at <http://www.cpuc.ca.gov/NR/rdonlyres/367DF06D-05A4-4819-A632-1AF64368A0D4/0/ProcessAlignmentText.pdf> (Dec. 23, 2014).

negatively affect the Palen Project. Palen Solar requests the final EIR/EIS to include assurance that any viable alternatives in the final EIR/EIS will allow the Palen Project to have timely, full 500 MW deliverability into the WODUP.

4. The DEIR/EIS's Alternatives Fail to Account for any Necessary Capacity for WODUP Upgrades and Fail to Use Policy-Driven Scenarios

The DEIR/EIS Phased Build Alternative does not consider many presently known projects that will require transmission access that will affect deliverability in the region if the total transfer capability is less than 4,800 MW. For instance, the CPUC / BLM should be aware of the 985 MW interim West of Devers project that the DEIR/EIS does not include as necessary capacity for the WODUP.²⁴ Furthermore, while the DEIR/EIS relies on the CAISO 2024 Reliability Base Case, it does not use any policy-driven scenarios.²⁵ For example, in a recent data request from the Office of Ratepayer Advocates, it asks how the DEIR/EIS determined a level of need for the WODUP. The response states the DEIR/EIS “does not determine or define any level of need for the proposed [WODUP].”²⁶ Palen Solar has not had the time to conduct a full scale analysis of any errors the DEIR/EIS made when evaluating deliverability inputs. Palen Solar urges the CPUC / BLM to closely examine whether there are omissions or incorrect assumptions regarding deliverability in the DEIR/EIS.

5. The Final EIR/EIS Should Consider State Policies Calling for Development of New Renewable Generation Projects

The final EIR/EIS should align with State policy and consider new renewable generation projects likely to come online. As mentioned above, the Legislature recently passed SB 350 that requires a 50 percent RPS by 2030.²⁷ Passage of the bill reflects the State's policy goals to increase the number of new renewable generation projects in the future. The State, however, cannot achieve this policy if projects such as the WODUP do not allow full deliverability for renewable generation. Many renewable generation projects, especially solar generation, are located along the I-10 corridor and further east. The WODUP is designed to deliver generation from these projects into the electrical grid. Considering the State policy to increase renewable generation makes the Phased Build Alternative an unviable option. The 3,000 MW transfer capability is too small to allow deliverability of future generation in the area.

²⁴ See A.13-10-020, *Southern California Edison Company's Direct Testimony on Need, 399.2.5, Maximum Cost, Field Management Plan, and Amended Direct Testimony on the Proposed Transaction for the West of Devers Upgrade Project* at 5, available at [http://www3.sce.com/sscc/law/dis/dbattach5e.nsf/0/EABFC727A8AF4E1C88257E2A0082BFFC/\\$FILE/A1310020%20WOD%20-%20SCE%20Direct%20Testimony.pdf](http://www3.sce.com/sscc/law/dis/dbattach5e.nsf/0/EABFC727A8AF4E1C88257E2A0082BFFC/$FILE/A1310020%20WOD%20-%20SCE%20Direct%20Testimony.pdf) (April 17, 2015).

²⁵ DEIR/EIS, Section C at C-25 to C-26.

²⁶ *Response to Office of Ratepayer Advocates Data Request #1* (Sept. 15, 2015).

²⁷ See *supra* at fn. 22.

The DEIR/EIS's failure to allow for 4,800 MW of total transfer capability under the first objective also conflicts with the second CPUC / BLM objective of supporting renewable generation goals.²⁸ The best way to account for increasing renewable generation is to maximize deliverability of the WODUP. Therefore, the final EIR/EIS must include SCE's need for 4,800 MW of total transfer capability and should exclude any alternatives not meeting this criteria as unviable.

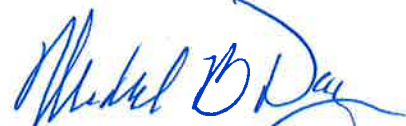
6. Other Issues the Final EIR/EIS Should Address

Palen Solar also requests the final EIR/EIS address two additional matters:

- a. The DEIR/EIS states the Palen Project "may propose a 250 MW power tower."²⁹ This information is incorrect. Palen Solar requests the final EIR/EIS include an updated finding that the California Energy Commission has approved a construction extension of the Palen Project. Such approval contemplates a 500 MW project, which, in turn, will require a full 500 MW of deliverability when the project is complete.³⁰
- b. Clarification that is more specific and includes estimated dates regarding how much each alternative could delay completion of the WODUP.

Very truly yours,

GOODIN, MACBRIDE,
SQUERI & DAY, LLP



Michael B. Day
Counsel for Palen Solar Holdings,
LLC

cc: Service List, A.13-10-020

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²⁸ See DEIR/EIS, Section C at C-26.

²⁹ *Id.*, Section A at A-9, Table A-4.

³⁰ See *California Energy Commission - Tracking Progress*, "Renewable Energy Facility Siting in California" at 17, available at http://www.energy.ca.gov/renewables/tracking_progress/documents/renewable.pdf (Sept. 3, 2015); see also California Energy Commission, *Order Granting Extension of Time to Construct*, Docket No. 09-AFC-7C (Sept. 16, 2015).