

**SARA STECK MYERS**  
ATTORNEY AT LAW  
122 - 28<sup>th</sup> AVENUE  
SAN FRANCISCO, CALIFORNIA 94121

TELEPHONE (415) 387-1904  
FACSIMILE (415) 387-4708  
*e-mail:* [ssmyers@worldnet.att.net](mailto:ssmyers@worldnet.att.net)

October 1, 2012

Energy Division ([EDTariffUnit@cpuc.ca.gov](mailto:EDTariffUnit@cpuc.ca.gov))  
California Public Utilities Commission  
505 Van Ness Avenue, Room 4004  
San Francisco, CA 94102

RE: CEERT Comments on Draft Resolution E-4522 (ALTERNATE)  
SCE Advice Letter (AL) 2339-E (and Amendments)

Dear Energy Division:

On September 11, 2012, the Energy Division issued Draft Resolution E-4522 (ALTERNATE) (Alternate DR), addressing Southern California Edison Company's (SCE's) Advice letter (AL) 2339-E, and subsequent amendments to that advice letter. The Alternate is different from a "Draft Resolution" (DR), originally served on July 20, 2012, which will also be considered along with the Alternate DR at the Commission's Business Meeting of October 11, 2012. Pursuant to Rule 14.5 of the Commission's Rules of Practice and Procedure and instructions accompanying the Alternate DR, the Center for Energy Efficiency and Renewable Technologies (CEERT) hereby timely submits and serves the following comments on the Alternate DR.

## I. BACKGROUND

By AL 2339-E, as amended by AI 2339-E-A, AL 2339-E-B, AL 2339-E-C, and AL 2339-E-D, SCE seeks approval of five executed power purchase agreements (PPAs) between SCE and affiliates of BrightSource Energy, Inc. (BrightSource): Solar Partners XVI and Solar Partners XVII (collectively, the Rio Mesa PPAs); Solar Partners XVIII and Solar Partners XIX (collectively, the Siberia PPAs), and Solar Partners XX (Sonoran West PPA). All five projects are located in California, utilize solar power tower technology (2 without molten salt storage (Rio Mesa 1 and Rio Mesa 2), and 3 with molten salt storage (Siberia 1, Siberia 2, and Sonoran West)). Each has a term of 20 or 25 years, with deliveries to commence from the Rio Mesa projects in late 2015 and from the Siberia 1, Siberia 2, and Sonoran West in late 2016 and early 2017.

On July 20, 2012, the Energy Division issued Draft Resolution E-4522 (DR), approving the PPAs and cost recovery for Siberia 1, Siberia 2, and Sonoran West, with certain modifications, but denying the PPAs and cost recovery for Rio Mesa 1 and Rio Mesa 2. In denying cost recovery for the Rio Mesa projects, the DR stated that the projects "compare[d] poorly on price and value relative to other solar thermal projects

offered to SCE at the time the amended and restated PPAs were being negotiated and executed.”<sup>1</sup>

On August 17, BrightSource, among others, filed comments on the DR. BrightSource, in its comments, contested the analysis and proposal by the DR to reject the Rio Mesa PPAs. In those comments, BrightSource stated that the DR erred by “(a) inappropriately comparing the valuation of BrightSource’s fully binding executed PPAs against non-binding bids received in SCE’s 2011 Renewable Portfolio Standard (‘RPS’) solicitation, (b) failing to consider that the five BrightSource PPAs were negotiated as a group, providing a balanced package that provides substantial value to SCE’s ratepayers and enables California to benefit from steadily advancing technology, and (c) failing to recognize the full value of the contracts to California’s power system.”<sup>2</sup>

On September 11, the Alternate DR was issued. The Alternate DR denies cost recovery and the PPAs for the Rio Mesa 1, Siberia 1, and Siberia 2, using logic similar to the DR regarding price for Rio Mesa 1, but adding that the Siberia 1 and 2 PPAs have “conflicts with military trailing operations” at a nearby Marin Corps air base and uncertainty regarding transmission availability.<sup>3</sup> The Alternate DR, however, approves both the Rio Mesa 2 PPA, with modifications, and the Sonoran West PPA and related cost recovery for both.

In doing so, the Alternate DR reasons that, while the Rio Mesa 2 project’s value is similar to Rio Mesa 1, “it comprises a necessary step in the evolution of BrightSource’s technology development to build and finance the third generation power towers with molten salt storage that provide much greater value for California ratepayers.”<sup>4</sup> The Sonoran West project was found to compare favorably on price and value relative to other solar thermal projects offered to SCE at the time the PPA was negotiated and, by incorporating molten salt storage technology, “will allow SCE to optimize generation from this facility based on changing system requirements,” a “unique attribute” that will decrease “renewable integration risk” and provide “more value for ratepayers.”<sup>5</sup>

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<sup>1</sup> DR, at p. 2.

<sup>2</sup> BrightSource Comments on DR (August 17, 2012), at p. 1.

<sup>3</sup> Alternate DR, at p. 2.

<sup>4</sup> Alternate DR, at p. 3.

<sup>5</sup> Id.

**II.**

**THE ALTERNATE DR IS A FAIR RESOLUTION OF SCE'S AL 2339-E, et al., AND, WITH ONE MODIFICATION, SHOULD BE ISSUED BY THE COMMISSION, INSTEAD OF THE ORIGINAL DR, AT ITS OCTOBER 11 BUSINESS MEETING.**

CEERT appreciates the Commission's decision to reconsider the original DR and issue the Alternate DR pm the BrightSource PPAs (AL 2339-E, et al.). As the BrightSource Comments filed on the DR indicated, not only were the decisions reached in the DR based on an inappropriate comparison of BrightSource's executed PPAs with "non-binding bids,"<sup>6</sup> but, with respect to the Rio Mesa projects, in particular, did not consider the technology improvements that these projects represent. According to BrightSource, the Rio Mesa projects will "provide significantly increased efficiency and energy at reduce cost relative to Invanpah [BrightSource existing project], by deploying significantly larger power blocks, significantly increases steam temperature and pressure; significantly decreased solar field size per unit of energy (by increasing tower height by 60% as well as the density of heliostats); and significant advances in BrightSource's heliostat design."<sup>7</sup>

The Alternate DR also recognizes the important values that BrightSource's technology can provide with the addition of molten storage. This technology, offering flexible, dispatchable solar thermal energy to the California grid for the first time, will enable the project to provide reliability services, increased quantities of renewable energy, and higher capacity value. These features will provide high value to SCE's ratepayers and will enhance the ability of the grid to integrate other renewable energy supplies while lessening the need for conventional peakers.

These facts are appropriately considered in the Alternate DR in approving the Rio Mesa 2 and Sonoran West PPAs, especially the "greater value for California ratepayers" that will result from such advances in BrightSource's technology.<sup>8</sup> It is also important to note, as the Alternate DR does, that BrightSource is an expert, successful developer that is, in fact, "one of the very few developers in the solar-thermal energy field that has demonstrated an ability to successfully transform a bid into a fully developed and finance project for energy delivery" to California utilities.<sup>9</sup> These circumstances certainly underscore the importance of the Commission issuing the Alternate DR at its October 11 Meeting, subject to the modification noted in the following section.

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<sup>6</sup> BrightSource Comments on DR (August 17, 2012), at pp. 1-2.

<sup>7</sup> *Id.*, at p. 3.

<sup>8</sup> Alternate DR, at p. 3.

<sup>9</sup> BrightSource Comments on DR (August 17, 2012), at p. 3.

**III.**

**GIVEN JURISDICTIONAL LIMITATIONS, THE ALTERNATE DR SHOULD NOT REACH ANY CONCLUSION, ESPECIALLY BASED ON INFORMAL COMMENTS, THAT POTENTIAL CONFLICTS EXIST BETWEEN THE SIBERIA PPAS AND THE MILITARY.**

In proposing denial of the Siberia PPAs, the Alternative DR relies in part on potential conflicts with military training at the the Marine Corps Air Ground Combat Center (MCAGCC).<sup>10</sup> However, that determination is beyond the Commission's jurisdiction to make at this time. Specifically, the Secretary of Defense has been given the exclusive jurisdiction to decide whether a conflict exists between a renewable energy project and military operations and can only delegate this authority to either the Deputy Secretary of Defense, the Under Secretary of Defense for Acquisition, Technology, and Logistics, or the Principal Deputy Under Secretary of Defense for Acquisition, Technology, and Logistics.<sup>11</sup> Consistent with federal law, in the absence of any formal decision of a conflict by the Secretary of Defense, the Commission cannot presume that a conflict exists, must not make any determination based on comments that suggest such a conflict may exist, and should remove Finding and Conclusion 7 from the Alternate DR.

**IV.**  
**CONCLUSION**

Based on these facts, CEERT urges the Commission to issue the Alternate DR, over the original DR, with the modification (removal of Finding and Conclusion 7 and any related discussion) noted above. With that modification, the Alternate DR should be issued at the Commission's October 11 Business Meeting.

Respectfully submitted,

October 1, 2012

By:           /s/ SARA STECK MYERS            
Sara Steck Myers  
Attorney for CEERT  
122 – 28<sup>th</sup> Avenue  
San Francisco, CA 94121  
Telephone: (415) 387-1904  
Facsimile: (415) 387-1904  
Email: [ssmyers@att.net](mailto:ssmyers@att.net)

cc: Certificate of Service (attached)

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<sup>10</sup> Alternate DR, at pp. 2, 8-9, 17, 19-20; Proposed Finding & Conclusion 7, at p. 25.

<sup>11</sup> Section 358(e)(2),(4), Pub. Law 111-383 (<http://www.gpo.gov/fdsys/pkg/BILLS-111hr6523enr/pdf/BILLS-111hr6523enr.pdf> ).

**CERTIFICATE OF SERVICE**

I, Sara Steck Myers, am over the age of 18 years and employed in the City and County of San Francisco. My business address is 122 - 28<sup>th</sup> Avenue, San Francisco, California 94121.

On October 1, 2012, I served the within document **COMMENTS OF THE CENTER FOR ENERGY EFFICIENCY AND RENEWABLE TECHNOLOGIES ON DRAFT RESOLUTION E-4522 (ALTERNATE)** with prescribed electronic service on the service list in R.11-05-005 (RPS) and on the additional parties specified in the instructions accompanying the Alternate Draft Resolution, with additional hard-copy delivery by U.S. Mail of an original and two copies of the Comments to Energy Division (Tariff Unit), at San Francisco, California..

Executed on October 1, 2012, at San Francisco, California.

/s/ SARA STECK MYERS

Sara Steck Myers