BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Integrate and Refine Procurement Policies and Consider Long-Term Procurement Plans.	Rulemaking 12-03-014 Filed March 12, 2012

REPLY COMMENTS OF THE CALIFORNIA ENERGY STORAGE ALLIANCE ON PROPOSED DECISION AUTHORIZING LONG-TERM PROCUREMENT FOR LOCAL CAPACITY REQUIREMENTS

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In accordance with Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission ("Commission"), the California Energy Storage Alliance ("CESA")[1] hereby submits these reply comments on the proposed *Decision Authorizing Long-Term Procurement for Local Capacity Requirements* issued by Administrative Law Judge David M. Gamson on December 21, 2012 ("Proposed Decision").

I. INTRODUCTION.

As stated in its Opening Comments,[2] CESA's statements in this proceeding necessarily complement its continuing strong support for the Commission's landmark energy storage-

[1] The California Energy Storage Alliance consists of A123 Systems, Beacon Power, Bright Energy Storage Technologies, CALMAC, Chevron Energy Solutions, Christenson Electric, Inc., Clean Energy Systems, Inc., Deeya Energy, DN Tanks, East Penn Manufacturing Co., Energy Cache, EnerVault, Flextronics, Fluidic Energy, GE Energy Storage, Green Charge Networks, Greensmith Energy Management Systems, Growing Energy Labs, HDR Engineering, Ice Energy, Innovation Core SEI, Kelvin Storage Technologies, LG Chem, LightSail Energy, NextEra Energy Resources, Panasonic, Primus Power, Prudent Energy, RedFlow Technologies, RES Americas, Saft America, Samsung SDI, Seeo, Sharp Labs of America, Silent Power, SolarCity, Stem, Sumitomo Corporation of America, SunEdison, SunVerge, TAS Energy, UniEnergy Technologies, and Xtreme Power. 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

[2] *Comments of the California Energy Storage Alliance on Proposed Decision Authorizing Long-Term Procurement for Local Capacity Requirements*, filed January 14, 2013.

specific proceeding, the Energy Storage Rulemaking (R.10-12-007),[3] opened on its own motion and to implement the intent of California's legislature to encourage deployment of energy storage technology by enacting Assembly Bill (AB) 2514.[4] CESA's Opening Comments explicitly deferred to the transmission planning-related expertise of the California Independent System Operator ("CAISO")[5], Southern California Edison Company ("SCE"), and other stakeholders as to determining the Local Capacity requirement ("LCR"). For similar reasons, CESA also deferred to the Commission and affected stakeholders as to operation of the Cost Allocation Mechanism ("CAM") and related cost allocation issues. CESA's Opening Comments focused solely on supporting the Proposed Decision's recognition of the game changing role of energy storage for the first time as part of the LCR. These reply comments address only the Opening Comments of other parties that relate to the 50 MW requirement ordered by the Proposed Decision.

II. THE EVIDENCE IN THE RECORD OF THIS PROCEEDING AND THE STORAGE RULEMAKING BOTH SUPPORT THE PROPOSED DECISION'S 50 MW REQUIREMENT.

The Proposed Decision is fully supported by substantial record evidence that greatly exceeds the requirements of California law and established Commission Policy.[6] Apart from

[3] *Order Instituting Rulemaking Pursuant to Assembly Bill 2514 to Consider the Adoption of Procurement Targets for Viable and Cost-Effective Energy Storage Systems,* R10-12-007, filed December 16, 2010.

[4] Assembly Bill (AB) 2514 (Stats. 2010, ch. 469).

[5] CESA's broad endorsement must regrettably be qualified at this time due to the CAISO's (perhaps inadvertent) unexplained and inexplicable "strike out" of the 50 MW requirement in the following proposed Modified Conclusion of Law Number 4, without *reference to any discussion anywhere*, that: "SCE's procurement process should have no provisions specifically or implicitly excluding any resource from the bidding process due to technology, except that SCE may procure up to for amounts above 1,200 MW of conventional resources in the LA basin local area and ~~a requirement to procure~~ 50 MW of energy storage resources., For resources above 1500 MW for which SCE seeks approval," See, CAISO untitled comments, filed January 14, 2013, p. 11.

[6] "The record shows that there may be a significant amount of energy storage capacity and/or demand reduction from demand response resources in the next several years which are not included in any ISO model. We have determined that a significant amount of these resources may be available to meet or reduce LCR needs by 2021, even beyond the projections in the ISO models." (Proposed Decision, p. 79).

SCE, only one party asserts that this is not the case.[7] Two other parties support the 50 MW requirement and suggest related policy recommendation for the Commission to consider, but do not contest (or raise) the sufficiency of the record in any way.[8] SCE's Opening Comments contest the sufficiency of the record in very conclusory terms, but SCE also states that: ". . . the Commission should modify the PD [Proposed Decision]: To *eliminate or significantly reduce and limit by a cost-effectiveness threshold* the requirement to pursue 50 MW of energy storage capacity [Emphasis added]."[9] CESA disagrees, as a matter of policy, with SCE's assertions that the level of the 50 MW requirement is too high and the Proposed Decision's discussion of the requirement's parameters is lacking in needed detail at this time.[10] CESA and SCE simply draw different (not incompatible) conclusions based on the record.[11] CESA also respectfully disagrees with Pacific Gas and Electric Company's flat statement that the 50 MW requirement should be eliminated.[12] Characterization of the evidence in the record as insufficient to support the 50 MW requirement by CLECA, is simply incorrect.

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[7] *Comments of the California Large Energy Consumers Association on Proposed Decision on Track I*, filed January 14, 2013, p. 7.

[8] *The Division of Ratepayer Advocates Comments on Proposed Decision Authorizing Long-Term Procurement for Local Capacity Requirements*, filed January 14, 2013 (p. 2) and *Comments of the Utility Reform Network on the Proposed Decision of ALJ Gamson Authorizing Lon-Term Procurement for Local Capacity Markets*, filed January 14, 2013 (p. 4).

[9] *Southern California Edison Company's Opening Comments on Proposed Decision Authorizing Long-Term Procurement of Local Capacity*, filed January 14, 2013, p. 2.

[10] SCE also stated in its Opening Comments: "However, if the Commission insists on requiring SCE to procure additional storage, then it would be more appropriate to require SCE to undertake a small scale pilot, such as a one to three MW requirement in Track 1. Such a pilot could validate in operation the necessary duration and expected times of operation of an energy limited resource to meet LCR needs." (p. 6).

[11] For example, presentations by stakeholders at and related to the workshops in the Energy Storage Rulemaking by stakeholders, such as AES Energy Storage, regarding the size of many existing and developing energy storage projects world-wide strongly suggest that a single energy storage project could approach (or even exceed) 50 MW.

[12] *Comments of Pacific Gas and Electric Company on the Proposed Decision Authorizing Long-Term Procurement of Local Capacity Requirements* filed January 14, 2013, p. 4.

A. The Proposed Decision's 50 MW Requirement is Amply Supported by a Very Robust Administrative Record.

Section 1705 of the California Public Utilities Code, requires that Commission decisions "contain separately stated, findings of fact and conclusions of law by the commission on all issues material to the order or decision."[13] Based on the record as a whole, the Proposed Decision finds that:

> "It is reasonable to expect that some unidentified amount of energy storage resources will be available in the future, and it is likely that some amount of energy storage resources will be available to meet future LCR needs." (Finding of Fact Number 27, p. 117).

It is well established that the Commission's findings will be upheld so long as they are reasonable and sufficiently supported by the evidence. The record in this proceeding is particularly robust since: (a) it is a continuation of a predecessor proceeding,[14] and (b) it has the benefit of extensive work product presented at a joint workshop held in conjunction with the Energy Storage Rulemaking.[15]

B. The Commission Should Not Transfer the 50 MW Requirement to the Storage Rulemaking.

A number of parties assert that the 50 MW requirement should be raised in the Storage Rulemaking and not in this proceeding.[16] CESA disagrees. The Commission is well aware that the Storage Rulemaking is progressing in parallel with this proceeding:

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[13] *See e.g., Molina v. Munro* (1956) 145 Cal.App.2d 601, 604; *Strumsky v. San Diego County Employees Retirement Association* (1974) 11 Cal.3d 28, 35.

[14] "This proceeding is the successor proceeding to rulemakings dating back to 2001intended to ensure that California's major investor-owned utilities (IOUs) can maintain electric supply procurement responsibilities on behalf of their customers. The most recent predecessor to this proceeding was Rulemaking (R.) 10-05-006. As stated in the order originating this rulemaking in Ordering Paragraph 3, the record developed in R.10-05-006 is "fully available for consideration in this proceeding" and is therefore incorporated into the record of this proceeding." (Proposed Decision, p. 3).

[15] For example, regarding requests for proposals, the Proposed Decision applies information provided in post-workshop comments: "We have reviewed the comments of parties filed in response to the September 7, 2012 energy storage/long-term procurement workshop. Based on those comments and the overall record in this proceeding, any such RFO should include the following elements: (Proposed Decision, p. 87).

[16] *Comments of Calpine Corporation on Proposed Decision of ALJ Gamson*, filed January 14, 2013, p. 3).

> "R.10-12-007, the Commission is considering multiple energy storage options to determine the cost-effectiveness of these potential resources. At this time there is not sufficient information to determine how much viable energy storage facilities will emerge between now and 2021 that can be used for local reliability purposes." (Finding of Fact Number 25, p. 116).

The Commission should not transfer the 50 MW requirement from this proceeding for two very good reasons. First, here is no question but that it has the authority to do so should it so chose. Second, the record in the Storage Rulemaking clearly reflects the Commission's preference that implementation of policy determinations made in the Storage Rulemaking should not occur there, but in appropriate proceeding, including this one.[17] California law is very clear that unless the Legislature has placed a specific statutory limit the Commission's power, its actions will be upheld so long as they are cognate and germane to utility regulation.[18]

III. CONCLUSION.

CESA appreciates the opportunity to provide these comments for the Commission's consideration.

Respectfully submitted,

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[17] *See, e.g., Energy Storage Phase 2 Interim Staff Report*, dated January 4, 2013, referenced in Administrative Law Judge Amy C. Yip-Kikugawa's *Ruling Entering Interim Staff Report Into Record and Seeking Comments*, issued January 18, 2013 in the Energy Storage Rulemaking.

[18] *See Consumers Lobby Against Monopolies* v. *Public Utilities Commission ("CLAM")* (1979) 25 Cal.3d 891, 905-906. *See also, Southern California Edison Company* v. *Peevey* (2003) 31 Cal.4th 781, 792.