

BEFORE THE
PUBLIC UTILITIES COMMISSION
OF THE
STATE OF CALIFORNIA

Order Instituting Rulemaking Pursuant to
Assembly Bill 2514 to Consider the
Adoption of Procurement Targets for
Viable and Cost-Effective Energy Storage
Systems.

R.10-12-007

**OPENING COMMENTS OF SHELL ENERGY
NORTH AMERICA (US), L.P. ON THE ASSIGNED
COMMISSIONER'S PROPOSED DECISION**

John W. Leslie
McKenna Long & Aldridge LLP
600 West Broadway, Suite 2600
San Diego, California 92101
Tel: (619) 699-2536
Fax: (619) 232-8311
E-Mail: jleslie@mckennalong.com

Attorneys for Shell Energy North America
(US), L.P.

Date: September 23, 2013

SUBJECT INDEX

RECOMMENDED CHANGES TO THE PROPOSED DECISION

1. The “Summary” section of the PD should be amended to state that for both ESPs and CCAs, the requirement to purchase energy storage equal to one percent of the retailer’s annual peak load commences in 2020, not 2016.
2. The PD should also be amended to provide that the biennial advice letter to be filed by ESPs and CCAs to demonstrate “progress” toward their energy storage procurement targets will be a “Tier 1” advice letter, not a “Tier 3” advice letter.

TABLE OF AUTHORITIES

<u>Commission Orders</u>	<u>Page</u>
General Order No. 96-B.....	3

BEFORE THE
PUBLIC UTILITIES COMMISSION
OF THE
STATE OF CALIFORNIA

Order Instituting Rulemaking Pursuant to
Assembly Bill 2514 to Consider the
Adoption of Procurement Targets for
Viable and Cost-Effective Energy Storage
Systems.

R.10-12-007

**OPENING COMMENTS OF SHELL ENERGY
NORTH AMERICA (US), L.P. ON THE ASSIGNED
COMMISSIONER'S PROPOSED DECISION**

In accordance with Commission Rule 14.3, Shell Energy North America (US), L.P. ("Shell Energy") submits its opening comments on the proposed decision ("PD") that was circulated by Assigned Commissioner Carla Peterman on September 3, 2013. Shell Energy's opening comments are limited to two proposed corrections to the PD.

I.

**THE PD SHOULD BE CORRECTED TO
REFLECT "2020" AS THE FIRST YEAR
FOR AN ESP'S ENERGY STORAGE
PROCUREMENT OBLIGATION**

The PD recommends that the Commission require electric service providers ("ESP") and community choice aggregators ("CCA") to procure enough energy storage to equal one percent of their annual peak load by 2020. See PD at pp. 43-44; Appendix A at p. 2. The "Summary" section of the PD (page 2), however, states that ESPs will be required to meet the one percent energy storage procurement obligation by 2016. The statement in the "Summary" section appears to be mistaken.

The discussion at pages 43-44 of the PD indicates that both ESPs and CCAs shall meet the energy storage procurement target by 2020. Moreover, the attached “Energy Storage Procurement Framework and Design Program” (Appendix A) provides that ESPs and CCAs must meet their one percent energy storage procurement target by 2020. Shell Energy requests that the Commission eliminate the inconsistency in the PD by correcting page 2 of the PD to reflect “2020” as the approved target date for ESPs (and CCAs).

II.

THE BIENNIAL PROGRESS REPORT SHOULD BE SUBMITTED BY ESPs AND CCAs THROUGH A TIER 1 (NOT A TIER 3) ADVICE LETTER

The PD recommends that beginning January 1, 2016, and every two years thereafter, each ESP and CCA should be required to file a “Tier 3” advice letter demonstrating its “progress” toward meeting its energy storage procurement target. PD at p. 44. The PD recommends that ESPs and CCAs should be required to list, in the advice letter, “the energy storage procurement contracts they have entered into (including technology and number of MW and MWh), duration of the contracts, and the percentage of the ESP/CCA’s peak load provided by energy storage.”

Id.

The PD does not explain why the biennial advice letter should be a “Tier 3” advice letter (rather than a “Tier 1” or “Tier 2” advice letter). The PD merely states that the purpose of the advice letter is to “allow [the Commission] to assess the progress of ESPs and CCAs toward [] meeting their procurement target.” Id. Because the advice letter does not require disposition by the Commission through a formal Resolution, a “Tier 3” advice letter is not appropriate. Because the advice letter to be submitted by ESPs and CCAs will be a “compliance” filing, the PD should be modified to provide that the biennial advice letter will be a “Tier 1” advice letter.

According to General Order No. 96-B (Energy Industry Rule 5), the entity submitting an advice letter must designate the appropriate tier, “based on the content of the advice letter.” Rule 5.1 provides that matters that are appropriate for a “Tier 1” designation include, among other matters, “[a] contract that conforms to a Commission order authorizing the contract” Rule 5.1(4).¹ The contract information that will be submitted by ESPs and CCAs through the biennial advice letter described in the PD is contract information that conforms to the Commission order authorizing the contract. The advice letter filing described in the PD therefore should be classified as a “Tier 1” advice letter.

The PD recommends that the biennial advice letter submitted by an ESP and a CCA must list the energy storage procurement contracts entered into, as well as information concerning specific contract terms. This advice letter is a “compliance” filing, and disposition by the Energy Division is appropriate. A “Tier 3” advice letter requires disposition by Commission Resolution. An advice letter that provides the information that is described in the PD does not seek Commission approval, and no action by the Commission is required. A “Tier 1” advice letter is effective, pending disposition by the Energy Division. The advice letter described in the PD is properly classified as a Tier 1 advice letter.

Under Energy Industry Rule 9, “a compliance filing by a load serving entity is not subject to protest but is otherwise subject to review and disposition under General Rules 7.5.1, 7.5.2 and 7.6.1.” Under General Rule 7.6.1, the Energy Division is authorized to dispose of an advice letter when disposition would be a “ministerial” act. Energy Division disposition of an advice letter is appropriate where Commission orders “have required the action proposed in the advice letter, or have authorized the action with sufficient specificity, that the [Energy] Division need

¹ By contrast, under Rule 5.3(5), a “Tier 3” designation for an advice letter is called for when a contract does not conform to a Commission order authorizing the contract, or when there is no Commission order authorizing the contract.

only determine as a technical matter whether the proposed action is within the scope of what has already been authorized by . . . Commission orders.” Because the PD enumerates the information to be provided in an ESP (and CCA’s) advice letter, the advice letter constitutes a “compliance” filing, and the Energy Division may dispose of the advice letter as a ministerial act. This type of advice letter is properly designated as a “Tier 1” advice letter.

III.

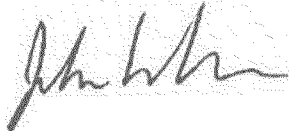
CONCLUSION

The “Summary” section of the PD should be amended to state that for both ESPs and CCAs, the requirement to purchase energy storage equal to one percent of the retail seller’s annual peak load commences in 2020, not 2016.

The PD should also be amended to provide that the biennial advice letter to be filed by ESPs and CCAs to demonstrate “progress” toward their energy storage procurement targets will be a “Tier 1” advice letter, not a “Tier 3” advice letter.

Proposed revised findings of fact and conclusions of law are set forth in Appendix 1.

Respectfully submitted,



John W. Leslie
McKenna Long & Aldridge LLP
600 West Broadway, Suite 2600
San Diego, California 92101
Tel: (619) 699-2536
Fax: (619) 232-8311
E-Mail: jleslie@mckennalong.com

Date: September 23, 2013

Attorneys for Shell Energy North America (US) L.P.

APPENDIX 1

Revised Proposed Findings of Fact, Conclusions of Law, and Ordering Paragraphs

A. Revised Proposed Findings of Fact (“FOF”):

None.

B. Revised Proposed Conclusions of Law (“COL”):

1. In COL No. 23, add, at the end of the sentence, the following: “. . . by 2020.”

C. Revised Proposed Ordering Paragraph (“OP”):

1. In OP No. 5, change “Tier 3” to “Tier 1.”

2. Also in OP No. 5, delete the words “up to” and add, at the end of the sentence, the following: “. . . by 2020.”

USW803977691.1