

**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.

Rulemaking 10-12-007 (AYK)  
(Filed December 16, 2010)

**REPLY COMMENTS OF SIERRA CLUB CALIFORNIA AND THE CALIFORNIA  
ENVIRONMENTAL JUSTICE ALLIANCE ON PROPOSED DECISION ADOPTING  
ENERGY STORAGE PROCUREMENT FRAMEWORK AND DESIGN PROGRAM**

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JUSTICE ALLIANCE

Dated: September 30, 2013

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Pursuant to Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission (the “Commission”), Sierra Club California (“Sierra Club”) and the California Environmental Justice Alliance (“CEJA”) respectfully submit the following reply comments on the Proposed Decision Adopting Energy Storage Procurement Framework and Design Program (“Proposed Decision” or “PD”). The opening comments raise numerous issues, Sierra Club and CEJA restrict our reply comments to a subset of those issues.

**DISCUSSION**

Sierra Club and CEJA support the Proposed Decision’s limit on pumped hydro to procurement of projects that are less than 50 MW.<sup>1</sup> Many parties continue to argue for no limit on the amount of pumped hydro that can be procured pursuant to the procurement targets.<sup>2</sup> Sierra Club and CEJA support the Proposed Decision’s rejection of this position. Although Sierra Club and CEJA argued for the exclusion of pumped hydro, Sierra Club and CEJA recognize that setting a limit on the amount of pumped hydro that can be procured is a reasonable exercise of agency discretion.<sup>3</sup>

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<sup>1</sup> PD, pp. 33-34., 62-63, Findings of Fact 10, 11 and 12.

<sup>2</sup> See e.g., Comments of Eagle Crest Energy Company on Proposed Decision, pp. 2, 6-7; Comments Brookfield Renewable Energy Partners LP on PD, pp. 2-4; Comments of the Center for Energy Efficiency and Renewable Technologies on the Proposed Decision, pp. 5-10; Opening Comments of the California Wind Energy Association on PD, p. 7.

<sup>3</sup> See PD, p. 67 Conclusion of Law No. 9; see also p. 64 Finding of Facts Nos. 10, 12 and 12.

AB 2514 authorizes the Commission to adopt targets and to define them in any manner it chooses. The statute requires the Commission to “open a proceeding to determine appropriate targets, if any.”<sup>4</sup> This provides the Commission with discretion to adopt and define the procurement targets. The PD explains that “the sheer size of pumped storage projects would dwarf other smaller, emerging technologies; and as such, would inhibit the fulfillment of market transformation goals.”<sup>5</sup> Quite simply, there is no statutory mandate to consider a specific target for established, pumped hydro technologies in this proceeding.<sup>6</sup> The 50 MW limit on pumped hydro should be retained and all comments attempting to change it should be rejected.

Similarly, the Commission should retain the requirements that targets are based on MW installed and that any adjustments to procurement targets for a project identified in the decision or authorized in other Commission proceedings should be counted after operating for one year;<sup>7</sup> these are also within the Commission’s discretion. The installed requirement ensures that market transformation will occur.<sup>8</sup> PG&E disagrees with the one-year requirement stating that there is no “reasoned basis” for this requirement.<sup>9</sup> To the contrary, since the Commission is giving credit for some energy storage that is already in the process of being procured, and has not reached commercial operation, this requirement rightly ensures that this energy storage is operational. Additionally, SDG&E should not be given credit for the Olivenhain-Hodges Pumped Hydroelectric Storage Facility, a 40 MW pumped hydro project already approved in 2004.<sup>10</sup> The procurement targets are designed to put more energy storage on the grid, not to ratify a project

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<sup>4</sup> Public Utilities Code § 2836(a)(1).

<sup>5</sup> PD, p. 32.

<sup>6</sup> Cf. Comments of the Center for Energy Efficiency and Renewable Technologies on the Proposed Decision, pp. 5-10 (arguing that there is statutory mandate to include all pumped storage as part of the procurement targets); see also Brookfield Renewable Energy Partners LP on PD, pp. 2-4 (arguing the same).

<sup>7</sup> PD, p. 30; Appendix A, p. 3.

<sup>8</sup> Cf. Opening Comments of Southern California Edison Company (U 338-E) to the California Public Utilities Commission on the Proposed Decision Adopting Storage Procurement Framework and Design Program, pp. 5-6 (arguing against installed requirement).

<sup>9</sup> Pacific Gas and Electric Company’s Comments on the Proposed Decision, p. 6; *see also* Opening Comments of Southern California Edison on the Proposed Decision, pp. 6-7.

<sup>10</sup> Opening Comments of San Diego Gas and Electric Company (U 902-E) Concerning Proposed Decision, pp. 6-7.

approved in 2004. Moreover, inclusion of this project would equal half of SDG&E's 80 MW requirement for procuring transmission related energy storage resources, defeating the purpose of creating market transformation.

Sierra Club and CEJA also agree with the PD's analysis of ownership models, and the consequent 50 percent utility ownership limit. As TURN highlights, there are certain benefits to customers from non-utility ownership of storage projects, establishing "pay for performance" provisions, ensuring that customers only pay for storage services actually received and performed.<sup>11</sup> Conversely, IOU's are better positioned to operationally match energy storage options to the appropriate distribution circuits under their ownership and operational control. Storage is a diverse technology with diverse benefits; in order to succeed, the technology needs a correspondingly diverse ownership. Suggestions to the contrary (of a greater ownership proportion for utilities) will not achieve these diverse benefits.<sup>12</sup>

There should be a change made to the time frame when the deferment can be requested. The PD allows utilities to defer up to 80 percent of procurement to a future solicitation, but only if a showing is made within three months of the solicitation date.<sup>13</sup> TURN suggests an extension of the three month deadline, until the date storage solicitation contracts are filed with the Commission for approval.<sup>14</sup> PG&E advocates for the same extension.<sup>15</sup> Sierra Club and CEJA agree that extending the deadline for the date of submission to the Commission will allow more time to properly analyze bids prior to an approval by facilitating more effective negotiations with storage vendors and making deferment less likely.

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<sup>11</sup> Comments of The Utility Reform Network on the PD, pp. 3-4.

<sup>12</sup> See PD, pp. 43-45.

<sup>13</sup> PD, Appendix A, p. 7.

<sup>14</sup> Comments of the The Utility Reform Network on the PD, p. 2.

<sup>15</sup> Pacific Gas & Electric Company's Comments on the Proposed Decision, at 12.

Finally, PG&E suggests that it could prove “impossible” to develop a common methodology for evaluation of bids, as required in the PD, and that this methodology could delay the first solicitation.<sup>16</sup> Although Sierra Club and CEJA support developing this common evaluation methodology with a transparent process as advocated by the California Energy Storage Alliance (“CESA”),<sup>17</sup> Sierra Club and CEJA request that the decision clarify that the first solicitation will take place on schedule even if a common evaluation protocol has not been completed or if there is insufficient time to apply it. Development of a transparent methodology should be a priority and a reasonable schedule should be set, but if development of this methodology does not occur in a timely manner, the first solicitation should go forward based on the required showings of the Investor Owned Utilities. The decision should also retain the use of the Tier 3 advice letter and disregard the Division of Ratepayer Advocates’ proposal to require applications.<sup>18</sup>

### CONCLUSION

Sierra Club and CEJA respectfully request that the final decision affirm that the PD properly excludes pumped hydroelectric projects 50 MW or more from the procurement targets, that procurement targets are based on installed capacity, and that certain energy storage projects be subject to the one-year operation requirement. The final decision should also reject SDG&E’s attempt to count the Olivenhain-Hodges Pumped Hydroelectric Storage Facility and retain the PD’s 50 percent limit on utility ownership of storage projects. The PD should be changed to allow a longer time period for requesting a deferment of procurement targets to a future

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<sup>16</sup> *Id.*, pp.7-8; see PD, p. 57, Appendix A, at 6.

<sup>17</sup> Comments of CESA on PD, pp. 7-10.

<sup>18</sup> Comments of the Division of Ratepayers Advocates on PD, pp. 5-6.

solicitation and should ensure that the creation of a common bid-evaluation methodology embraces data transparency and does not delay meeting the procurement targets.

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Respectfully submitted,

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