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.	)))	R.12-03-014 (Filed March 22, 2012)

CALIFORNIA ENVIRONMENTAL JUSTICE ALLIANCE'S

TRACK 4 REPLY BRIEF

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Dated: December 16, 2013

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SUMMARY OF RECOMMENDATIONS

This Summary of Recommendations is included pursuant to Rule 13.11 and covers the recommendations of both the Opening and Reply Briefs of the California Environmental Justice Alliance ("CEJA").

***RECOMMENDATION 1*:** CEJA urges the Commission to find that Southern California Edison (SCE) and San Diego Gas and Electric (SDG&E) have no need for additional procurement to meet their long-term local capacity requirements (LCR) needs at this time.

RECOMMENDATION 2: If the Commission finds there is an LCR need, which CEJA believes there is not, CEJA urges the Commission to limit any procurement authorization to preferred resources.

RECOMMENDATION 3: The contingency plans requested by SDG&E and SCE are not needed at this time. There are better means of providing for delays in construction of transmission projects, the implementation of preferred resources, or other eventualities that do not impose the same burdens on ratepayers. The use of SDG&E's WECC-certified SPS is one such measure. CEJA also recommends that the Commission seek short-term (2-4 year) extensions of Encina and other OTC plants in order to allow resources such as the energy storage required by the recent storage decision to come online.

RECOMMENDATION 4: On December 11, 2013, the CEC adopted the CEC Energy Demand 2014-2024 Final Forecast. This Final Forecast provides the most up to date snapshot of the current needs of the system. CEJA recommends the Commission either extend Track 4 or, on its own motion, take official notice of the CEC Energy Demand 2014-2024 Final Forecast in order for this new demand data to be properly studied and incorporated into this proceeding.

RECOMMENDATION 5: CEJA recommends that the Commission support SCE's Living Pilot proposal in a different, more appropriate proceeding and urges expansion of the Pilot's scope to include additional territories. CEJA further recommends that the Commission urge SDG&E to develop a similar project that would, as in SCE's case, be considered in another proceeding.

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The California Environmental Justice Alliance (CEJA) respectfully submits this Reply Brief pursuant to the schedule decided by the Administrative Law Judge at the evidentiary hearing.

INTRODUCTION

The purpose of this track is to determine if the retirement of the San Onofre Nuclear Generating Station ("SONGS") will lead is a local reliability need by 2018 and 2022 in the Los Angeles Basin area and in the San Diego sub-area. The unexpected retirement of SONGS resulted in the loss of 2200 MW of carbon-free generation capacity and attendant voltage support in a key location.

While the unexpected retirement of such a significant resource created an need for some response, SONGS in fact has not been in operation since January of 2012. During the two years since then the near-term concerns regarding potential reliability problems have been addressed successfully while long-term solutions are being implemented.[1] The reactive power supplied by SONGS has been replaced or will be replaced by already-approved transmission solutions such as synchronous condensers.[2] California's continuing record of excellence in energy efficiency

[1] *See* Sierra Club Opening Brief at p. 18.

[2] This is not to say that further reactive power solutions are unnecessary. See CEJA Opening Brief at pp. 32-34 for a discussion of reactive power and its potential impact on residual need in the SONGS study area.

and other demand side resources has reduced projected energy demand significantly in the SONGS study area, thereby substantially reducing the need to replace the real power generation formerly supplied by SONGS. With continued development of clean energy sources such as solar and wind power, the anticipated development of much-increased energy storage capacity, and the implementation of smart meters and smart inverters, California has an historic opportunity to create a new energy supply system.

However, there are parties who would have the Commission treat the SONGS retirement as a catastrophic event and who urge the replacement of a significant carbon-free energy source with polluting gas-fired generation. This sort of "solution" would obviously exacerbate the already severe air pollution in the region, with resulting damage to public health. Moreover, such a "solution" would undermine California's climate targets by replacing a carbon-free energy source with carbon-intensive generation. The most that can be done in this proceeding with respect to California's climate policy of eliminating GHG emissions is to avoid making the problem worse. The Commission should make that result a priority in this proceeding.

This proceeding occurs at a crossroads. As SCE states, the combination of OTC retirements and the SONGS retirement "creates an unprecedented opportunity to modify the power grid in Southern California."[3] Whatever that modification consists of is likely to have long-lasting ramifications, given the expense of the resources under consideration and the length of time they are likely to be in operation. If California does not seriously reduce the GHG impacts of its long term decisions, California will fail to meet its GHG requirements and targets. When deciding the parameters for LCR procurement, the Commission should ensure compliance

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[3] SCE Opening Brief at p. 12.

with AB 32, which requires significant emission reductions in the utility sector.[4] Different resource mixes will result in dramatically different GHG levels.[5]

Obviously, fossil-fuel sources emit more GHGs than preferred resources. Meeting AB 32's goals and staving off the more disastrous climate change impacts requires immediate and substantial emissions reductions.[6] Reaching our GHG goals will require a transformation in the energy sector "that dramatically reduce[s] dependence on fossil fuels."[7] Allowing significant new sources of GHG emissions will hinder California's ability to meet its required GHG goals. As Sierra Club stated: "A transition to zero- and near-zero emission technologies is necessary to meet 2023 and 2032 air quality standards and 2050 climate goals."[8]

Fortunately, the evidence before the Commission demonstrates that keeping GHG emissions at SONGS levels is a realistic possibility, and the most effective result for ratepayers. When the most current available information regarding forecasted demand is considered along with potential transmission and reactive power solutions and proper consideration of all available resources (including demand response, distributed solar, energy efficiency, and energy storage), the evidence shows little or no residual need even under the extreme and unlikely circumstances on which the modeling in this proceeding is based. If the Commission should find that such need exists, it can and should be met with preferred resources as mandated by the Loading Order.

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[4] AB 32 mandates that California reduce GHG emissions to 1990 levels by 2020. Cal. Health & Safety Code § 38550. California Executive Order S-3-05 requires an 80 percent reduction below 1990 levels by 2050.

[5] *See* CPUC and CEC Final Opinion on Greenhouse Gas Regulatory Strategies, in R.06-04-009 at p. 34, http://www.energy.ca.gov/2008publications/CEC-100-2008-007/CEC-100-2008-007-F.PDF (finding that "different resource policy scenarios result in very different levels of GHG emissions in 2020.")

[6] Ex. CEJA-2 (May Supporting Documents) at pp. 107-08 (AB 32 Scoping Plan) ("Reducing greenhouse gas emissions to 1990 levels means cutting approximately 30 percent from business-as-usual emission levels projected for 2020, or about 15 percent from today's levels. . . Getting to the 2020 goal is not the end of the State's effort. According to climate scientists, California and the rest of the developed world will have to cut emissions by 80 percent from today's levels to stabilize the amount of carbon dioxide in the atmosphere and prevent the most severe effects of global climate change.").

[7] *Id*. at p. 108 (AB 32 Scoping Plan).

[8] Opening Comments of Sierra Club California on ALJ Gamson's Questions from the September 4, 2013 Prehearing Conference ("Sierra Club Comments"), p. 3 & n. 5 (quoting South Coast Air Quality Management District, Final 2012 Air Quality Management Plan (Dec. 2012) at pp. 1-20).

There is no need for additional gas-fired power plants to maintain grid reliability. Procurement of new gas-fired power plants in response to the SONGS shutdown would only serve to needlessly increase cost and environmental and public health impacts to the region's ratepayers.

DISCUSSION

I. The Commission, Not CAISO, Should Make Policy Decisions Regarding Cost, Environmental Impact, Reliability, and Long-Term Procurement

A number of the issues that have arisen in Track 4 involve significant policy choices. One such issue is the fundamental question of who decides how resource need is to be determined. Another is to what extent the most current available information regarding demand, energy efficiency, and energy storage should be considered. A third such issue is whether to consider SDG&E's existing WECC-approved SPS as a potential mitigation to the multiple contingency event on which the modeling done by CAISO and the IOUs was based. And a fourth is whether resources that will exist in different form by the end of the study period should be accounted for despite CAISO's view that they currently do not qualify as local capacity resources.

The choices to be made regarding these issues have enormous potential impact on the environment and on ratepayers. CEJA respectfully submits that only the Commission has the ability to appropriately balance the competing factors involved in these decisions, that only the Commission has the authority to do so, and that the Commission should not defer to CAISO or the IOUs in making such decisions.

CAISO's policy choices in particular are driven by its desire for maximum grid reliability under even the most unlikely circumstances. It has been suggested in these proceedings that

CEJA and other parties concerned about the environmental and cost ramifications of CAISO's decisions are in essence requesting the Commission to "take on the role of system planner and, in effect, overrule the CAISO's determination regarding the reliability criteria that should apply to the transmission system."[9] That is not at all the case: CEJA is simply pointing out that long-term procurement decisions by the Commission require a balancing of different factors than transmission planning, and that the Commission's job is in part to question the assumptions used by CAISO.

CEJA's position on this issue is in line with Commission precedent. In D.13-03-029, for example, the Commission noted that CAISO's choice of assumptions to be used in determining LCR need was not binding on the Commission.[10] And in Track 1 the Commission emphasized the "significant difference between the ISO's reliability mission under § 345 and the Commission's reliability emphasis under § 380(c) is that the Commission must balance its reliability mandate with other statutory and policy considerations. Primarily, these considerations are reasonableness of rates under § 451 and § 454 and a commitment to a clean environment under Pub. Util. Code sections including § 399.11 (Renewables Portfolio Standard) and § 454.5(b)(9)(C) (Loading Order)."[11]

CAISO and others appear to believe that these considerations are inconsistent with reliability. CEJA respectfully disagrees. In light of the enormous adverse environmental implications of CAISO's position and the added burden imposed on ratepayers, CEJA submits

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[9] SDG&E Opening Brief at p. 27.
[10] D.13-03-029 at p. 9.
[11] D.12-02-015, Conclusion of Law No. 1, at pp. 126-127.

that the choices made by CAISO are the wrong choices for California and that the Commission, not CAISO, should be weighing the factors that determine policy choices of this magnitude.

II. CEJA Recommends that the Commission Utilize the Most Recent CEC Demand Forecast to Adjust CAISO's and the Utilities' Model Results

CEJA's opening brief, as well as NRDC's and Sierra Club's, recommended that the Commission adopt the updated September 2013 findings of the most recent CEC Demand Forecast and adjust CAISO's and the utilities' model results downward accordingly.[12] The mid-case 1-in-10 peak load in the September 2013 update showed a projected reduction in need of 1,321 MW in 2022; using the mid-case 1-in-10 peak load with an adjustment for Additional Achievable Energy Efficiency (AAEE) would result in a reduction of 3,203 MW in 2022, both as compared to the 2012 CEC Demand Forecast used in the Scoping Memo.[13]

However, since opening briefs were submitted it has come to CEJA's attention that the September 2013 update is no longer the most recent iteration of the CEC's demand forecast. During evidentiary hearings, Mr. Martinez of the NRDC testified that the final version of the demand forecast would likely be adopted in December or January[14] and, as predicted, the California Energy Demand 2014-2024 Final Forecast ("2013 Final Forecast")[15] was adopted by the CEC just last week on December 11, 2013. Therefore, since the Final Forecast "provides a better 'snapshot' of the current needs of the system"[16] than either the September 2013 update and

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[12] CEJA Opening Br. at pp. 17-22; CEERT Opening Brief at p. 38; NRDC Opening Brief at pp. 12-14; Sierra Club Opening Br. at pp. 5-6.

[13] Exhibit CEJA-1 (May Opening Testimony) at p. 42.

[14] RT 2193:20 – 2194:3 (Martinez, NRDC).

[15] California Energy Commission, Staff Final Report, California Energy Demand 2014-2024 Final Forecast, Volume 1: Statewide Electricity Demand, End-User Natural Gas Demand, and Energy Efficiency (December 2013); *available at*: http://www.energy.ca.gov/2013publications/CEC-200-2013-004/CEC-200-2013-004-SF-V1.pdf.

[16] D.07-12-052 at p. 29. *See also* CEJA Opening Brief at pp. 19-20 ("The Commission has previously endorsed using the most recent CEC demand forecast, even in draft form.").

the Scoping Memo (based on the 2012 CEC Demand Forecast), CEJA recommends that the Commission utilize the findings in this, the most recent demand forecast.[17]

CEJA recognizes that the 2013 Final Forecast was approved after the close of the record in this proceeding. Nevertheless, the 2013 Final Forecast clearly contains the most recent and relevant information. In order for this new demand data to be properly studied and incorporated in this proceeding, CEJA recommends the Commission either extend Track 4 or, on its own motion, take official notice of the 2013 Final Forecast.

CAISO, IEPA, SCE, and SDG&E have all stated they do not support using the 2013 Forecast in Track 4.[18] CEJA has already discussed why the resistance of these parties to the use of the must currently available information is misplaced.[19] The fact that the forecast is now final even further undermines any argument against its consideration.

For the reasons discussed above, CEJA recommends that the Commission account for the new information in the California Energy Demand 2014-2024 Final Forecast when making its final decision in Track 4.

III. CEJA Does Not, as CAISO Contends, "Misunderstand" Applicable NERC/WECC Planning Criteria in Arguing that the Contingency on Which CAISO, SCE and SDG&E Base Their Determination of LCR Need is Extremely Conservative

CAISO contends that CEJA, among others, "presented extensive technical testimony on this point, most of which contains misunderstandings and misinterpretations of the applicable

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[17] While the 2013 Final Forecast is more conservative than the September update, its forecasted load is still lower than that used in the Scoping Memo.

[18] CAISO Opening Br. at pp. 35-36; IEPA Opening Brief at pp. 22-23; SCE Opening Br. at p. 21; *Comments of San Diego Gas and Electric Company (U-902-E) Regarding Proposed Modification of the Procedural Schedule for Tracks 2 and 4 of the Long-Term Procurement Plan Proceeding*, filed in R.12-03-014 on Sept. 10, 2013, at p. 3.

[19] CEJA Opening Br. at pp. 20-22; *see* D.07-12-052 at p. 29.

NERC reliability standards."[20] In particular, CAISO states that CEJA witness Julia May testified that the contingency on which CAISO's modeling was based is a Category D event. However, Ms. May did not misunderstand or misinterpret anything: CAISO has simply misstated her testimony. Ms. May simply noted that Sierra Club's expert witness Bill Powers had characterized the contingency modeled by CAISO as a Category D contingency under WECC reliability standards. Ms. May then characterized the event as similar to a Category D event in that it involved three major transmission lines down instead of only two.[21] CEJA's point was not to determine which opinion was technically correct, but simply to highlight that the existence of a debate between qualified experts indicates that the use of this scenario to determine LCR need in Track 4 is extremely conservative. The significance of that point was to highlight the level of comfort the Commission can take in that fact when considering whether any need exists at all. The margin of error provided by the use of this extreme, unlikely scenario is easily great enough to ease any concerns regarding the supposed uncertainty that new resources already in development will materialize in the next decade.

IV. CAISO's Study Undercounts Preferred Resources Included in the Scoping Memo as "Second Contingency" Resources

CAISO refuses to adjust its calculation of residual need to account in any way for the 997 MW of demand response or the 278 MW of incremental PV characterized by the Scoping Memo as Second Contingency resources.[22] CAISO has attacked CEJA for supposedly mischaracterizing the terms of the Scoping Memo but, as shown below, CAISO's treatment of

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[20] CAISO Opening Br. at p. 20.

[21] Exhibit CEJA-1 (May Opening Testimony) at p. 30; Exhibit SC-1 (Powers Opening Testimony) at p. 3; RT pp. 1931:16-22, 1932:1-6, 1935:19-1940:6 (Powers, Sierra Club).

[22] Second Contingency resources "are not modeled but would be accounted for as potential resources to address any residual need identified by a second contingency condition in the studies." Scoping Memo, Attachment A at p. 2.

these resources is not only inconsistent with the Scoping Memo but also is based on an arbitrary standard that is applied inconsistently.

A. CAISO Undercounted Second Contingency Demand Response

CAISO's justification for refusing to reduce its residual need calculation to account for these 997 MW of resources, projected to be available in 2018 and 2022, is that they do not *currently* meet CAISO's definition of local capacity resources. However, that definition apparently is non-existent, or subject to CAISO's self-assumed discretion.[23] The closest CAISO has come to identifying characteristics required before demand response can be considered a local capacity resource is that it is dispatchable within 30 minutes. The flaws in CAISO's treatment of Second Contingency demand response are several:

1. If the demand response in question did have the 30-minute capability CAISO insists upon, it would have been categorized as a First Contingency resource to begin with. CAISO apparently believes that, by definition, Second Contingency demand response cannot have LCR value. Requiring a Second Contingency resource to have First Contingency characteristics is at odds with the intent of the Scoping Memo;[24]
2. CAISO apparently assumes that it would not have already called upon the Second Contingency demand response much earlier in response to the extreme weather conditions assumed in the modeled scenario: a 1-in-10 year event;
3. CAISO does not impose the same 30-minute response time on slow-starting gas fired generation, but treats such resources as LCR capable and reduces residual need by their MW value. CAISO explained that in a high-load situation such as a 1-in-10 year situation it would have called upon such generation in advance, but

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[23] *See* EnerNoc Opening Br. at p.p. 15-16.

[24] It also is largely inconsistent with CAISO's own testimony in Track 1. See D.13-02-015 at pp. 53-54.

had to admit that the same advance notice would enable demand response as well[25]; and

4. CAISO deducts the entire Track 1 authorization from residual need, despite the fact that up to 750 MW of that authorization could consist of preferred resources of an undetermined character, all of which are uncertain as to location.

CAISO's aversion to acknowledging demand response as a resource and its insistence on measuring *future* demand response capability by *current* standards are at odds with the Commission's position regarding demand response. The Commission's treatment of demand response in Track 1 is instructive.

In Track 1 CAISO refused to consider demand response in its forecast despite the fact that demand response, along with energy efficiency, is at the top of the Loading Order.[26] CEJA contended that CAISO should have included 1064 MW of demand response out of the 2224 MW calculated by CEJA to be available in the LA Basin. Other parties urged the Commission to find even larger amounts of demand response, as much as 3000 MW.

In response, CAISO took a familiar position: it argued that while it might be possible to use demand response to develop specific demand response programs which would be able to count for reliability purposes, including programs targeted to specific local areas or to shave peak load to reduce the load forecast, there were no existing programs that CAISO believed met reliability criteria.

The Commission noted that in D.11-10-003 it had adopted protocols for counting demand response resources for reliability purposes and required that, effective in 2013, demand response resources must be dispatchable locally to count as RA resources.[27] The Commission then noted that it was moving forward in other proceedings "to promote cost-effective demand response and

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[25] RT at pp. 1604-1608 (CAISO, Millar).
[26] D.13-02-015 at p. 51.
[27] *Id*. at p. 54.

to integrate demand response programs as reliability resources."[28] The Commission also stated: "We fully expect that innovative demand response programs will continue to develop, including those that possess characteristics that are consistent with ISO local reliability criteria."[29]

After reviewing its most recent demand response decision, which acknowledged that the role of DR would expand from that of an emergency and peak demand management tool into a more varied tool and articulated the Commission's commitment to integrating DR into CAISO's wholesale energy markets, the Commission stated: "[w]e reiterate our commitment to a strong demand response program consistent with D.12-04-045. We agree with parties who contend that demand response resources are likely to be able to provide capabilities which should reduce LCR needs recommended by the ISO."[30] While the Commission only assumed conservatively, for purposes of Track 1, that a nominal level of 200 MW of dispatchable demand response resources would be available in the LA Basin to reduce LCR needs by 2020, the Commission also acknowledged the likelihood that the actual number in 2020 would be closer to the 1064 MW estimated by CEJA. Notably, the total the total demand response identified in the Scoping Memo for the same LA Basin area is 997 MW.

The Scoping Memo states an expectation that these programs could become more capable of meeting needs by 2022 while also noting that further action would be needed to make that a reality, and that the study results "shall provide a broad assessment of local area needs that inform the programs of 'Second Contingency' resources such that they can adapt to meet the residual need."[31] CAISO's study is admittedly a deterministic snapshot of certain moments in time, but CAISO's treatment of preferred resources seems to assume that the pertinent moment is

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[28] *Id.*

[29] *Id.* at p. 55.

[30] *Id.*

[31] CAISO's treatment of the Second Contingency demand response based solely on current capabilities is also at odds with its stated position that it is working diligently with stakeholders to determine how to use demand response for local resource needs. Further, Mr. Millar expressed optimism that preferred resources, including new or existing demand response programs, "can be shaped to meet local capacity requirements." RT at 1692 (Miller, CAISO).

the present rather than 2018 and 2022. The Scoping Memo envisions development of demand response capabilities in the future. It is these future capabilities that are at issue here.[32] CAISO's imposition of a 30-minute requirement in order for demand response to reduce residual need is arbitrary. EnerNOC has noted that no other ISO or RTO requires demand response resources to be dispatched within 30 minutes in order to qualify as a local capacity resource. Instead, to qualify, these DR resources simply need to be located in the local area and dispatched as instructed by the ISO or RTO.[33] That is consistent with the Commission's treatment of demand response for RA purposes. And, as both CEJA and EnerNoc have pointed out, CAISO's own testimony reflects that a 30 minute response time is not universally required for other "local capacity resources." CAISO treats a long-start gas-fired resource that is not already committed, and therefore unable to respond within 30 minutes to a contingency event, as meeting LCR need simply because of their location in the local capacity area.[34] CAISO witness Neil Millar testified that if it were in a high-load situation, CAISO would have committed such long-start resource ahead of time.[35] The same advance notification that would help prepare the generation fleet to respond would be equally as helpful to timely response by DR resources.[36]

CAISO's further explanation of why 997 MW of available demand response could only be used to respond to a Category D event, an event that is not modeled or even relevant here, is confusing at best. CAISO's basic premise – that because the second contingency resources are intended for use after the second contingency occurs they can only be used in Category D contingencies -- is incorrect. The Scoping Memo set out three kinds of resources: basic resources, first contingency resources and second contingency resources. None of these are slated for use depending on whether the event is Category C or D – the Scoping Memo is

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[32] RT at 1604, 1608 (Millar, CAISO).
[33] EnerNoc Opening Br. at p. 16.
[34] RT at 1692 (Millar, CAISO).
[35] *Id.*
[36] *See id.*

agnostic to this system of categorization. The only contingency with which the assumptions are concerned is the N-1-1 that the Commission requested CAISO model. To model the N-1-1 contingency, the Scoping Memo sets out two categories of DR – fast DR, for use after the first contingency; and other DR, for use after the second contingency. The Scoping Memo specified that second contingency resources should not be input into the model, but should be used to address residual need coming out of the model.[37] CAISO simply did not use these resources to address the residual need.[38]

CAISO asserts that its "modeling is precisely in line with the language of the Scoping Memo's assumptions, which state that:

> To be consistent with the 2012 Load Impact Report, the remaining amount of LA Basin DR forecasted in the report shall be accounted for as a "Second Contingency" resource, i.e. a resource that is available to prepare for subsequent contingencies.[39]

CAISO acknowledges, as it must, that this language does not use the phrase "extreme contingency," but contends that "clearly the Commission acknowledged that the 997 MW of additional demand response would be available after the second overlapping contingency, which is a Category D event and for which involuntary load shedding would be permissible."[40]

CAISO is putting words in the Commission's mouth. The Scoping Memo does not say anything about what category this second contingency would constitute, nor, as CAISO acknowledges, does the Commission characterize it as an "extreme contingency." In fact, CAISO ignores the actual definition provided in the Scoping Memo, Attachment A, which states that Second Contingency resources "are not modeled *but would be accounted for as potential*

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[37] Scoping Memo, Attachment A at p.2.

[38] RT at p. 1451:15-18 (Sparks, CAISO) (DR not subtracted); pp. 1453-1454 (small PV not subtracted because CAISO's understanding was that they were not intended to prepare for second contingency, they were for use after second contingency.)

[39] Scoping Memo, Attachment A at p. 5. *See also* CAISO Opening Brief at p. 13.

[40] CAISO Opening Brief, p. 13.

resources to address any residual need identified by a second contingency condition in the studies."[41] The second contingency modeled by CAISO is not, according to CAISO, a Category D event; the need identified by a second contingency condition would be the need to *prevent* a Category D event, not to address one.

B. CAISO Failed To Account Properly For Incremental Rooftop Solar

CAISO similarly attacks CEJA for pointing out CAISO's failure to account for the 278 MW of customer-side incremental PV identified in the Scoping Memo as a Second Contingency resource. CAISO criticizes Ms. May for not addressing "the difficulty in determining customer locations for these resources which was the primary reason that they were recognized as second contingency resources."[42] However, as CEJA pointed out in its opening brief, the Scoping Memo directs CAISO to determine the most effective busbars where customer-side PV should be located in order to address those contingencies: "[o]nce those locations are identified, the Commission can then direct customer-side generation programs, like the California Solar Initiative or other efforts, to target those locations."[43] This direction indicates that CAISO should be supplying information upon which the Commission can act to make these resources effective for LCR needs, not refusing to acknowledge those resources because of locational uncertainty.

III. Load Shedding Should Be Assumed, At Least As An Interim Measure

As CEJA argued in its opening brief, CAISO's decision to assume that load shedding will not be used to mitigate the N-1-1 contingency is not one that the Commission must, or indeed should, accept.[44] It is an entirely discretionary policy decision, not required by applicable

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[41] *Id*. (emphasis added).
[42] CAISO Opening Brief at p. 16.
[43] *Id*. at p. 10.
[44] CEJA Opening Br., at p. 29.

planning standards, and it is not supported by a probabilistic analysis or cost-benefit analysis.[45] This policy decision was not even reached by CAISO's board of directors, and the Commission is in no way obligated to accept it.

A. The Commission must consider more than just reliability.

Many of the parties that urge the Commission to adopt CAISO's decision to assume no load shedding have misunderstood or overlooked the difference between the guiding principles of CAISO and those of the Commission. These parties point out that from a reliability standpoint, the assumption of no load shed is preferable. All things being equal, this would certainly be a true statement. However, while reliability is clearly desirable, reliability at any cost brings into play a different calculus, and reliability is not the only goal of the Commission's long-term resource planning.[46] Instead, the Commission has a duty to ensure that customers receive reasonable service at just and reasonable rates,[47] based on the "key principle that costs borne by ratepayers should closely match benefits they receive."[48] Utility investments must be used and useful in order to receive rate base treatment,[49] a standard that is satisfied if a utility can show a "reasonable need[;]"[50] where a project "subject[s] the ratepayers to unacceptable risks"

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[45] *See* CEJA Opening Br., at p. 29.

[46] In contrast, IEP's Opening Brief "urge[s] the Commission to continue its historical and statutory commitment to ensuring the highest practical level of reliability at the lowest feasible cost." IEP Opening Br. at pp. 2-3 (citation omitted).

[47] *PG&E v. Public Utilities Com.* (2004) 118 Cal.App.4th 1174, 1198; *see also* Cal. Pub. Util. Code § 454.5.

[48] *See Toward Utility Rate Normalization v. Public Utilities Com.* (1988) 44 Cal.3d 870, 877 (Section 454.8 of the Public Utilities Code codifies the "key principle" that costs borne by ratepayers should closely match benefits they receive) (internal quotation marks omitted).

[49] *See* D.09-06-049 at p. 47 ("the Commission has an ongoing duty to ensure that utility investments result in infrastructure that is used and useful."); *see also* Cal. Pub. Ut5il. Code § 454.8.

[50] *Cf.* D.05-12-020 at pp. 20, 44 (finding equipment was "used and useful" because utility had established its "reasonable need").

and the utility fails to make "an adequate showing of need," the costs to the ratepayer would not be just and reasonable.[51]

CEJA submits that no adequate showing of need has been made in this case that would justify the cost of new resources to address the extremely unlikely event modeled in this proceeding. Moreover, it is worth noting that opting for reliability levels approved by NERC through the use of an SPS approved by WECC is hardly a rash act, given the mandate of both agencies to assure grid reliability throughout North America and the Western United States, respectively.

B. CAISO's Refusal to Use Load Shedding is not Required by Applicable Planning Standards or by CAISO Policy

CAISO acknowledges that the applicable WECC and NERC standards would permit load shedding in response to Category C contingencies, but that CAISO has decided not to use load shedding to mitigate the N-1-1 contingency at issue Track 4.[52] CAISO admits that it has permitted, and currently does permit load shed as an interim measure in densely populated urban areas for time periods lasting as long as this study period.[53] Consequently, CAISO's decision not to permit load shedding in response to the Sunrise-SWPL outage is a discretionary one that goes above and beyond what is required under WECC and NERC planning standards, as well as what is required by CAISO's own policies.

CEJA agrees with TURN that CAISO's decision to not use load shedding "is entirely discretionary, is not well-documented or formally approved by the CAISO, and may well impose

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[51] D.11-03-036 at pp. 2-3 (rejecting project that would "subject the ratepayers to unacceptable risks," and holding that the utility failed to make "an adequate showing of need").

[52] CAISO Opening Br. at pp. 17-18.

[53] CAISO Opening Br. at pp. 17-18; RT 1412:14-26.

costs on SCE and SDG&E ratepayers that are not justified by the incremental reliability benefits for such a remote contingency."[54] CAISO did not perform a probabilistic analysis or a cost-benefit analysis on the use of load shed to mitigate the outage of three major transmission lines on the hottest day in ten years.[55] Though CAISO has cost-benefit analysis methodology for determining when load shedding is justified,[56] here CAISO conducted no such analysis, on the grounds that they believed it would be too complex.[57]

A number of parties noted the lack of clarity surrounding the costs and benefits of load shedding.[58] TURN conducted a preliminary cost-benefit analysis and found that allowing load shedding would provide a net benefit to SCE ratepayers under all scenarios analyzed.[59] IEP did not conduct a probabilistic analysis, but opined that the total cost of load shedding is greater than the cost of additional resources.[60] Given the lack of clarity surrounding the potential costs of using load shedding as mitigation in the event that three power lines are out on the hottest day in ten years, the Commission should reject CAISO's decision to not employ load shedding.

NRG argues that the parties in favor of load shedding as a mitigation measure "are not the parties who will have to deal with the aftermath of such widespread outages,"[61] and because

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[54] TURN Opening Br. at p. 5.

[55] *See* CEJA Opening Br. at p. 29; CAISO Opening Br. at pp. 22-23.

[56] Ex. ISO-6, pp. 5-6, 12-14.

[57] Ex. ISO-7, pp. 10:8-11:2; RT at pp. 1432:22-1436:18 (Sparks, CAISO). CAISO's testimony on this point is not entirely consistent, however. Mr. Sparks also testified that the San Diego SPS is a "fairly simple scheme." RT at p. 1407:12-23 (Sparks, CAISO).

[58] *See, e.g.*, NRG Opening Br. at p. 8 ("no party has provided any reliable evidence as to what the true costs . . . of blacking out that much firm customer load within a dense urban area would be."); ORA Opening Br. at pp. 32-34; TURN Opening Br. at p. 6; *but see* IEP Opening Br. at p. 2 (asserting without citation that "[t]he evidence in this proceeding establishes that the potential cost to customers of [load drop] . . . far outweighs the cost of procuring the additional resources that will eliminate the need to rely on blackouts to address the contingency").

[59] TURN Opening Br. at pp. 14, Table 4.

[60] IEP Opening Br. at p. 13.

[61] NRG Opening Br. at p. 8.

these parties do not bear the costs of load shedding, the Commission should thus adopt CAISO's decision to not use load shedding. However, the parties advocating for the use of load shedding are largely those parties representing ratepayers and environmentally burdened communities who would bear the burden of higher electricity rates and increased pollution should the Commission decide to authorize additional procurement instead of load shedding mitigation. In other words, many of the parties opposing load shedding do so because the costs imposed on them would not closely match the benefits they would receive.[62]

D. If the Commission Does Defer to CAISO's Discretion, the Commission Should Still Authorize Load Shedding as an Interim Solution.

If the Commission decides to defer to CAISO's discretion and not permit load shedding as a long-term planning solution, the Commission should still authorize load shedding as an interim measure. This would be consistent with CAISO's stated policy of permitting load shedding "as an interim measure only until the permanent solution can be put in place."[63] SDG&E witness John Jontry and CAISO witness Robert Sparks both agreed on cross examination that the use of an SPS as an interim measure while new preferred resources, transmission mitigations or generation were being developed could be appropriate.[64] Therefore, the Commission should approve the use of load shedding as an interim measure while transmission mitigations (such as the Mesa Loop-In) or generation (such as uncommitted preferred resources) are being developed. This is a far more prudent approach than subjecting

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[62] *See Toward Utility Rate Normalization v. Public Utilities Com.* (1988) 44 Cal.3d 870, 877 (Section 454.8 of the Public Utilities Code codifies the "key principle" that costs borne by ratepayers should closely match benefits they receive) (internal quotation marks omitted).

[63] CAISO Opening Br. at p. 18.

[64] RT at p. 1710:10-1711:12 (Jontry, SDG&E); RT 1411:1-1413:13 (Sparks, CAISO).

ratepayers to unreasonable risks by authorizing new procurement "just in case" to deal with a contingency that could be addressed via load shedding.

V. SDG&E

A. The Commission Should Reject SDG&E's Procurement Authorization Request Because there is Zero Need for New Generation in the San Diego Area

In its opening brief, SDG&E proposed to pursue the following mix of resources to meet local capacity need:

- *Assumed Preferred Resources*: 408 MW of incremental preferred resources, comprised of 338 MW of energy efficiency (in the context of the Commission's dedicated EE proceeding), 20 MW of CHP, 30 MW of rooftop solar, and 20 MW of "dependable peak reduction associated with local renewable generation[;]"
- *Demand Response/Energy Storage*: 70-120 MW of demand response ("DR") and/or energy storage ("ES") resources "in the Commission proceedings dedicated to each such resource[;]"
- *Supply Side Procurement*: 500-550 MW of "long lead-time supply-side resources, such as conventional generation and/or renewable resources."[65]

SDG&E's use of these numbers simply ignores the facts; it could substantially reduce its procurement request if it used resource numbers that are already known.

While SDG&E claims it will hold 70-120 MW "open to be filled with DR and/or ES resources" in the future, it actually has nearly 70 MW of DR available right now and is already committed to procuring 165 MW of ES by 2020. In its opening testimony, SDG&E did not

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[65] SDG&E Opening Br. at pp. 8-9.

model any demand response and instead chose to reduce its requested procurement by the aforementioned 70-120 MW to account for "possible growth in demand response and/or other preferred resources."[66] In its brief, SDG&E narrowed the possible resources available for those 70-120 MW by changing "preferred resources" to just "energy storage."[67] However, even though SDG&E refused to model any demand response and reduced its procurement request to account for the possibility of the future growth of DR, SDG&E readily admitted it is currently capable of dispatching as much as 65 MW of demand response.[68] Of this 65 MW, 20 MW can be dispatched in thirty minutes or less;[69] the remaining 45 MW gets called the day ahead of a possible peak load.[70] Though SDG&E states that the 45 MW of day ahead DR does not meet CAISO's criteria for local needs,[71] those megawatts are available right now and have been used to successfully respond to actual peak load events.[72] As such, the Commission should consider the full 65 MW of DR able to address SDG&E's local needs.[73]

SDG&E will also soon begin the process of procuring 165 MW of energy storage as ordered in the Commission's recent "Decision Adopting Storage Procurement Framework and Design Program."[74] That amount will be procured incrementally through biennial solicitations

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[66] Ex. SDG&E-1 at p. 7:4-8 at p. 7:4-9.
[67] SDG&E Opening Br. at p. 8.
[68] RT at p. 1805:5-12 (Anderson, SDG&E). *See also*: Ex. CEJA x SDG&E-6.
[69] Ex. SDG&E-1 at p. 12, FN 12.
[70] RT at p. 1857:7-10 (Anderson, SDG&E).
[71] *Id*.
[72] Ex. CEJA x SDG&E-6 ("SDG&E deployed 52 MW of demand response during the system peak hour on September 14th 2012. SDG&E estimates a total of 65 MW of demand response based on existing DR under contract and DR pricing programs was available that day.").
[73] See also the discussion of the arbitrary nature of CAISO's imposition of a 30-minute requirement for demand response *supra* at p. 18.
[74] D.13-10-040 at Appendix A, p. 2, Section 2(a).

from 2014 through 2020, with the full amount procured by 2020 and online by 2024.[75] As explained in greater detail in CEJA's opening brief, SDG&E and the Commission should include the entire 165 MW of ES from the Energy Storage Decision when making its need determination.[76]

Despite a decision from the Commission ordering procurement of 165 MW of ES and the presence of 65 MW of currently functioning demand response, SDG&E nevertheless asserts it will "[hold] 70-120 MW open to be filled with DR and/or ES resources in the Commission proceedings dedicated to each such resource"[77] as though they had no knowledge of the 230 MW of (combined) resources. The 65 MW of existing DR alone would practically put SDG&E in its 70-120 MW range. Considering that the Commission is presently holding a proceeding dedicated to prioritizing DR and has already chastised SDG&E (and SCE) for its historical record of underutilizing its DR programs,[78] its failure to acknowledge those 65 MW seems inappropriate. Similarly, the 165 MW of ES would fill the 70-120 MW with 45 MW to spare.

Clearly, the 230 MW of DR and ES is more than enough to fulfill SDG&E's 70-120 MW DR/ES allotment. If SDG&E had sincerely wished to honor the Loading Order, it could have applied these 230 MW of known demand response and energy storage resources to its procurement request and reduced it from 500-550 MW to 270-320 MW and then fulfilled the 70-120 MW with new DR and/or ES; had SDG&E desired to be more conservative, they could have applied 120 MW to the 70-120 MW allotment and the remaining 110 MW to the procurement

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[75] *Id*. at Appendix A, p. 5, Section 3(a) and Appendix A, p. 1, Section 2(a).

[76] CEJA Opening Br. at pp. 34-39.

[77] SDG&E Opening Br. at p. 8.

[78] R.13-09-11 at pp. 1 and 7 ("The Staff Report indicates that, historically, SCE and SDG&E underutilized demand response programs and dispatched their power plants to meet peak demand far more frequently in comparison to demand response programs. The demand response programs were not utilized to their full Resource Adequacy capacity even during extremely hot weather conditions.").

request, reducing it to 390-440 MW. SDG&E instead chose to ignore the 230 MW of DR and ES entirely and request a substantially larger supply side procurement.

SDG&E could further reduce its need by allowing load shedding to mitigate the N-1-1 contingency involving the Southwest and Sunrise Powerlinks.[79] In its studies, SDG&E compared the N-1-1 without load shedding to "the worst G-1/N-1 limiting contingency" with load shedding and found the difference in resource requirements to be 150-250 MW.[80] SDG&E's Mr. Jontry dismissed the 150-250 MW by calling it a "relatively modest difference" and noting that "150 MW of additional generation represented less than 3% of the forecast peak load in the San Diego area…"[81] However, comparing the 150-250 MW reduction of resource requirements to forecast peak load places it in the wrong context: a reduction of resource requirements should be compared to the amount of resources requested. In this case, that is SDG&E's 500-550 MW of supply side procurement. Subtracting 150-250 MW from that procurement request leads to a 27-50% reduction in requested procurement, hardly a "modest difference."[82]

As demonstrated above, the need reductions from load shedding, existing demand response, and the energy storage decision are significant. Reducing SDG&E's 500-550 MW procurement request by 150-250 MW for load shedding, 65 MW for DR, and 165 MW for ES results in a need of only 20-170 MW. Moreover, this substantial decrease comes before

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[79] CEJA argued in favor of permitting load shedding in its Opening Brief at pp. 27-29 and *supra* at pp.21-25. Others including CEERT, Sierra Club, ORA and TURN have argued similarly in their Opening Briefs as well.

[80] Ex. SDG&E-3 at p. 11, Table 2. *See also:* SDG&E Opening Brief at pp. 24-25.

[81] Ex. SDG&E-4 at pp. 2-3. *See also:* SDG&E Opening Brief at p. 25.

[82] Reducing 550 MW by 150 MW is a 27% reduction; reducing 500 MW by 250 MW is a 50% reduction.

considering the impact of energy efficiency savings and changes in the demand forecast,[83] which would easily reduce SDG&E's procurement request to zero.

B. SDG&E is Disingenuous When it Includes Renewables in its Request for Procurement Authorization

In its opening brief, SDG&E asks the Commission to authorize it "to procure 500-550 MW of long lead-time supply-side resources, including conventional generation and/or renewable resources."[84] While CEJA has no doubt that SDG&E is sincere in its desire to pursue the procurement of conventional generation, i.e. gas-fired power plants, there is ample evidence to support the contention that SDG&E has little or no intention of making a genuine effort to procure renewable resources in this 500-550 MW request. What is more, CEJA finds SDG&E's use of the term "renewable resources" here curious as well as vague; nearly every other party in this proceeding has employed terminology such as "preferred resources" or "all-source" when making a procurement request. The Commission should ask for clarification of SDG&E's definition of "renewable resources" before considering any procurement authorization.

An examination of the "Assumed Preferred Resources"[85] SDG&E proposes to pursue to meet local capacity needs illustrates how SDG&E would likely treat renewable resources in its 500-550 MW procurement authorization request. Of the 408 MW of Assumed Preferred Resources proposed, 83% comes from energy efficiency, 7% from rooftop solar[86], 5% from CHP, and 5% from "dependable peak reduction associated with local renewable generation."[87]

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[83] CEJA Opening Br. at pp. 17-26.
[84] SDG&E Opening Br. at p. 4.
[85] *Id*. at p. 8.
[86] These 30 MW of rooftop solar are in addition to any rooftop solar assumed in the CEC load forecast. *See* Ex. SDG&E-1 at p. 6-7.
[87] SDG&E Opening Br. at p. 8.

Of these four resources, only rooftop solar is typically considered a supply-side "renewable resource" and it accounts for no more than a fraction of this proposal. Even generously considering the "dependable peak reduction associated with local renewable generation" as a renewable resource only increases the total amount to a mere 12%. It may very well be that SDG&E wishes to classify energy efficiency as a "renewable resource," but even if it did, that would still make no difference for the purposes of the 500-550 MW request since SDG&E believes that "the public interest is best served by procurement of preferred resources [including EE] through the relevant dedicated Commission proceeding."[88] Only pursuing EE in its dedicated proceeding would by definition exclude it from a Track 4 procurement authorization. Furthermore, EE solutions are mostly applied to the demand-side, not the supply-side as SDG&E requested. Therefore, SDG&E has explicitly stated it does not want to include its most substantial and (apparently) trusted resource – EE – in its request and shows no desire to aggressively pursue any other renewables.

Even an expansive definition of "renewable resources," one that includes all preferred resources, would not bring anything substantial under consideration. Just as SDG&E wants to deal with EE in its dedicated proceeding, it wishes to do the same with demand response and energy storage, the two other significant potential resources.[89] SDG&E has effectively stated it has no intention of including either DR or ES when attempting to find 500-550 MW of resources.

Without EE, DR, or ES; with minimal regard given to rooftop solar resources (to say nothing of CHP); and no evidence indicating SDG&E is even considering the pursuit of wind

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[88] *Id.* at p. 34.
[89] *Id.*

power, there are few if any other "renewable resources" for SDG&E to pursue. As such, any claimed pursuit of "renewable resources" for its procurement authorization appears wholly disingenuous; SDG&E's primary goal is clearly the addition of more "conventional" gas-fired power plants to fulfill its 500-550 MW procurement request.

C. SDG&E's Procurement Request for "Supply-Side Resources" Violates the Loading Order

As discussed above, SDG&E recommended that the Commission approve its procurement authorization request of 500-550 MW of "long lead-time *supply-side resources*, such as conventional generation and/or renewable resources."[90] However, California's loading order does not give supply-side resources top priority; instead, utilities must give priority to energy efficiency and other demand-side resources, then renewable resources, and finally clean conventional electricity supply.[91] SDG&E may believe that its procurement request can bypass the loading order because it includes "renewable resources" in its request, but as CEJA detailed in the previous section, SDG&E has not demonstrated any sincere intention to seek those renewable resources. SDG&E may also believe it can pursue "supply-side resources" since it proposes to use preferred resources in its "Assumed Preferred Resources"[92] program, but the loading order applies to all utility procurement regardless of whether pre-set targets for certain categories of preferred resources have otherwise been achieved.[93] Therefore, while SDG&E may consider supply-side, conventional resources for its request, the loading order requires it to

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[90] *Id.* at pp. 8-9 (emphasis added).
[91] Cal. Pub. Utilities Comm., 2008 Energy Action Plan Update, at p. 1.
[92] SDG&E Opening Br. at p. 8.
[93] D.12-010-33 at p. 20.

consider energy efficiency and other demand-side resources as well as renewables before getting to gas-fired power.

V. SCE

A good deal of the testimony provided by SCE involves its proposed "Living Pilot," the expressed intention of which is to "aggressively pursue" energy efficiency, demand response and distributed generation in a particular area of the LA Basin.[94] CEJA commends SCE for developing such a project and views it as an important step forward in the integration of clean energy resources. CEJA recommends that the Commission support the Pilot at the appropriate time and urges that the scope of the Pilot be expanded to include additional territories rather than a single, narrow area. CEJA further recommends that the Commission urge SDG&E to develop a similar project. Nevertheless, CEJA agrees with Sierra Club that the Pilot has not been presented for consideration by the Commission in Track 4 and should not be addressed here. Moreover, SCE's discussion of the Living Pilot should not divert attention from SCE's actual request, which is for authorization that would allow it to procure combined cycle gas-fired generation.

SCE's only request in Track 4 is that it be allowed to procure 500 MW of resources in addition to those already authorized in Track 1, and to combine that authorization in an RFO with certain Track 1 resources. Although SCE attempts to obscure the fact with extensive discussion of its proposed "Living Pilot" and disingenuous claims of a balanced approach, what it is really requesting is the ability to procure 500-700 MW of gas-fired resources.

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[94] *See* SCE Opening Brief at p.3.

SCE begins by characterizing the purposes of Track 4 as determining the need for resources to replace "all OTC facilities, including SONGS." Among other things, this mischaracterization is the basis for SCE's argument that building new GFG resources would be beneficial to the environment. It is only by comparing new plants to the old OTC plants that this argument can be made. In fact, Track 4 is limited specifically to addressing the need arising from a long-term outage of SONGS. The only comparison to be made in this Track is between new gas plants and SONGS, and obviously new gas plants by that comparison only exacerbate the pollution and GHG emission levels.

SCE then engages in another misleading comparison by suggesting that preferred resources "assumed to be implemented" in Track 1 "would exceed a maximum amount of 1700 M of conventional GFG generation that could be authorized in Tracks 1 and 4, if the Commission authorizes SCE to procure an additional 500 MW of new resources through an all-source procurement in Track 4."[95] In fact, GFG generation constitutes two-thirds of the procurement authorized in Track 1, and adding another 500 MW of GFG to the mix would potentially result in 1700 MW of new GFG generation compared to the minimum preferred resource requirement of 200 MW.

SCE clearly intends to procure GFG generation if it is allowed to combine its requested Track 4 authorization with its Track 1 authorization. SCE characterizes its intended RFO as "all-source," but has admitted that its purpose in attempting to expand its authorization to 700 MW is to allow for the inclusion of Combined Cycle Gas Turbines in the bidding process.[96] Since SCE

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[95] SCE Opening Br. at p. 9. SCE can only reach these numbers by assuming the existence of 1,000 MW of preferred resources that are not reflected elsewhere in their testimony as a reduction in residual need.

[96] SCE Opening Br. at p. 12.

has admitted previously that no preferred resources have ever successfully bid against GFG in an all source RFO, the result would be pre-ordained if SCE's request is granted. In essence, SCE is attempting to re-litigate aspects of Track 1 in which the Commission denied a large part of SCE's request for authority to procure as much as 3400 MW of new generation that would have been filled by GFG.

CEJA agrees with Sierra Club and Vote Solar that SCE should not be allowed to combine any resource authorization in Track 4 with its Track 1 authorization.[97] CEJA further agrees with Vote Solar that it would be appropriate for the Commission to require that SCE fully maximize all LCR procurement already authorized in Track 1 prior to soliciting any additional LCR megawatts authorized in Track 4, to ensure the proper procurement of mandated Preferred Resources and energy storage.[98]

As with SDG&E, SCE pays lip service to the Loading Order; and like SDG&E, SCE pays scant regard to the Loading Order in its proposal. CEJA respectfully submits that the Commission should reaffirm, once again, its strong commitment to the Loading Order.

VI. Loading Order

Though CEJA believes that there is insufficient evidence in this record to support any need finding as a result of the closure of SONGS, if the Commission does make a finding of need, this need must be filled according to the loading order. Specifically, CEJA urges the Commission to authorize procurement of preferred resources only. Given the utilities' history of noncompliance with the loading order, and given that replacing the low-emission SONGS facility with anything but preferred resources would represent a step backwards for the

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[97] Sierra Club Opening Br. at p. 27; Vote Solar Opening Br. at p. 1.

[98] Vote Solar Opening Br. at p. 1.

Commission's environmental protection goals, non-preferred resources procurement should not be authorized.

California's loading order, described in the Commission's Energy Action Plan, establishes a set of priorities for investing in energy supply. In all procurement efforts, utilities must first invest in energy efficiency and demand-side resources, followed by renewable resources, and then clean conventional electricity supply.[99] The loading order applies to all utility procurement, even if pre-set targets for certain categories of preferred resources have already been achieved.[100]

A number of parties have argued that the Commission should authorize all-source procurement for any need that is found.[101] Though both SCE and SDG&E indicate their intent to comply with the loading order in all-source procurement efforts,[102] there is ample reason for the Commission and ratepayers to be skeptical, and for the Commission to instead authorize the procurement of preferred resources only.

Utilities have historically failed to comply with the loading order. In the 2006 LTPP decision, the Commission found that "all three LTPPs were deficient and spotty in regards to addressing filling their net short position with preferred resources from the [Energy Action Plan]

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[99] Cal. Pub. Utilities Comm., 2008 Energy Action Plan Update, at p. 1, *available at* http://www.cpuc.ca.gov/NR/rdonlyres/58ADCD6A-7FE6-4B32-8C70-7C85CB31EBE7/0/2008_EAP_UPDATE.PDF; D.07-12-052.

[100] D.12-010-33 at p. 20 (clarifying that "[t]he loading order applies to all utility procurement, even if pre-set targets for certain preferred resources have been achieved").

[101] *See, e.g.*, CAISO Opening Br. at p. 34, 36; SDG&E Opening Br. at p. 4; NRG Opening Br. at p. 2; TURN Opening Br. at p. 1.

[102] SCE Opening Br. at p. 11 ("SCE will follow least cost, best fit (LCBF) criteria and the Preferred Loading Order in its all source solicitation."); SDG&E Opening Br. at p. 15 ("[I]n accordance with the State's Loading Order, SDG&E's procurement strategy takes account of all preferred resources.").

loading order and particularly inadequate in accounting for GHG emission reductions."[103] Despite the requirement that conventional resources be employed as a last resort, the LTPPs were "for the most part, filling and projecting to fill their projected net short positions with conventional resources."[104] Due to this lack of compliance, the Commission found that "[g]oing forward the utilities will be required to reflect in the design of their requests for offers (RFO) compliance with the preferred resource loading order and with GHG reductions goals and demonstrate how each application for fossil generation comports with these goals."[105] The Commission held that subsequent LTPP filings for all "regulated utilities not only conform to the energy and environmental policies in place, but aim for even higher levels of performance."[106] In the 2010 LTPP, the Commission reiterated concerns that the utilities were filling their net short positions with conventional, rather than preferred resources.[107] Due to this concern, the Commission directed the utilities to "procure additional energy efficiency and demand response resources to the extent they are feasibly available and cost effective,"[108] and that this approach "continues for each step down the loading order."[109]

Given the utilities' spotty history of compliance with the loading order, CEJA urges the Commission to authorize procurement of preferred resources only. As one option, the Commission could authorize the procurement of the approximately 1500 MW of preferred

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[103] D.07-12-052 at p. 3.
[104] *Id.*
[105] *Id.* at pp. 3-4.
[106] *Id.* at p. 4.
[107] D.12-01-022 at p. 21 (citing D.07-12-052 at p. 271).
[108] *Id.*
[109] *Id.*

resources included in the Revised Scoping Memo that CAISO did not model.[110] This procurement authorization is similar to the one proposed by ORA in its opening brief.[111] Furthermore, since SONGS was an extremely low-emission energy source, procurement of resources other than preferred resources would necessarily be a step backwards for the Commission's environmental protection goals. A procurement authorization of only preferred resources would ensure compliance with the loading order and be consistent with the Commission's environmental protection goals, as articulated in both the 2006 and 2010 LTPPs discussed above.

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[110] Ex. CEJA-3 at p. 3 (997 MW of post-second contingency demand response and 496 MW of small-scale customer-side PV). This procurement proposal assumes that these resources were not otherwise used to reduce the need calculation, since if they had been used to reduce the need, need would have been reduced to zero. *See supra* pp. 15-20.

[111] ORA argued in its opening brief that need should first be filled with the approximately 1100 MW of preferred resources that were included in the Revised Scoping Memo but not modeled by CAISO. *See* ORA Opening Br. at p. 14.

CONCLUSION

For the reasons stated above and in its opening brief, CEJA urges the Commission to find that there is no need for procurement of new resources in the SONGS study area at this time, and to deny the request of SCE and SDG&E for such procurement.

Respectfully submitted,

December 16, 2013

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