

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  
(Filed December 16, 2010)

**COMMENTS OF THE  
CENTER FOR ENERGY EFFICIENCY AND RENEWABLE TECHNOLOGIES  
ON THE ASSIGNED COMMISSIONER'S RULING PROPOSAL**

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The Center for Energy Efficiency and Renewable Technologies (CEERT) respectfully submits these Comments on the Assigned Commissioner’s Ruling Proposing Storage Procurement Targets and Mechanisms (ACR). The ACR was issued in Rulemaking (R.) 10-12-007 on June 10, 2013, with an All-Party Meeting with Assigned Commissioner Peterman scheduled and held on June 25, 2013. These Comments are timely filed and served pursuant to the ACR and the Commission’s Rules of Practice and Procedure.

**I.  
THE ACR’S “GUIDING PRINCIPLES” AND ITS “PROPOSED FRAMEWORK”  
REQUIRE REFINEMENT TO MATCH APPLICABLE LAW AND POLICY.**

Section 2 of the ACR is entitled “Guiding Principles and Policy.”<sup>1</sup> According to the ACR, its “proposal for planning, procurement and evaluation of energy storage,” inclusive of “procurement targets for energy storage with the goal of market transformation,” is “guided by the vision and requirements established in AB 2514.”<sup>2</sup> No other policies or principles are offered, other than noting “work accomplished” in this proceeding to date.<sup>3</sup>

However, the ACR itself supports its procurement proposal (“Proposal”) with other statements that simply are not an outcome or directive of AB 2514, adding Chapter 7.7 to the

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

<sup>2</sup> ACR, at p. 3.

<sup>3</sup> Id.

Public Utilities (PU) Code (§§2835-22839) (“Energy Storage Systems”)<sup>4</sup> or any Commission decision. In particular, the ACR states that the “purpose of this proposal is to make storage a priority by virtue of setting targets.”<sup>5</sup> This “priority” for storage appears to relate to its elevation by the ACR to inclusion in the Loading Order of preferred resources. Thus, the ACR concludes that it is not necessary to formally revise the California Loading Order to include energy storage, because the “proposal prioritizes energy storage that optimizes grid operations and acts to reduce greenhouse gas emissions, and in providing such services, energy storage fits within the spirit of the Loading Order.”<sup>6</sup>

CEERT disagrees with this conclusion. To begin with, the Loading Order was developed *jointly* by California energy agencies, including this Commission and the California Energy Commission, and is not subject to change by ruling of one Commissioner. In this regard, the Loading Order was jointly adopted to provide the “priority sequence for actions to address increasing energy needs” that would be followed by these agencies.<sup>7</sup> Accordingly, the “loading order identifies energy efficiency and demand response as the State’s preferred means of meeting growing energy needs,” and “[a]fter cost-effective efficiency and demand response, we rely on renewable sources of power and distributed generation, such as combined heat and power applications.”<sup>8</sup> The Loading Order has been vetted, interpreted, and followed, as written, by the Commission throughout multiple decisions, especially those that provide direction to IOUs’ on resource procurement and planning.<sup>9</sup>

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<sup>4</sup> AB 2514 (Stats. 2010; Ch. 469).

<sup>5</sup> ACR, at p. 21.

<sup>6</sup> ACR, at p. 21.

<sup>7</sup> Energy Action Plan II, at p. 2.

<sup>8</sup> Id.

<sup>9</sup> See, e.g., D.12-01-033, at pp. 17, 20.

CEERT is very supportive of energy storage that is technically and cost-effectively capable of *furthering* the Loading Order preferred resources, such as renewable generation. In fact, that is the intent of AB 2514, which directs “acquisition and use of energy storage systems” that specifically assists in the increased procurement of renewable resources and reduced reliance on fossil-fueled generating facilities.<sup>10</sup>

However, energy storage itself is not a generation resource nor is it intended to meet or count toward Renewable Portfolio Standard (RPS) goals for renewable generation procurement. In addition, for renewables and other Loading Ordering preferred resources, such as energy efficiency and demand response, each is subject to numerous and rigorous statutes, rules, and decisions that limit an Investor Owned Utilities’ (IOU’s) ability to rely on those resources. Thus, to be procured by the IOUs, these preferred resources must pass cost-effectiveness tests (energy efficiency and demand response) or meet specific cost-competitiveness measures or be subject to cost limitations (renewables). Eligibility to even qualify as a technology or resource that can be procured to meet RPS targets is the subject of detailed criteria established by the CEC.

In other words, not only is energy storage not currently part of the Loading Order, but for those resources that are included, there is a high bar, in terms of eligibility, cost, and performance, that each must meet first to even qualify for consideration by the IOUs as resources that can be procured to meet customer energy needs. In contrast, the ACR Proposal seeks to establish procurement targets to encourage market transformation for technologies that “have not yet achieved widespread commercial operation.”<sup>11</sup> Further, the ACR allows each IOU to “be relieved from a declining percentage of its procurement targets with an affirmative showing of

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<sup>10</sup> PU Code §2837.

<sup>11</sup> ACR, at p. 4.

unreasonableness of cost, such as offers as evaluated as cost-ineffective, ... or other showing.”<sup>12</sup>

Such an approach is like putting the cart-before-the-horse, placing eligibility and cost-effectiveness as after-the-fact conditions or considerations in creating procurement targets.

In these circumstances, the fundamentals of the ACR’s Proposal certainly appear to be less rigorous than required for Loading Order resources, for which procurement does not take place *unless* the resource meets specific eligibility criteria and is cost-effective or cost-competitive. CEERT notes, in particular, that the “guiding principles” that have been used, as an example, for RPS procurement mechanisms *including* Renewable Auction Mechanism (RAM), which is used as a basis for the Proposal here, follow that very approach. Namely, “guiding principles” start with requiring the resource to be subject to cost limitations and to provide “maximum value” to ratepayers and the utility.<sup>13</sup>

For these reasons, CEERT urges any decision on establishing criteria or procurement targets for energy storage be “guided” by these additional principles:

- “Energy storage,” while not a Loading Order preferred resource, should be considered a technology that can be used to facilitate increased availability of such resources and reduced reliance on fossil resources.
- Reliance on “energy storage” to promote or facilitate Loading Order preferred resources should be accomplished in a manner that enhances, but does not detract from, increased reliance on those resources to meet energy needs.
- A program for the procurement of “energy storage” should require each eligible technology to be viable and cost-effective or cost-competitive and provide maximum value to the ratepayer and utility.

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<sup>12</sup> ACR, at p. 19.

<sup>13</sup> See, e.g., R.11-05-005 (RPS) ALJ’s Ruling on Staff Proposal on Renewable FIT, Attachment A, at pp. 2-3; R.08-08-009 (RPS) ALJ’s Ruling on RAM Staff Proposal, Attachment A, at p. 6 (“The goal of this program should be to capture the benefits described above at the *least cost to ratepayers*” and “adhere to the CPUC’s core duties and responsibilities, which include ensuring just and reasonable rates.”) In terms of the RAM itself, its pricing mechanism was specifically developed to be “market based” and “sufficient to bring projects online” *without* providing “surplus profits at ratepayers’ expense.”( *Id.*, at p. 7.)

- A program for the procurement of “energy storage” should comply with the law and minimize legal risk, ensure administrative ease and transparency, and be harmonized with other programs for the procurement of preferred resources.

With these guiding principles in mind, CEERT believes that the fundamental approach used in the Proposal for identifying and procuring energy storage needs to be reconsidered. CEERT asks, in particular, that the ACR be revised to eliminate any claim that Energy Storage is now part of the Loading Order and its Proposal modified to require that technology eligibility be determined first based on viability and cost-effectiveness. To the extent that added “value” is considered, the focus of such a value proposition should be on those energy storage technologies that best enhance or facilitate increased reliance on preferred resources and renewable generation, consistent with PU Code Section 2837.

## **II. ACR AND ALL-PARTY QUESTIONS**

While both the ACR and the All-Party Meeting posed questions on the Proposal for party comment, CEERT believes that its overarching concerns stated above must also be addressed and addressed first before the details of the Proposal are finalized. Consistent with that position, CEERT responds to certain of questions posed below, while reserving the right to respond to the other questions in its Reply Comments.

*ACR Questions a. and b./ All Party Meeting Question 1: Please comment on this proposal overall, with emphasis on proposed procurement targets and design, including what projects should count toward the procurement targets.*

According to the ACR, the Proposal’s procurement targets would “ramp up every two years by approximately 33 percent,” with the years representing “the time frame in which projects would be solicited, not necessarily installed.”<sup>14</sup> The ACR states that “[t]he concept is to

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<sup>14</sup> ACR, at p. 8.

allow storage technologies to bid into solicitations when they become ready over time; their capabilities may be evolving rapidly between now and 2020.”<sup>15</sup>

To begin with, as CEERT states in Section I above, no procurement targets should be set until energy storage technology eligibility and cost-effectiveness have been determined. Further, CEERT is concerned that procurement targets for energy storage, without such prerequisites, will only distort the competitive marketplace and will not ensure that the most cost-efficient resources are procured. In this regard, CEERT agrees with Independent Energy Producers Association (IEP) that “[i]nstead of setting mandatory procurement targets for the Investor Owned Utilities (IOUs), the Commission should focus on removing any barriers that prevent storage technologies from competing on a fair basis with other technologies.”<sup>16</sup>

As to the storage auction program design, CEERT believes that a reverse auction mechanism (RAM) should not be utilized for the energy storage Proposal. Instead, any Proposal should begin with (1) ensuring that eligibility criteria is in place that ensures that the storage being procured actually furthers or facilitates renewable generation or reduces reliance on fossil resources as intended by AB 2514 and (2) that the technology is viable and cost-effective or cost-competitive. In this regard, CEERT notes that IEP has recommended that a competitive Request for Offers or an all-source solicitation should be conducted “to determine whether storage is truly cost-competitive compared to other resources.”<sup>17</sup>

In terms of eligibility, the ACR appears to exclude “well-established technologies and applications with proven benefits and the ability to participate in California markets today, such as pumped hydrological storage”<sup>18</sup> CEERT recommends that the ACR actually *include* those

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<sup>15</sup> ACR, at pp. 8-9.

<sup>16</sup> IEP Comments on the Energy Storage Staff Report, at p. 4.

<sup>17</sup> *Id.*, at p. 5.

<sup>18</sup> ACR, at pp. 4-5.

well-established technologies, including pumped storage, in order to lead to a diverse and reliable portfolio. CEERT believes that it may be “premature” to set “far-reaching procurement targets for storage” without confirming viability, as Green Power Institute (GPI) has observed,<sup>19</sup> and that it is important to ensure that the targets are met by the amount of energy storage that is on-line.

ACR Question g./ All Party Meeting Question 2: Comment on how this proposal may be coordinated with Renewable Portfolio Standard procurement plans, as set out in Public Utilities Code section 2837.

CEERT incorporates herein its concerns regarding the ACR’s statements on the inclusion of energy storage in the Loading Order in Section I above. CEERT also agrees with IEP that “[i]nstead of giving storage a preferred status in procurements of resource to meet the state’s energy needs, the Commission should define the operational need and allow anyone who is capable of filling that need to participate in an all-source or RPS solicitation.”<sup>20</sup> Thus, storage is most useful, in terms of resource adequacy (RA), long term procurement planning (LTPP), and RPS compliance, when it enhances the integration of and increases reliance on renewable generation and other preferred resources. Energy storage is not intended to be, and does not function as, a substitute for or to count against such generation procurement, and viable and cost-effective technologies are required to play a meaningful role in meeting RA, LTPP, and RPS goals and needs.

ACR Question i./All Party Meeting Question 3: Comment on how the preliminary results of the cost-effectiveness models should be applied to the question of setting procurement targets/how the cost-containment “off-ramps” for relief from procurement up to each targets should be applied.

CEERT incorporates herein Section I. of the Comments and its responses to the ACR Questions a. and b. and the All Party Meeting Question 1 above. As those comments indicate,

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<sup>19</sup> GPI Opening Comments on the Energy Storage Staff Report, at p. 8.

<sup>20</sup> IEP Comments on Energy Storage Staff Report, at p. 7.

CEERT does not believe that the Proposal starts in the right place for any procurement mechanism. That is, a technology's cost-effectiveness and ratepayer value, especially in terms of facilitating Loading Order preferred resources and reducing reliance on fossil resources, should be established first before determining targets or eligibility for the Program.

### **III. CONCLUSION**

CEERT welcomes this opportunity to provide constructive comments on the ACR's energy storage Proposal. CEERT looks forward to reviewing and replying to the Comments of other parties on the questions posed by the ACR and at the All-Party Meeting.

Respectfully submitted,

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