

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to
Develop an Electricity Integrated
Resource Planning Framework and to
Coordinate and Refine Long-Term
Procurement Planning Requirements.

Rulemaking 16-02-007
(Filed February 11, 2016)

**COMMENTS OF THE CALIFORNIA ENERGY STORAGE ALLIANCE ON THE
PROPOSED DECISION DENYING CALIFORNIA ENERGY STORAGE ALLIANCE
PETITION FOR MODIFICATION OF DECISION 19-11-016**

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In accordance with the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), the California Energy Storage Alliance (“CESA”) hereby submits these comments on the *Proposed Decision Denying California Energy Storage Alliance Petition for Modification of Decision 19-11-016* (“PD”), issued by Administrative Law Judge (“ALJ”) Julie Fitch on June 3, 2020.

I. INTRODUCTION.

CESA appreciates the Commission’s consideration of CESA’s Petition for Modification (“Petition”) of Decision (“D.”) 19-11-016 and recognition of the need that the “Commission should and will do everything possible to expedite the processing of the Tier 3 advice letters that the IOUs file for projects due to come online by August 2021.”¹ Even as the PD denies the relief requested in the Petition, the PD makes important findings, conclusions, and orders that will provide Commission staff with the flexibility to expedite review and approval of contracts resulting from the D.19-11-016 directive. As explained in detail in our Petition, time is of the

¹ PD at 8.

essence, and expedited approval process must absolutely be considered and exercised where reasonable and feasible due to the extremely compressed timelines to procure, construct, and commission projects related to the resulting contracts.

However, CESA recommends some revisions be made to the PD to better reflect the need for expediency and clarify the appropriate pathways and basis for Commission staff to streamline and fast-track contract review. Specifically, CESA recommends:

- Commission staff should have more discretion to reduce or eliminate comment periods on resolutions.
- The Commission should strive to approve the contracts at the July 16, 2020 voting meeting if the contracts are non-controversial.

II. COMMISSION STAFF SHOULD HAVE MORE DISCRETION TO REDUCE OR ELIMINATE COMMENT PERIODS ON RESOLUTIONS.

CESA agrees with the upfront clarification in the PD to allow the investor-owned utilities (“IOUs”) to request expedited treatment in their advice letter submissions (*i.e.*, shortened protest period) and the Commission staff to shorten or waive the comment period on a resolution appearing on the Commission’s agenda. However, the PD conditions expedited processes for the resolution on the basis that no protests are filed on the advice letters submitted for the Commission staff’s review.² CESA believes that such a blanket condition that any protest may prevent the Commission staff from exercising expedited processes granted in the PD. As a result, Commission staff may be unnecessarily hamstrung in their ability to exercise this authority even if there are sufficient grounds to do so.

The condition on any protest submitted on the advice letters may be too permissive if, upon review, Commission staff finds that there are no areas of “controversy”, such as contested areas of

² PD at 8.

fact or non-compliance with specific Commission statutes, orders, or decisions. Any protest submitted by any party, by virtue of being a protest, should not limit the Commission staff's ability to reduce or waive the comment period if arguments made in the protest do not meet the established grounds for protest.³ For example, in reviewing the protests, Commission staff should have the flexibility to assess whether the protests to the advice letters are addressing questions related to compliance with the procurement parameters of D.19-11-016, or raise issues that may be better suited outside of the consideration of the approval of the contracts submitted in the advice letters at hand, such as policy issues through the appropriate Commission rulemakings.

As such, CESA recommends the following revisions to the PD to not condition the use of the expedited processes granted in this PD based on the submission of a protest alone, and instead, give the staff flexibility to consider the appropriate resolution comment period based on whether the protests meet the requirements for grounds for protest, as outlined in GO 96-B:

Conclusion of Law 8. Commission staff should consider shortening or eliminating comment periods on resolutions ~~where no protests were received in response to the advice letter filing.~~

Order 3. Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company may request expedited treatment for Tier 3 advice letters expected not to be controversial, to meet the Decision 19-11-016 requirements for incremental capacity by August 1, 2021. In such cases, where warranted, Commission staff may shorten protest periods, and reduce or eliminate comment periods on resolutions responding to advice letters ~~where no protests are received.~~

³ According to Rule 7.4.1 of General Order ("GO") 96-B, any party, including individuals, groups, or organizations, may protest or respond to an advice letter. In addition, Rule 7.4.2 outlines the grounds for submitting a protest.

III. THE COMMISSION SHOULD STRIVE TO APPROVE THE CONTRACTS AT THE JULY 16, 2020 VOTING MEETING IF THE CONTRACTS ARE NON-CONTROVERSIAL.

The PD focuses on the lack of merit of CESA's request in the Petition to change from a Tier 3 advice letter process to a Tier 2 advice letter process.⁴ However, the Commission should also consider CESA's alternative request to implement a 30-day approval process that leverages the Tier 3 advice letter process.⁵ In hindsight, this request could have been more concisely and clearly highlighted upfront in the Petition for the Commission's consideration, but the arguments in favor of and precedent for a 30-day approval process still stand.⁶ In fact, the arguments made in favor of the 30-day approval process may be more acute today since, at the time of the Petition filing, CESA had assumed the IOUs to submit their advice letter filings around May 1, 2020, where a 30-day approval timeline would ensure early June 2020 contract approval to ensure the timely deployment of new energy storage projects to come online by August 1, 2021. We are now in late June 2020, where developers are currently taking on financing and making equipment procurement decisions at significant risk without Commission approval.

As such, CESA recommends that the Commission should strive to target the scheduled July 16, 2020 Commission voting meeting for approval of the resolution resulting from the advice letters. Where reasonable and where the issues raised in protests are non-controversial, the Commission should aim to draft the resolution as soon as possible and approve the resolution at the earliest feasible date, which we project to be the July 16, 2020 meeting. While earlier approval before the end of June 2020 is preferable, CESA understands that such a timeline may not be feasible given the timing of advice letter submission by Pacific Gas and Electric Company

⁴ PD at 7.

⁵ Petition at 13.

⁶ *Ibid* at 11-13.

(“PG&E”) and Southern California Edison Company (“SCE”) and the issuance of this PD. As noted above, projects are already beginning financing and construction at risk, where such protracted periods of at-risk development should be minimized to the degree possible in order to ensure timely project delivery.

IV. CONCLUSION.

CESA appreciates the opportunity to submit these comments to the PD. CESA understands that the Commission is faced with a challenging balance between expedient yet sufficient/thorough processes. However, for this particular procurement, CESA believes it is reasonable to more heavily weigh more expedient processes given the urgency of the reliability need. Going forward, the Commission should seek to establish longer lead times for project deliveries to better achieve this balance, but in this particular situation of compressed timelines, the Commission and its staff should be granted additional flexibility and discretion to ensure projects are deployed in a timely fashion. Overall though, CESA is deeply appreciative of the Commission’s consideration of the Petition and the flexibility and discretion granted to support expedited processes, where reasonable. We look forward to working with the Commission and stakeholders in this proceeding.

Respectfully submitted,



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CALIFORNIA ENERGY STORAGE ALLIANCE

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