

November 4, 2020

CPUC Energy Division Tariff Unit
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Re: Comments of the California Energy Storage Alliance to Draft Resolution E-5104: Approving with Modifications Pacific Gas and Electric Company’s Advice Letter 5853-E, Southern California Edison Company’s Advice Letter 4229-E, and San Diego Gas & Electric Company’s Advice Letter 3555-E requesting approval of New Qualifying Facilities Standard Offer Contracts, pursuant to Decision (D.) 20-05-006

Dear Sir or Madam:

Pursuant to the provisions of General Order 96-B, the California Energy Storage Alliance (“CESA”) hereby submits these comments to the above-referenced Draft Resolution E-5104 (“Draft Resolution”) issued on October 14, 2020, approving with modifications Advice Letter 5853-E of Pacific Gas and Electric Company (“PG&E”), Advice Letter of 4229-E of Southern California Edison Company (“SCE”), and Advice Letter 3555-E of San Diego Gas and Electric Company (“SDG&E”).

I. INTRODUCTION & SUMMARY.

In Rulemaking (“R.”) 18-07-017, Decision (“D.”) 20-05-006 was issued that adopted requirements for a new Qualifying Facilities (“QF”) Standard Offer Contract (“SOC”) that will be available to any QF of 20 megawatts or less seeking to sell electricity and/or capacity to PG&E, SCE, or SDG&E pursuant to PURPA. Subsequently, each of the investor-owned utilities (“IOUs”) submitted advice letters seeking approval of a *pro forma* SOC pursuant to Ordering Paragraph (“OP”) 17 of D.20-05-006, which were largely identical except for a few provisions (*e.g.*, those related to PG&E’s Chapter 11 bankruptcy). Notably, each of the IOUs added two additional provisions related to any hybrid or co-located energy storage resources associated with the QF. Section 9.02(j) adds a covenant that the QF will not cause energy from the California Independent System Operator (“CAISO”)-controlled grid to be stored by the QF, and Section 9.04(i) requires the QF to indemnify the IOU for any costs related to withdrawals of energy from the CAISO-controlled grid.

CESA's comments are narrowly focused on these storage-specific provisions of the *pro forma* SOC proposed and as attached in the IOUs' advice letters. However, the Draft Resolution rejected the proposed provisions and directed them to be removed, agreeing with Cal Advocate's protest that storage-specific provisions are not authorized by D.20-05-006.¹ In making this determination, the Draft Resolution found that proposed provisions are beyond the scope of the decision and should not be allowed, per General Order 96-B, Rule 5.1, where SCE's proposed Tier 2 advice letter process would not be the appropriate vehicle for addressing policy issues.²

CESA disagrees with the determination made in the Draft Resolution regarding storage-specific provisions. In addition to the IOUs' arguments that the added provisions would recognize the increasing prevalence of storage pairings with renewable generation and add transparency to avoid disputes,³ CESA believes that the proposed provisions are in line with Federal Energy Regulatory Commission ("FERC") regulations, even as storage eligibility is neither expressly authorized or prohibited in D.20-05-006. As such, CESA recommends that the Draft Resolution reconsider and approve the proposed storage-specific provisions included in the IOUs' advice letters.

II. COMMENTS.

A. **A hybrid resource set to charge solely from on-site renewable generation would meet the requirements established by FERC and does not need D.20-05-006 to authorize its eligibility.**

With the proposed requirements to not allow for grid-charging of the storage paired to the QF, the IOUs' advice letters adhere to FERC regulations on the eligibility of storage when paired with QF-eligible facilities. Specifically, the Public Utility Regulatory Policies Act ("PURPA") established QF eligibility based on the generating facility whose "*primary energy source* primary energy source of the facility must be biomass, waste, renewable resources, geothermal resources, or any combination thereof, and 75 percent or more of the total energy input must be from these sources."⁴ The fuel-use requirements in the PURPA regulations were used to affirm storage's QF eligibility when paired with a QF-eligible generator and based on the primary energy source (*i.e.*, when charging).⁵ With the IOUs proposing to ensure charging solely from the QF-eligible generation, these provisions are consistent with PURPA regulation, even if not expressly authorized, prohibited, or addressed in D.20-05-006.

Considering storage that is paired with charged exclusively from the QF generator is not an independent facility, CESA does not believe that D.20-05-006 needs to expressly authorize their eligibility, as their eligibility is tied to their addition or enhancement to a QF-

¹ Draft Resolution E-5106 at 18.

² *Ibid.*

³ *Ibid* at 9-10.

⁴ See 18 C.F.R. § 292.204(b)(1)(i). [Emphasis added]

⁵ *Luz Dev. & Fin. Corp.* 51 FERC ¶ 61,078 (1990).

eligible generator. The provisions proposed by the IOUs merely provide transparency to regulations that have already been established at FERC, with the technical and legal terms (e.g., indemnification) in the proposed SOC supporting a federally-authorized pathway. As a result, explicit regulatory enablement is not necessary. In fact, the removal of these conditions from the new QF SOC may not imply that all hybrid configurations would be barred from participating as a QF.

B. By creating a time-of-delivery (“TOD”) structure for pricing, D.20-05-006 contemplates the benefits of shaped energy.

Clarifying and affirming storage eligibility is also in line with D.20-05-006 in setting TOD pricing structures that incentivize the configuration and development of projects that deliver energy during the most valuable periods. Specifically, D.20-05-006 adopted price methodologies to be determined for peak hours, partial peak hours, and off-peak hours by month and limited by the NP15/SP15 trading hub, with a 10% collar.⁶ Given time-differentiated pricing structure adopted in the decision, it is counterintuitive for the Draft Resolution to potentially preclude (or not explicitly include) storage eligibility for the new SOC, especially as storage additions and enhancements enable the shifting of energy delivery to the period of need, in accordance with the TOD pricing structure. Furthermore, technical capabilities are in place to apply operational restrictions to a shaped generation profile, similar to how power control systems and/or relays are used to enforce that non-grid-charging provisions or investment tax credit (“ITC”) related compliance.

⁶ D.20-05-006 at Finding of Fact 3, Conclusion of Law 3, and Ordering Paragraph 3 and 6.

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III. CONCLUSION.

CESA appreciates the opportunity to submit these comments to Draft Resolution E-5104 and looks forward to collaborating with the Commission and the IOUs in implementing the Draft Resolution.

Respectfully submitted,



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