

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

Application of San Diego Gas & Electric Company (U902M) for Approval of its Energy Storage Procurement Framework and Program As Required by Decision 13-10-040.

Application 14-02-006
(Filed February 28, 2014)

Application of Pacific Gas and Electric Company (U39E) for Authorization to Procure Energy Storage Systems during the 2014 Biennial Procurement Period Pursuant to Decision 13-10-040.

Application 14-02-007
(Filed February 28, 2014)

Application of Southern California Edison Company (U338E) for Approval of Its 2014 Energy Storage Procurement Plan.

Application 14-02-009
(Filed February 28, 2014)

**REPLY COMMENTS OF THE CALIFORNIA ENERGY STORAGE ALLIANCE
ON SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER
AND ADMINISTRATIVE LAW JUDGE**

Donald C. Liddell
Douglass & Liddell
2928 2nd Avenue
San Diego, California 92103
Telephone: (619) 993-9096
Facsimile: (619) 296-4662
Email: liddell@energyattorney.com

Counsel for the
CALIFORNIA ENERGY STORAGE ALLIANCE

June 19, 2014

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

Application of San Diego Gas & Electric Company (U902M) for Approval of its Energy Storage Procurement Framework and Program As Required by Decision 13-10-040.	Application 14-02-006 (Filed February 28, 2014)
Application of Pacific Gas and Electric Company (U39E) for Authorization to Procure Energy Storage Systems during the 2014 Biennial Procurement Period Pursuant to Decision 13-10-040.	Application 14-02-007 (Filed February 28, 2014)
Application of Southern California Edison Company (U338E) for Approval of Its 2014 Energy Storage Procurement Plan.	Application 14-02-009 (Filed February 28, 2014)

**REPLY COMMENTS OF THE CALIFORNIA ENERGY STORAGE ALLIANCE
ON SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER
AND ADMINISTRATIVE LAW JUDGE**

In accordance with the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), the California Energy Storage Alliance (“CESA”)¹ hereby

¹ The California Energy Storage Alliance consists of 1 Energy Systems, A123 Systems, AES Energy Storage, Alton Energy, American Vanadium, Aquion Energy, ARES, North America, Beacon Power, Bosch Energy Storage Solutions, Bright Energy Storage Technologies, Brookfield Renewable Energy Group, CALMAC, ChargePoint, Clean Energy Systems, CODA Energy, Consolidated Edison Development, Customized Energy Solutions, DN Tanks, Duke Energy, Eagle Crest Energy Company, EaglePicher Technologies, East Penn Manufacturing Company, EDF Renewable Energy, EnerSys, EnerVault, EV Grid, FAFCO Thermal Storage Systems, FIAMM Group, FIAMM Energy Storage Solutions, Flextronics, Foresight Renewable Solutions, GE Energy Storage, Green Charge Networks, Greensmith, Gridscape Solutions, Gridtential, Halotechnics, Hitachi Chemical Co., Hydrogenics, Ice Energy, Imergy Power Systems, ImMODO Energy Services Corporation, Innovation Core SEI, Invenergy, K&L Gates, KYOCERA Solar, LG Chem, LightSail Energy, LS Power, Mitsubishi International Corporation, NextEra Energy Resources, NRG, OCI, OutBack Power Technologies, Panasonic, Parker Hannifin, PDE, Powertree, Primus Power, RES Americas, Rosendin Electric, S&C Electric Company, Saft, SeaWave Battery, SEEO, Sharp Labs of America, SolarCity, Sovereign Energy Storage, STEM, Stoel Rives, SunPower, TAS Energy, Tri-Technic, UniEnergy Technologies, and Wellhead. The views expressed in these Comments are those of CESA, and do not necessarily reflect the views of all of the individual CESA member companies. <http://storagealliance.org>.

submits these reply comments on the *Scoping Memorandum and Ruling of Assigned Commissioner and Administrative Law Judge*, issued on May 27, 2014 (“Scoping Memorandum”).

I. INTRODUCTION.

CESA continues to strongly support the Applications and recommends their approval by the Commission. CESA responds in these reply comments only to two topics that are raised in the Opening Comments filed by Toward Utility Reform Network (“TURN”).² CESA’s view is that biogas is ineligible to participate in RFO’s issued under the aegis of AB 2514.

II. CESA’S RESPONSE TO TOWARD UTILITY REFORM NETWORK OPENING COMMENTS.

A. Biogas Is Ineligible as a Matter of Law.

CESA disagrees with TURN’s legal interpretation of the authority given to the Commission to implement AB 2514 because it is inconsistent with the clear meaning of the statute to assert that the Commission may alter the meaning of the defined term “energy storage system” to accommodate consideration of PG&E’s proposal to include biogas within the statutory definition. It is true that the Commission is charged with responsibility to refine and clarify the meaning of the defined terms provided in AB 2514 as deemed necessary or desirable on a case-by-case basis (as PG&E requests in its Application). The Commission may also provide further guidance in quasi-legislative contexts and consideration of other applications in the future as the need or opportunity arises. However, the Commission has not, and should not,

² *Comments of the Utility Reform Network Responding to the Scoping Memo Questions*, filed June 16, 2014.

deliberately set out to broaden the definition of energy storage systems beyond the language of the statute.³

TURN is mistaken in asserting that the treatment of pumped hydro in D.13-10-040 supports the proposition that the Commission has “ample discretion” to restrict or expand the meaning of the statute adopted in D.13-10-040. Rather, the determination that eligibility of pumped hydro eligible energy storage should be capped at 50 MW within the limited ambit of the procurement process ordered in D.13-10-040 as a matter of policy *was dependent on the premise that the technology is within the definition in the first place*. By contrast, biogas is not an eligible technology by any reasonable reading of the definition of energy storage systems contained in AB 2514.⁴

CESA anticipates that the Commission will exercise its clear authority under Public Utilities Code Section 2836(a) to “consider a variety of possible policies to encourage the cost-effective deployment of energy storage systems.” In fact, CESA has urged it to do so at the first opportunity in its Opening Comments. However, as a matter of statutory interpretation, the specific definition of energy storage systems must control over the general grant of authority provided by Section 2836(a). For this reason and the fact that TURN’s interpretation of the policy determination that pumped hydro, an eligible energy storage technology, should be capped in the context of the procurement policy laid out by the Commission in D.13-10-040 is simply incorrect. Without the limitations provided by the defined terms, AB 2514 would be unworkable. Biogas CESA therefore urges the Commission to determine biogas should be

³ TURN has not previously expressed an opinion as to whether the Commission should deny biogas eligibility on grounds of either law or policy only, or both. *See, Protest of the Utility Reform Network. To the Energy Storage Applications of Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company*, filed April 7, 2014, p. 3.

⁴ *See, Response of the California Energy Storage Alliance to Consolidated Applications*, filed April 7, 2014.

excluded from the definition of energy storage system as a matter of law, not policy as argued in TURN's Opening Comments.

B. No Questions of Fact Require Hearings.

The workshop has produced the desired result that a robust and well informed discussion among the parties has occurred. As is apparent from the discussion above, the Scoping Memorandum has correctly determined that workshops are the appropriate vehicle for addressing any issues in this proceeding. Out of an abundance of caution, CESA must therefore take issue with TURN's statement that: "The Commission's energy storage procurement program is a groundbreaking effort. . . . As a result, it is reasonable to expect that the consideration of whether to approve the utilities' 2014 solicitation storage projects may be a complex and fact-specific undertaking." (p. 9). CESA certainly agrees with TURN's primary observation, but must disagree in principle with the premature statement that approval of the Applications might require the Commission to make fact specific determinations. No party has requested hearings to date and the discussion, both in the Opening Comments and at the workshop, has been entirely on the plane of statutory interpretation and Commission policy. Perhaps unnecessarily, CESA therefore hastens to point out that the quoted sentence should not give rise to any inference that hearings may be need or required if they should be requested by any party.

III. CONCLUSION.

CESA thanks the Commission for its consideration of these reply comments.

Respectfully submitted,



Donald C. Liddell

DOUGLASS & LIDDELL

Email: liddell@energyattorney.com

Counsel for the

CALIFORNIA ENERGY STORAGE ALLIANCE

June 19, 2014