

Proceeding: R.20-11-003 (Phase 2)

Exhibit No.: SDGE-10

Witness: Jeff DeTuri

**PREPARED PHASE 2 REPLY TESTIMONY OF
SAN DIEGO GAS & ELECTRIC COMPANY
REGARDING SUPPLY-SIDE PROPOSALS
FOR INCREASING PEAK AND NET PEAK
SUPPLY RESOURCES IN 2022 AND 2023**



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

September 10, 2021

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	THE CAISO’S RECOMMENDATION TO SET AN ADDITIONAL RESOURCE ADEQUACY REQUIREMENT SHOULD BE REJECTED.....	2
III.	THE COMMISSION SHOULD NOT ADOPT CAL ADVOCATES’ PROPOSAL TO IMPOSE PENALTIES RELATED TO D.19-11-016 PROCUREMENT	5
IV.	CONCLUSION.....	7

1 **PREPARED PHASE 2 REPLY TESTIMONY OF**
2 **SAN DIEGO GAS & ELECTRIC COMPANY**
3 **REGARDING SUPPLY-SIDE PROPOSALS**
4 **FOR INCREASING PEAK AND NET PEAK**
5 **SUPPLY RESOURCES IN 2022 AND 2023**

6
7 **I. INTRODUCTION**

8 The purpose of this reply testimony is to respond to parties’ opening testimony regarding
9 supply-side issues submitted in Phase 2 of the instant proceeding.

10 SDG&E commends the Commission for its continued leadership in promoting grid
11 reliability. SDG&E believes that the Commission must be practical and solution-focused, and
12 seek to identify options that are effective and implementable in the near-term, and in particular in
13 Summer of 2022 since that period was specifically identified in the California Energy
14 Commission (CEC) Workshop on Midterm Reliability Analysis as being potentially problematic
15 from a reliability perspective.¹ Given the limited time available to act and the broad scope of this
16 proceeding, the Commission should focus in this proceeding *only* on near-term solutions that are
17 not being addressed in other proceedings. Thus, for example, issues related to new Resource
18 Adequacy (RA) requirements should be addressed in the Commission’s RA proceeding; likewise
19 issues related to the Renewable Portfolio Standard (RPS) framework (*e.g.*, Green Power
20 Institute’s proposed revisions to the Renewable Market Adjusting Tariff [ReMAT] program and
21 proposal to add a new Renewable Auction Mechanism [RAM] procurement mandate²) should be

¹ CEC Presentation, August 30 Lead Commissioner Workshop on Midterm Reliability Analysis, Slide 33. Available at: <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=21-ESR-01>

² While SDG&E believes that these proposals are outside the scope of the instant proceeding and should be considered in the RPS proceeding, if at all, it notes that the proposals are also substantively problematic inasmuch as they would not provide *incremental* supply opportunities or increase supply in 2022 and 2023.

1 addressed in the RPS proceeding rather than diverting attention from potential solutions that are
2 not before the Commission in other proceedings and must be addressed in the instant proceeding.

3 As discussed in more detail below, SDG&E does not support the proposal by the
4 California Independent System Operator (CAISO) regarding setting an additional Resource
5 Adequacy (RA) program requirement for the 8:00 PM net peak. SDG&E also disagrees with the
6 proposal by the Public Advocates Office (Cal Advocates) to impose penalties on load-serving
7 entities (LSEs) for project delays that impact resources procured in compliance with Decision
8 (D.) 19-11-016. If such penalties are adopted, however, SDG&E submits that a more robust
9 waiver process would be necessary and agrees with Cal Advocates that such penalties should be
10 allocated to both bundled service customers and customers of opt-out LSEs who voluntarily
11 elected to have the investor-owned utilities (IOUs) procure on their behalf.

12 **II. THE CAISO’S RECOMMENDATION TO SET AN ADDITIONAL RESOURCE**
13 **ADEQUACY REQUIREMENT SHOULD BE REJECTED**

14 The CAISO proposes to set an additional RA requirement to meet the 8:00 PM net peak
15 for monthly RA showings for June through October 2022, and for 2023 to apply the same
16 requirement for monthly and annual RA for at least June through October but preferably for the
17 entire year.³ Concerns that the CAISO may have regarding the RA program warrant
18 consideration but are properly addressed in the context of the RA proceeding. The CAISO’s
19 proposal for an additional RA requirement, for example, should be considered in the context of
20 the ‘Slice of Day’ model currently being developed by parties in that proceeding.⁴ Any changes
21 to the Commission’s RA requirements implemented outside of the RA proceeding will only

³ *Opening Testimony of the California Independent System Operator*, dated September 1, 2021 (Phase 2 Opening Testimony of CAISO), pp. 2-11.

⁴ *See* D.21-07-014.

1 confuse market participants and undermine regulatory certainty. Put simply, rather than
2 addressing issues that can be resolved in other active Commission proceedings, the Commission
3 should focus in this proceeding on potential reliability solutions that are only before the
4 Commission here.

5 Moreover, the Commission’s attention in this proceeding should, first and foremost, be
6 on solutions that help to actually increase supply. Merely setting an additional RA target fails to
7 get at the root of the reliability problem the State is currently facing. In the absence of the new
8 resources required to *meet* that reliability target, setting a new compliance target accomplishes
9 little. CAISO’s purported solution ignores the true problem and will do nothing to *actually*
10 increase the supply of resources available to meet the 8:00 PM net peak demand. To accomplish
11 an increase in supply resources, the Commission should consider ‘low hanging fruit’
12 opportunities such as those outlined by SDG&E in its Phase 2 opening testimony. For example,
13 clarifying cost recovery for resources that are not RA-eligible but are capable of providing
14 reliability benefits could lead to an actual increase in available supply.⁵ Similar proposals
15 regarding facilitating availability of reliability benefits provided by resources that are not RA-
16 eligible were offered by the California Energy Storage Association (CESA)⁶ and LS Power
17 Development LLC (LS Power)⁷ Proposals of this sort offer a meaningful opportunity to increase
18 supply resources and preserve grid reliability, which directly furthers the goals articulated in the

⁵ *Prepared Phase 2 Testimony of San Diego Gas & Electric Company Regarding Supply-Side Proposals for Increasing Peak and Net Peak Supply Resources in 2022 and 2023 and Comments on Energy Division Staff Concept Paper*, dated September 1, 2021 (Phase 2 Opening Testimony of SDG&E – DeTuri/Maiga), p. 2.

⁶ *Opening Testimony of Jin Noh on Behalf of the California Energy Storage Alliance*, dated September 1, 2021 (Phase 2 Opening Testimony of CESA), pp. 27-34.

⁷ *Prepared Phase 2 Opening Testimony of Sandeep Arora on Behalf of LS Power Development, LLC*, dated September 1, 2021 (Phase 2 Opening Testimony of LS Power), pp. 5-6.

1 Governor’s July 30, 2021 Emergency Proclamation⁸ and the Commission’s *Assigned*
2 *Commissioner’s Amended Scoping Memo and Ruling for Phase 2* issued in the above-referenced
3 proceeding on August 10, 2021 (Amended Scoping Memo).

4 As a practical matter, if opportunities to increase supply are adopted by the Commission
5 in this proceeding, the rationale supporting the CAISO’s proposal for an additional RA
6 requirement may not be present for 2022. Similarly, the mid-term reliability procurement
7 ordered in the Commission’s mid-term reliability decision (MTR Decision)⁹ issued in the
8 Commission’s Integrated Resource Plan (IRP) proceeding may obviate the need for additional
9 reliability procurement in 2023. The CEC’s August 30 presentation on Mid Term Reliability
10 showed that for all scenarios (except the no build scenario) the Loss of Load Expectation
11 (LOLE) is below the .1 limit for 2023;¹⁰ this analysis proves that under either a scenario where
12 LSEs procure based on the MTR Decision or if they procure based on their individual IRP plans,
13 there is no reliability concern. Finally, as the CAISO points out, it can always trigger the
14 capacity procurement mechanism (CPM) to “address net peak capacity insufficiencies.”¹¹
15 Accordingly, the Commission should not adopt in this proceeding the CAISO’s proposal
16 regarding an additional RA requirement to meet the 8:00 PM net peak.

⁸ Executive Department State of California, *Proclamation of a State of Emergency*, dated July 30, 2021.

⁹ D.21-06-035.

¹⁰ CEC Presentation, August 30 Lead Commissioner Workshop on Midterm Reliability Analysis, *supra* note 1, Slide 33.

¹¹ Phase 2 Opening Testimony of CAISO, p. 8.

1 **III. THE COMMISSION SHOULD NOT ADOPT CAL ADVOCATES’ PROPOSAL**
2 **TO IMPOSE PENALTIES RELATED TO D.19-11-016 PROCUREMENT**

3 The *Energy Division Staff Concept Paper* dated August 16, 2021 (Staff Paper) discusses
4 the concept of introducing penalties for delays in the project development process for new
5 resources procured in accordance with D.19-11-016. Specifically, the Staff Paper suggests that
6 the Commission could place LSEs on notice that it will impose fixed penalties on “any LSE that
7 fails to achieve commercial online dates” consistent with D.19-11-016.¹² As SDG&E (and many
8 other parties¹³) pointed out in opening testimony, LSEs can exercise control over the contracting
9 process and procurement of resources, but generally do not have control over the development
10 process or commercial availability of procured resources. Thus, imposing penalties on LSEs for
11 a project developer’s failure to achieve an expected commercial online date is ill-conceived and
12 would likely have unintended negative consequences that could chill development of new
13 reliability resources within the State.¹⁴

14 Cal Advocates articulates support for the penalty concept included in the Staff Paper, but
15 the discussion in Cal Advocates’ opening testimony raises a question as to what it is actually
16 proposing. Cal Advocates indicates that it “agrees with the Staff Proposal that applying penalties
17 to **LSEs’ obligations under D.19-11-016** may enhance reliability,” and that “[p]enalties

¹² Staff Paper, pp. 21-22. The Staff Paper separately discusses a potential increase in RA non-compliance penalties (p. 22).

¹³ See, e.g., Phase 2 Opening Testimony of LS Power, p. 7; *Pacific Gas and Electric Company Emergency Reliability Order Instituting Rulemaking Errata Testimony*, dated September 1, 2021, Chapter 9, pp. 1-3; *Direct Testimony of Southern California Edison Company – Phase 2*, dated September 1, 2021, pp. 76-78; *Direct Testimony of Lauren Carr, Fred Taylor-Hochberg, Marie Y. Fontenot on Behalf of California community Choice Association*, dated September 1, 2021, p. 12.

¹⁴ See Phase 2 Opening Testimony of SDG&E – DeTuri/Maiga, pp. 6-8.

1 incentivize LSEs to meet their **procurement obligations** in a timely manner.”¹⁵ However, the
2 Staff Paper concept would impose penalties not for the failure to procure (*i.e.*, contract for)
3 adequate resources, which is the obligation imposed by D.19-11-016, rather it would impose
4 penalties in a circumstances where procured (*i.e.*, contracted) resources are delayed and fail to
5 “achieve commercial online dates” on the timeline expected.¹⁶ Thus, it is not clear whether Cal
6 Advocates supports the concept of penalties for LSEs who fail to procure/contract for resources
7 in compliance with D.19-11-016 (a circumstance where penalties could be warranted, depending
8 on the circumstances) or instead supports the notion of penalties being imposed on LSEs in
9 circumstances where a resource is procured (contracted for) in a reasonable and timely manner in
10 compliance with the requirements of D.19-11-016, but fails to come online when expected due to
11 project delays outside the control of the LSE. These are plainly two very different scenarios.

12 SDG&E notes further that Cal Advocates’ waiver proposal, while a good idea in theory,
13 is poorly articulated and could prove challenging to implement. Cal Advocates proposes that the
14 Commission adopt a Tier 1 advice letter penalty waiver process that would allow LSEs “to
15 demonstrate that any delay came despite its best efforts to meet its obligations,” and would allow
16 Commission staff to waive the associated penalty. First, it is not clear how a “best efforts”
17 standard would be applied in this context; this is not a recognized or defined standard and is
18 overly vague. If adopted, the waiver process should apply a reasonableness standard. Second,
19 the waiver appears to be applicable only to “pandemic-related disruptions,” which is
20 unreasonably narrow and could be difficult to prove. Would permitting delays caused by

¹⁵ *Public Advocates Office Prepared Testimony in R.20-11-003*, dated September 1, 2021 (Phase 2 Opening Testimony of Cal Advocates), pp. 4-1 – 4-2 (emphasis added).

¹⁶ Staff Paper, pp. 21-22. The Staff Paper separately discusses a potential increase in RA non-compliance penalties (p. 22).

1 reduced staff resulting from staff turn-over due in part to the COVID-19 pandemic satisfy the
2 “pandemic-related” criterion? The question should be the LSE’s degree of control over (or
3 culpability for) the delay, not the extent to which a delay can trace its roots to the pandemic.
4 Finally, allowing Commission staff to impose/waive penalties, particularly in the absence of
5 clear criteria for doing so, gives rise to due process concerns. If a waiver process is adopted, a
6 Tier 3 process should apply.

7 Finally, while SDG&E does not support imposition of penalties for delays in achieving
8 commercial online dates for new resources procured to meet D.19-11-016, SDG&E does agree
9 with Cal Advocates that any such penalties should be shared between bundled service and
10 unbundled customers. As Cal Advocates correctly points out, IOUs are procuring both for their
11 own bundled service customers and also for the unbundled customers of LSEs who voluntarily
12 opted out of self-procurement in favor of having the IOUs undertake this effort on their
13 customers’ behalf. While the Western Power Trading Forum (WPTF) argues that LSEs who
14 elected to have the IOUs procure to meet their D.19-11-016 obligations should not be subject to
15 penalties for an IOU’s failure to meet those obligations, such a policy would be unlawful and
16 inequitable. It would impermissibly shift cost to bundled service customers in violation of
17 statutory cost indifference principles and would allow direct access (DA) providers and other
18 non-IOU LSEs to improperly deflect procurement risk to the IOUs, unreasonably exacerbating
19 the burden imposed on the IOUs related to backstop procurement. Opt-out LSEs voluntarily
20 elected to impose their procurement obligation on the IOUs rather than fulfilling them on their
21 own; thus, the “in for a penny, in for a pound” approach proposed by Cal Advocates is
22 reasonable and appropriate.

23 **IV. CONCLUSION**

24 This concludes SDG&E’s reply testimony.