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

Application of Southern California Edison (U338E)  
for Approval of the Results of Its 2013 Local  
Capacity Requirements Request for Offers for the  
Moorpark Sub-Area.

Application 14-11-016  
(Filed November 26, 2014)

**SIERRA CLUB OPENING COMMENTS ON  
ALTERNATE PROPOSED DECISION OF COMMISSIONER PETERMAN**

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**SIERRA CLUB OPENING COMMENTS ON  
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Sierra Club respectfully submits the following comments on the February 12, 2016 Alternate Proposed Decision of Commissioner Peterman (“Peterman APD”) Approving, In Part, Results of Southern California Edison Company Local Capacity Requirements Request for Offers (“RFO”) for the Moorpark Sub-Area Pursuant to Decision 13-02-015. These comments are timely submitted pursuant to Rule 14.3(a) of the Commission’s Rules of Practice and Procedure.

**I. INTRODUCTION**

It is difficult to conceive of a request for procurement approval that is more out-of-step with California priorities than SCE’s Moorpark Application. By proposing to meet almost all of Moorpark sub-area need with the Puente gas plant, the Moorpark Application: 1) perpetuates environmental injustice by continuing to locate polluting generation in a disadvantaged community; 2) undermines efforts at climate preparedness due to the Puente project’s vulnerability to sea level rise and flooding impacts; and 3) exacerbates greenhouse gas pollution by meeting almost the entirety of local capacity needs with fossil-fueled generation. Moreover, given the localized reliability concerns in Goleta, Puente is not even effective in meeting the multiple reliability issues in the Moorpark area. The Proposed Decision of Administrative Law Judge DeAngelis (“ALJ PD”) and Alternative Proposed Decision by Commissioner Florio (“Florio APD”) recognize that due to the Commission’s independent obligation to ensure that environmental justice and infrastructure reliability are considered in utility procurement, the Commission should not consider the Puente contract until the completion of environmental analysis by the California Energy Commission (“CEC”).

In a troubling capitulation to fossil fuel interests at the expense of low income communities of color and climate preparedness, the Peterman APD hastily approves Puente. The Peterman APD rests on the flawed premise that the Commission has no responsibility to ensure environmental justice is considered in utility procurement and relies on questionable evidence and an incomplete assessment of Puente’s safety and reliability risks. The Peterman APD should not be adopted. The Commission should instead adopt the ALJ PD, modified to dismiss the Puente contract and require SCE to issue a new RFO.

This proceeding marks the first time a disadvantaged community has sought to enforce

existing environmental justice procurement requirements. The Peterman APD's response is to pretend these requirements do not exist and wash the Commission's hands of any future responsibility to consider environmental justice in utility procurement. The Peterman APD wrongly asserts that D.13-02-015 does not "require a review of environmental justice issues."<sup>1</sup> In fact, D.13-02-015 explicitly incorporates the procurement considerations established in D.07-12-052, which requires utilities to provide greater weight to disproportionate resource sitings in low income and minority communities.<sup>2</sup> Given that environmental justice considerations are delineated in previous Commission decisions and procurement guidance, the Peterman APD's position that the Commission's review responsibilities are narrowly limited to "economic and reliability issues" is also mistaken.<sup>3</sup> Indeed, because the utility procurement process is the stage where decisions are made on resource selection, stripping away required environmental justice considerations as contemplated under the Peterman APD will cripple efforts to ensure a more equitable energy system.

With regard to the Puente project's coastal vulnerability, the Peterman APD relies on the back-of-the-envelope methodology of a witness with no previous experience modeling sea level rise on the open coast, over the opinion of a well-established expert in coastal hazards with extensive prior experience specifically modeling sea level rise and erosion impacts in Ventura County. The Peterman APD also improperly limits the assessment of Puente's reliability risk to its 20-year contract term instead of its 40-year assumed life and reaches a cursory conclusion of an "unlikely" reliability risk that falls well short of the Commission's own standards for vulnerability assessments. The Peterman APD's dismissive treatment of Puente's reliability risks is not supported by the weight of the evidence, is a disservice to the Commission's stated commitment to climate adaption, and undermines ongoing Commission efforts to encourage utilities to take grid resiliency seriously.

Finally, the Peterman APD's approval of Puente, followed by a consideration of the need for the existing Ellwood peaker to meet Goleta-sub-sub-area need is legally and factually flawed. First, as properly determined in the ALJ PD, SCE's pairing of 0.5 MW of new energy storage with the existing non-incremental 54 MW Ellwood peaker violates Commission procurement

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<sup>1</sup> Peterman APD p. 15.

<sup>2</sup> D.13-02-015 p. 131 (Ordering Paragraph 4); D.07-12-052 p. 157.

<sup>3</sup> Peterman APD p. 15.

rules and cannot legitimately be approved as part of this proceeding. Second, SCE's identification of Goleta-specific reliability needs only further underscores the shortcomings of meeting virtually all of its local capacity need with a single gas plant in Oxnard. SCE's proposed Moorpark procurement already exceeds CAISO's most recent estimates of total Moorpark sub-area need. Because resources located in Goleta address both Moorpark sub-area need and Goleta-specific reliability concerns, approving Puente now, only to examine Goleta-specific need later, will likely result in substantial fossil-fuel centric overprocurement that would be avoided were SCE to procure fewer resources in Oxnard and more in Goleta.

SCE's failure to comply with environmental justice procurement requirements, the coastal vulnerability and viability risk of the Puente project, and the need for a broader distribution of resources to efficiently address multiple reliability concerns, collectively compel dismissal of the Puente contract and issuance of a new RFO. The Moorpark RFO was fundamentally compromised by SCE's concurrent and much larger LA Basin solicitation which, as SCE admits, was the focus of market attention. Accordingly, the lack of clean energy resources in the Moorpark Application is not a function of the lack of clean energy potential in the Moorpark area but of a procurement process that did not afford the region the attention it deserved. While Puente and/or a smaller facility could bid into the new RFO, it would now be properly evaluated against a more robust set of clean energy bids that will function to avoid or minimize the need for additional fossil fuel commitments. With Puente's viability at the CEC in question and fundamental issues of equity and climate preparedness at stake, now is the time for the Commission to require SCE to hold a subsequent RFO to identify a mix of resource solutions that better align with California's environmental justice and climate objectives.

## **II. DISCUSSION**

### **A. The Peterman APD Commits Legal Error in Stating that SCE Was Not Required to Consider Environmental Justice in its Moorpark Procurement and that Commission Review is Limited to "Economic and Reliability Issues."**

The Peterman APD's dismissal of the Commission's environmental justice responsibilities is in direct contravention of Commission precedent and procurement guidance. The Peterman APD erroneously states that "D.13-02-015 and SCE's procurement plan did not

require a review of environmental justice issues.”<sup>4</sup> As properly recognized in the ALJ PD/Florio APD, the consideration of environmental justice issues is an established procurement requirement that applied to the Moorpark RFO. Because SCE was required to consider environmental justice in its procurement and failed to do so, the Moorpark RFO does not comply with D.13-02-015.

D.13-02-015 directs SCE to incorporate preexisting RFO requirements into the Moorpark RFO. Ordering Paragraph 4 of D.13-02-015 provides:

Any Requests for Offers (RFO) issued by Southern California Edison Company pursuant to this Order shall include the following elements, *in addition to any RFO requirements not delineated herein but specified by previous Commission procurement decisions (including Decision 07-12-052) ...*<sup>5</sup>

D.13-02-015’s determination that SCE must comply with all previously specified RFO requirements was reiterated in SCE’s procurement plan, which states “First and foremost, pursuant to Ordering Paragraph 4, RFOs issued in accordance with D.13-02-015 must meet all previous CPUC requirements (including D.07-12-052).”<sup>6</sup> The procurement plan’s use of “first and foremost” makes clear that the additional procurement considerations identified in D.13-02-015 were intended to build upon, not supersede, SCE’s existing procurement requirements.

One of the existing procurement requirements identified in D.07-12-052 is the consideration of environmental justice issues. As recognized in the ALJ PD/Florio APD, D.07-12-052, provides that “IOUs need to provide greater weight” to RFO criteria regarding “disproportionate resource sitings in low income and minority communities.”<sup>7</sup> The Commission clearly viewed the consideration of environmental justice identified in D.07-12-052 as a procurement mandate. Citing to D.07-12-052, the 2010 Procurement Policy Manual includes “environmental justice issues” as one of the evaluation criteria “[t]he IOUs shall consider ... in evaluating bids from an RFO.”<sup>8</sup> Yet, as SCE repeatedly admitted, it did not consider

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<sup>4</sup> Peterman APD p. 15.

<sup>5</sup> D.13-02-015 p. 131 (emphasis added).

<sup>6</sup> Exh. SCE-10 p. 32, *also available at* [https://www.sce.com/wps/wcm/connect/0a312536-5ba4-4153-a3bd-0859e15badeb/TrackI\\_SCELCRProcurementPlanPursuanttoD1302015.pdf?MOD=AJPERES](https://www.sce.com/wps/wcm/connect/0a312536-5ba4-4153-a3bd-0859e15badeb/TrackI_SCELCRProcurementPlanPursuanttoD1302015.pdf?MOD=AJPERES).

<sup>7</sup> D.07-12-052 p. 157; ALJ PD/Florio APD p. 17.

<sup>8</sup> CPUC AB 57, AB 380 and SB 1078 PROCUREMENT POLICY MANUAL (2010) p. 4-8, <http://docs.cpuc.ca.gov/eFile/RULINGS/118826.pdf>; *see also* page 4-9 (citing to D.07-12-052 at 157 as support for requiring consideration of environmental justice issues in utility procurement).

environmental justice issues in implementing the Moorpark RFO.<sup>9</sup> Accordingly, contrary to the Peterman APD’s assertion that consideration of environmental justice in RFO implementation was not required, and the ALJ PD/Florio APD’s claim that it was “unclear that SCE had the opportunity” to consider environmental justice, the consideration of environmental justice was a procurement requirement that SCE disregarded.<sup>10</sup> By ignoring environmental justice procurement requirements, SCE did not substantially comply with the requirements of D.13-02-015.

Given that incorporating environmental justice considerations into utility procurement is required under D.07-12-052 and included in the Procurement Policy Manual, the Peterman APD commits further legal error in asserting that Commission review of utility procurement is narrowly limited to an evaluation of “economic and reliability issues.”<sup>11</sup> The Commission has a critical role in ensuring more equitable procurement. It is at the procurement stage, when bids are first evaluated, where the real opportunity exists to select resources consistent with environmental justice outcomes. Leaving environmental justice review to only the CEC, which would not even be applicable for many types of resources, and would not occur until long after alternative bids have been rejected, would squander significant opportunities to avoid environmental justice impacts in the first instance. The Peterman APD’s disregard for the Commission’s unique environmental justice responsibilities is legally flawed and would move California backwards in its efforts to ensure investments in electric infrastructure “protect the state’s most vulnerable populations.”<sup>12</sup>

**B. The Peterman APD’s Treatment of Reliability Risks of Puente is Contrary to the Weight of the Evidence, Improperly Applies a Truncated Timeframe, and Falls Short of the Commission’s Own Guidance on Vulnerability Assessments.**

The Commission has stated it must “take up the challenge of climate resiliency and adaptation to ensure that investments in the utility sector take this issue into consideration for the

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<sup>9</sup> When asked whether “environmental justice issues were considered” in the selection process, SCE responded “environmental justice, no.” Tr. 39:16-20 (SCE, Singh). When asked whether an evaluation of brownfield versus greenfield development included a discussion of impacts to “low-income minority communities,” SCE stated “No, they did not.” Tr. 40:1-11 (SCE, Singh).

<sup>10</sup> ALJ PD/Florio APD p. 17.

<sup>11</sup> Peterman APD p. 15.

<sup>12</sup> Exec. Order B-30-15.

safety and welfare of Californians.”<sup>13</sup> Actions speak louder than words. In dismissing the safety and reliability risks of Puente based on unreliable evidence, flawed assumptions and an incomplete analysis, the Peterman APD signals that the Commission does not, in fact, take climate resiliency seriously. To meet its obligation to ensure the safety and reliability of grid investments, the Commission should only consider the Puente contract should it survive CEC review as contemplated in the ALJ PD/Florio APD and should it be awarded a contract in a second RFO.

**1. The Peterman APD’s Deference to NRG’s Witness is Not Supported by the Weight of the Evidence.**

“As the trier of fact, the Commission is charged with the responsibility of determining how much weight to give the evidence before [it].”<sup>14</sup> Where an expert has superior qualifications and more experience in the relevant subject area, that expert’s testimony should be accorded greater weight.<sup>15</sup> Here, the City of Oxnard’s expert witness, Dr. David Revell, is substantially more qualified and has significantly more experience with coastal flooding and sea level rise analyses than NRG’s witness Mr. Mineart. Dr. Revell is a leading expert in coastal geomorphology and has authored numerous peer-reviewed articles on coastal processes and the evaluation of sea level rise and other coastal hazards in California.<sup>16</sup> Dr. Revell came to this proceeding having already spent significant time developing models to examine the coastal hazards of flooding and erosion from sea-level rise in Ventura as part of the Ventura Coastal Resilience project.<sup>17</sup> In contrast, NRG’s expert, Mr. Mineart, does not have a PhD, appears to have no peer-reviewed publications, came to this proceeding with no prior knowledge of Ventura

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<sup>13</sup> CPUC Media Advisory, CPUC and Energy Commission to Hold Climate Adaption Workshop, July 2, 2014, <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M153/K025/153025587.PDF>.

<sup>14</sup> D.04-07-036 p. 9.

<sup>15</sup> See, e.g., *Asetek Danmark A/S v. CMI USA, Inc.*, 100 F.Supp.3d 871, 886 (N.D. Cal. 2015) (deferring to expert with more firsthand experience and background knowledge); *Malletier v. Dooney and Burke, Inc.*, 525 F.Supp.2d 558 (S.D.N.Y. 2007) (“the degree of qualification of an expert is relevant to the reliability inquiry...the more qualified the expert, the more likely that expert is using reliable methods in a reliable manner.”).

<sup>16</sup> Exh. CO-2 pp. 3-5. Dr. Revell’s publications include: Revell, D.L., R.Battalio, B. Spear, P. Ruggiero, and J. Vandever, 2011. A Methodology for Predicting Future Coastal Hazards due to Sea-Level Rise on the California Coast. *Climatic Change* 109:S251-S276. DOI 10.1007/s10584-011-0315-2; Barnard, P.L., Revell, D.L., Hoover, D., Warrick, J., Brocatus, J., Draut, A.E., Dartnell, P., Elias, E., Mustain, N., Hart, P.E., and Ryan, H.F., 2009, Coastal processes study of Santa Barbara and Ventura Counties, CA: U.S. Geological Survey Open-File Report 2009-1029, <http://pubs.usgs.gov/of/2009/1029/>.

<sup>17</sup> Exh. CO-2 p. 5.

coastal dynamics, has not previously modeled sea level rise on the open coast, and admitted to resorting to “back of the envelope” calculations to reach his conclusions.<sup>18</sup>

This is not a close call. Dr. Revell has superior expertise in assessing coastal hazards and his conclusion that the Puente site “will be exposed to coastal hazards by 2030” should be accorded greater weight than Mr. Mineart’s back-of-the-envelope analyses.<sup>19</sup> To the extent the Commission is uncertain how to weigh the evidence, it should await the completion of CEC review as contemplated under the ALJ PD/Florio APD before reaching a final determination on reliability risk. Yet not only does the Peterman APD defer to Mr. Mineart, it contains no explanation of its rationale for doing so. Instead, after restating expert positions, the APD simply concludes reliability risk is unlikely “[b]ased on the expert testimony of NRG.”<sup>20</sup> The Peterman APD’s reliance on Mr. Mineart to dismiss Puente’s reliability risks is contrary to the weight of the evidence and should not be adopted.

## **2. The Peterman APD Errs in Failing to Assess Reliability Risk Over the Expected 40-Year Life of the Puente Project.**

The Peterman APD limits its assessment of Puente climate risk to the 20-year “term of the contract.”<sup>21</sup> As an initial matter, the project site is still at risk assuming a 20-year time horizon. Dr. Revell concluded that by 2030, only ten years into its contract term, “much of the [Puente] site will be exposed to coastal hazards.”<sup>22</sup> In the event dredging operations at Ventura Harbor cease, the Puente beach will lose a major source of sediment and coastal hazard risk “will increase substantially.”<sup>23</sup> Accordingly, even viewed within this limited window, Puente should still not be approved.

Nonetheless, the Peterman APD’s 20-year assumption further compromises the legitimacy of its risk assessment. The contract term for a new resource is not a reflection of its operational life; it is a mechanism to provide predictable revenue to incentivize and finance the capital costs of construction. In planning for long-term reliability, the Commission’s default

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<sup>18</sup> Exh. NRG-02 (Resume at Appendix A); Tr. 364:3-365:18 (NRG, Mineart) (sea level rise modeling limited to inland waterways and witness unable to provide a single example of experience modeling sea level rise on the open coast); 385:5-9.

<sup>19</sup> Exh. CO-2 p. 2.

<sup>20</sup> Peterman APD p. 12.

<sup>21</sup> Peterman APD p. 12.

<sup>22</sup> Exh. CO-1 p. 2.

<sup>23</sup> Exh. CO-1 p. 2.

assumption is that gas generation has a 40-year operational life.<sup>24</sup> This assumption is a reasonable, if not conservative, estimate of the longevity of conventional generation and reflects the Commission’s expectation that the resource will continue to be available to provide reliability services after its initial contract term. Credible assumptions of operational life matter because exposure and risk to Puente will increase with time as sea levels continue to rise.<sup>25</sup> Indeed, flooding of the Puente site is not a question of if, it is a question of when. Because resources like Puente are assumed to provide local capacity well after expiration of their power purchase agreement, the Peterman APD’s use of the Puente contract term improperly diminishes the safety and reliability risks posed by this ill-sited project.

### **3. The Peterman APD’s Cursory Reliability Assessment is Inconsistent with the Commission’s Own Climate Adaptation Guidance.**

After first deferring to the inferior expertise of NRG’s expert and then applying a truncated time horizon to assess risk, the Peterman APD summarily concludes that “a low risk of coastal flooding exists and coast flooding that would compromise reliability of the proposed project is unlikely.”<sup>26</sup> At a time when the Commission is asking utilities to conduct “rigorous vulnerability assessments of their key assets,”<sup>27</sup> the Commission’s own reliability assessment should lead by example. Yet the Peterman APD’s flawed and cursory treatment of Puente’s reliability risks falls far short of the Commission’s own standards for vulnerability assessments, signaling a troubling lack of commitment and leadership on the critical issue of climate preparedness.

Consistent with preexisting practice, the Commission recognized in its recent paper, *Climate Adaptation in the Electric Sector: Vulnerability Assessments & Resiliency Plans*, that a legitimate vulnerability assessment considers both the probability of asset failure and the

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<sup>24</sup> See, e.g., R.13-12-10, *ACR on Assumptions, Scenarios, and RPS Portfolios for Use in 2014 Long Term Procurement Plan* (Feb. 27, 2014), p. 29,

<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M088/K489/88489746.PDF>.

<sup>25</sup> Exh. CO-1 p. 2. (Dr. Revell concluding that by 2060, “almost the entire site will face hazard exposure.”).

<sup>26</sup> Peterman APD p. 12.

<sup>27</sup> CPUC, *Climate Adaptation in the Electric Sector: Vulnerability Assessments & Resiliency Plans* (2016), p. 2, [http://www.cpuc.ca.gov/uploadedFiles/CPUC\\_Public\\_Website/Content/About\\_Us/Organization/Divisions/Policy\\_and\\_Planning/PPD\\_Work/PPD\\_Work\\_Products\\_\(2014\\_forward\)/PPD%20-%20Climate%20Adaptation%20Plans.pdf](http://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/About_Us/Organization/Divisions/Policy_and_Planning/PPD_Work/PPD_Work_Products_(2014_forward)/PPD%20-%20Climate%20Adaptation%20Plans.pdf).

consequences of that failure.<sup>28</sup> For example, the local capacity need identified for the Moorpark sub-area is based on need in the event two major import pathways are unavailable (an N-1-1 contingency).<sup>29</sup> The Commission bases its local area need findings on this highly unlikely contingency because, “[w]hile the circumstances underlying the methodology are (hopefully) rare, the consequences of not having sufficient resources in such a rare situation would be extremely serious.”<sup>30</sup> Contrary to the Commission’s own guidance, the APD determines only that the risk of loss of Puente is “unlikely” but then fails to reach a determination of whether an “unlikely” risk is then acceptable given the potential consequences of Puente’s outage. Were Puente simply a system resource, the consequence of loss would likely be minimal given California has a significant system capacity surplus. However, because Puente is a significant local capacity resource whose very purpose it to be available during the same extreme events that may also trigger a transmission contingency, asset failure has higher potential consequences for grid reliability. Indeed, given that the project site also houses a substation connected to other nearby generation assets, collective resource loss from flooding could have significant consequences for meeting local reliability needs.

The importance of assessing both the probability of asset failure and its consequence highlights the distinct roles and importance of both CEC and Commission review of reliability risk. The CEC, with its scientific expertise and robust environmental review process, is best equipped to vet the risks of coastal flooding to the Puente site. The ALJ PD/Florio APD thus wisely opt to defer an assessment of Puente’s reliability risk until after further vetting at the CEC. However, the question of the consequence of asset loss falls within Commission expertise. Should Puente survive CEC review and again be before the Commission, the Commission would then complete its vulnerability assessment by using CEC findings on the risk of loss of Puente to determine whether this risk is acceptable when accounting for the consequences of the loss of this significant local capacity resource. As currently set forth, the Peterman APD is not a legitimate reliability assessment and should not be adopted.

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<sup>28</sup> Climate Adaptation in the Electric Sector p. 16.

<sup>29</sup> D.13-02-015 p. 39.

<sup>30</sup> D.13-02-015 p. 40.

**C. The Peterman APD’s Proposed Deferral of Ellwood Does Not Remedy the Defects in its Procurement.**

**1. It is Not Appropriate for the Commission to Consider a Contract that Violates Multiple Commission Procurement Rules.**

It is reasonable to expect the Commission to follow its own rules. Both the Peterman and Florio APDs mistakenly find that it is “appropriate to consider the Ellwood contract in this proceeding.”<sup>31</sup> As recognized in the PD, it is simply not appropriate to consider contracts that violate recently adopted rules governing utility procurement. By the terms of its own filing, SCE’s Moorpark Application is “for Approval of the Results of Its 2013 Local Capacity Requirements Request for Offers for the Moorpark Sub-Area.” Consistent with Commission procurement rules allowing only “incremental capacity of existing plants or repowered plants to participate in long-term RFOs,”<sup>32</sup> SCE’s Moorpark RFO required that any project bidding into the RFO “must be incremental (*i.e.*, new capacity).”<sup>33</sup> There is no dispute that the Ellwood peaker is a non-incremental resource that was assumed to be operational in the underlying Moorpark local capacity need analysis. Therefore, as the PD properly finds, because Ellwood “does not fall within the definition of incremental resource and, under the terms of the Commission’s prior decisions, the 54 MW contract to refurbish the Ellwood facility does not count toward the LCR procurement authorization required in D.13-02-015,” the contract “should be denied.”<sup>34</sup>

Not only are non-incremental resources like Ellwood precluded from participating in new resource RFOs, but the exact practice attempted by SCE and NRG, whereby a new resource bid is linked to an existing resource, is expressly prohibited. D.14-02-040 requires that “an offer of incremental capacity should be evaluated based on the cost and value of the incremental capacity alone, and *not* some combination of the existing and incremental capacity of the unit in question.”<sup>35</sup> Contrary to this prohibition, the pricing of the 0.5 MW of new energy storage offered by NRG was undoubtedly influenced by the added financial benefits from an extended

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<sup>31</sup> Peterman APD p. 24; Florio APD p. 23.

<sup>32</sup> D.14-02-040 p. 28. In defining “incremental capacity,” the Commission accepted “SCE’s recommendation that the definition should be ‘capacity incremental to what was assumed in the underlying need authorization.’ In other words, these are net additions.” *Id.*

<sup>33</sup> Exh. SCE-1 p. 14.

<sup>34</sup> ALJ PD pp. 19-20.

<sup>35</sup> D.14-02-040 p. 33 (emphasis added).

contract with Ellwood.<sup>36</sup>

Commission procurement rules exist for a reason. They provide fairness to all market participants and help ensure substantial evidence is developed to support need, reliability and cost findings. As the ALJ's PD recognizes, by violating those rules, "[n]one of the assertions regarding reliability or costs ... have been vetted."<sup>37</sup> Indeed, there is nothing beyond NRG's bare assertions supporting the claim that Ellwood would retire absent a 10-year contract or that a 10-year contract, as opposed to a 5-year contract permissible under SCE's Bundled Procurement Plan, is needed for NRG to refurbish Ellwood.<sup>38</sup> The answer to the Scoping Memo's question of whether "the 54 MW Ellwood Refurbishment project [is] appropriate for the Commission to consider in this proceeding" is "No." Contracts arising from multiple violations of Commission procurement rules are not appropriate and should not be considered.

The Florio and Peterman APDs' reluctance to reject the Ellwood contract appears motivated in part by the mistaken concern that absent approval of a long-term contract, Ellwood would retire and an opportunity for a potentially low cost reliability solution would be forever lost.<sup>39</sup> This is not the case. Ellwood, which was mothballed in 2003 and returned to service in 2015, has been operating on short-term contracts for the past ten years and can continue to do so.<sup>40</sup> Because Ellwood is no longer assumed to be operational in LTPP need assessments,<sup>41</sup> to the extent additional local capacity need is identified for the Moorpark sub-area, Ellwood could bid to meet this need as an incremental resource and properly compete with other resources as envisioned under the Commission's established procurement process.

## **2. The Peterman APD's Contemplated Deferral of Ellwood to Consider Goleta Need Precludes Competition and Efficient Resource Solutions for the Moorpark Area.**

The Peterman APD would approve Puente but allow for additional review "to establish if there is a separate reliability need in the Goleta area in order to consider the Ellwood

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<sup>36</sup> Pricing for the 0.5 MW of energy storage is available at Confidential Exhibit SCE-1C, p. B.28.

<sup>37</sup> ALJ PD p. 21.

<sup>38</sup> Cross examination regarding the extent of SCE's investigation into Ellwood retirement risk in the Confidential Evidentiary Hearing Transcript pp. 183-184.

<sup>39</sup> Peterman APD p. 24; Florio APD p. 22.

<sup>40</sup> LTPP 2014 Scenario Tool v5, *available at* <http://www.cpuc.ca.gov/General.aspx?id=6617>, Generating Capability List Tab, Cell P334; ORA Opening Br. p 9 (citing Data Request Set A.14-11-016 LCR RFO Moorpark-ORA-001).

<sup>41</sup> *Id.*, Final 2014 NQC List Tab, Cell S292.

refurbishment contract.”<sup>42</sup> There are two problems with this approach. First, deferred consideration of whether Ellwood is needed to meet Goleta area need continues to preclude competition from preferred resource alternatives. Second, given that Puente already exceeds resource needs for the Moorpark sub-area and Goleta is a subset of Moorpark, approving Puente only to then look to Ellwood to address Goleta-specific reliability concerns would result in significant and unnecessary overprocurement of fossil fuels. A far superior solution is to dismiss the Puente contract and hold a second RFO to better distribute resources across the Moorpark sub-area.

The CAISO 2014-2015 transmission plan (“TPP”) identifies a 230 MW resource deficiency for the Moorpark sub-area for a Category C contingency.<sup>43</sup>

2024	Total MW Requirement	Existing Resource Need (MW)	Deficiency without LTPP T1 & T4 (MW)	Total SCE Selected Procurement for LTPP Tracks 1 & 4 (MW)
Category B (Single) <sup>35</sup>	2,603	2,603	0	275
Category C (Multiple) <sup>34</sup>	2,783	2,553	230	275

The Peterman APD would approve all 275 MW of new resources requested by SCE, 45 MW more than needed to address local capacity needs in the Moorpark sub-area. Even though CAISO’s analysis assumes continued operation of the 54 MW Ellwood peaker, termination of Ellwood would still only result in a 9 MW resource deficiency for the Moorpark sub-area. This minimal deficiency does not require procurement of Ellwood to meet Moorpark sub-area needs, especially given that CAISO’s need assessment likely overstates local capacity needs. CAISO’s 2014-2015 TPP analysis was prior to the passage of SB 350, which requires a doubling of energy efficiency savings, and the latest IEPR, which found substantial reductions in peak demand compared to prior forecasts largely due to increased deployment of behind the meter self-generation.<sup>44</sup> With the assumed continued operation of Ellwood, Puente’s approval would result in over-procurement in Moorpark, and without Ellwood, it is unlikely further procurement in

<sup>42</sup> Peterman APD p. 25.

<sup>43</sup> Exh. CAISO-1, p. 94 (Appendix E to CAISO 2014-2015 Transmission Plan), *also available at* <https://www.caiso.com/Documents/AppendixEBoardApproved2014-2015TransmissionPlan.pdf>.

<sup>44</sup> SB 350 Sec. 2 (2016); CEC, California Energy Demand 2016-2026, Revised Electricity Forecast Vol. 1 (Jan. 2016), pp. 5, [http://docketpublic.energy.ca.gov/PublicDocuments/15-IEPR-03/TN207439\\_20160115T152221\\_California\\_Energy\\_Demand\\_20162026\\_Revised\\_Electricity\\_Forecast.pdf](http://docketpublic.energy.ca.gov/PublicDocuments/15-IEPR-03/TN207439_20160115T152221_California_Energy_Demand_20162026_Revised_Electricity_Forecast.pdf).

Moorpark would be needed.

Assuming Puente is procured, Ellwood would only be needed to address Goleta-specific reliability concerns. According to SCE, loss of two 230 kV transmission lines serving Santa Barbara County would result in an approximately 85 MW resource deficiency in Goleta, of which 54 MW could be met by Ellwood.<sup>45</sup> While resources located in Goleta would contribute to meeting both Goleta-specific and Moorpark sub-area need, resources such as Puente that are located outside Goleta only contribute to broader Moorpark sub-area need. It is therefore incredibly inefficient to approve procurement of resources outside Goleta that exceed Moorpark area needs only to then consider additional resource procurement within Goleta. The failure of the Moorpark RFO to meet Goleta specific reliability concerns underscores the importance of a second RFO that efficiently directs resources to meet all reliability concerns in the Moorpark sub-area.<sup>46</sup>

**D. The Commission Should Dismiss Puente and Require SCE to Issue a New RFO.**

Requiring a new RFO is not a typical remedy. These are not typical circumstances. The Moorpark Application is the result of a bidding process that did not account for required environmental justice considerations and which was fundamentally compromised by the market's focus on the concurrent and much larger LA Basin solicitation.<sup>47</sup> Because the Moorpark RFO was overshadowed by the LA Basin RFO, resulting bids were not indicative of clean energy potential in the Moorpark area. A second RFO that is the focus of market attention is required to ensure the environmental justice considerations neglected by SCE in the original RFO are properly accounted for and resource solutions are better distributed to increase climate resiliency and efficiently address both Moorpark and Goleta reliability needs.

In addition, as the Peterman APD recognizes “if the CEC does not approve the project, it

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<sup>45</sup> Exh. SCE-7 pp. 6-7 (cited in Florio APD p. 19) (stating local area peak demand is approximately 265 MW and only 180 MW could be provided to area in event of loss of 230 kV transmission lines to Goleta substation).

<sup>46</sup> While SCE did indicate a preference for resources in Goleta, as previously discussed, the market was focused on the concurrent and much larger LA Basin solicitation when the Moorpark RFO was issued. As SCE now appears to assert minimum procurement needs for Goleta, an RFO articulating minimum procurement needs would likely be much more effective in driving bids than a bidding “preference.”

<sup>47</sup> In comparison with the 215-290 MW of any resource sought in the Moorpark RFO, the LA Basin was close to ten times the size, seeking 1,800 to 2,500 MW of resources of which at least 600 MW had to be preferred resources and energy storage.

will not go forward.”<sup>48</sup> With its environmental justice impacts, coastal vulnerability, and inconsistency with existing land-use designations, Puente faces serious viability challenges. Should the CEC reject Puente, the Commission would be left with no resource alternatives to meet Moorpark area need. Dismissal of Puente and a new RFO, into which Puente or a smaller facility could bid, is the prudent path forward to both hedge against Puente’s viability risks and to afford Oxnard and the Moorpark area a legitimate opportunity to benefit from more equitable, cleaner, and climate resilient energy investments.

### **III. CONCLUSION**

For the reasons set forth above, Sierra Club respectfully requests that the ALJ PD be adopted and revised to dismiss the Puente project and require SCE to issue a new RFO for the Moorpark area.

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Respectfully submitted,

/s/

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<sup>48</sup> Peterman APD p. 18.