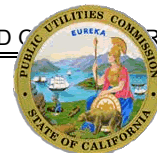


## PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298

**FILED**

05/15/18  
12:48 PM

May 15, 2018

Agenda ID #16523  
Ratesetting

TO PARTIES OF RECORD IN RULEMAKING 13-09-011:

This is the proposed decision of Administrative Law Judge Hymes. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's June 21, 2018, Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, ex parte communications are prohibited pursuant to Rule 8.3(c)(4)(B).

/s/ ANNE E. SIMON

Anne E. Simon  
Chief Administrative Law Judge

AES:jt2

Attachment

Decision PROPOSED DECISION OF ALJ HYMES (Mailed 5/15/2018)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Enhance the Role of Demand Response in Meeting the State's Resource Planning Needs and Operational Requirements.

Rulemaking 13-09-011

**DECISION MODIFYING DECISION 16-09-056****Summary**

Based on concerns about the greenhouse gas emissions metric from the Self Generation Incentive Program (SGIP), we determine that the demand response prohibited resources policy (Prohibited Resources Policy) should not rely on any metric developed in the SGIP. Furthermore, there are multiple reasons to exempt energy storage not coupled with fossil-fueled generation from the list of prohibited resources, at this time. Accordingly, Decision (D.) 16-09-056 at Conclusion of Law 10 is modified to confirm that the Prohibited Resources Policy is applicable to all resources but that energy storage resources should be exempt from the list of prohibited resources. Furthermore, D.16-09-056 at Ordering Paragraph 3 is also modified to exempt all energy storage resources, not coupled with fossil-fueled generation, from the list of prohibited resources. The exemption of energy storage resources will be reviewed again in either the proposed rulemaking on new models of demand response or the 2023-2027

demand response program applications, whichever commences first. At that time, the Commission will have more experience with energy storage resources participating in demand response and can better consider whether to continue the exemption from the list of prohibited resources or develop and adopt a new independent emissions requirement for energy storage resources participating in demand response programs.

Rulemaking 13-09-011 is closed.

### **1. Procedural Background**

On September 29, 2017, the Commission approved Decision (D.) 16-09-056, adopting guidance for future demand response portfolios and modifying D.14-12-024. Relevant to this decision, D.16-09-056 rescinded a prior requirement in D.14-12-024 to collect data on fossil-fueled back-up generation in demand response programs and established a prohibition of the use of certain resources for load reduction during demand response events (Prohibited Resources Policy). Ordering Paragraph 3 of that decision established the list of prohibited resources as: distributed generation technologies using diesel, natural gas, gasoline, propane, or liquefied petroleum gas, in topping cycle Combined Heat and Power (CHP) or non-CHP configuration. Notably, the decision exempted from the list of prohibited resources energy storage and storage coupled with renewable generation that meet the relevant greenhouse gas emissions metric adopted for the Self Generation Incentive Program (SGIP).

On January 26, 2018, Stem, Inc. (Stem) filed a petition to modify D.16-09-056 (Petition). In its Petition, Stem contends that implementation of the Prohibited Resources Policy adopted in D.16-09-056 would cause more harm

than the very slight greenhouse gas annual emissions increase attributed to SGIP-eligible energy storage for all of 2016.<sup>1</sup> Stem argues in its Petition that the reliance on a widely considered imperfect SGIP metric would prohibit energy storage resources from not only contributing to demand response but to other equally important goals of Senate Bill (SB) 1414 and Assembly Bill (AB) 2514.<sup>2</sup> Pursuant to Commission Rules of Practice and Procedure, Rule 16.4(c),<sup>3</sup> Stem explains that a report released in September 2017 provides additional information not previously available, which Stem alleges establishes the justification for modification of D.16-09-056.<sup>4</sup> In its Petition, Stem requests the Commission to 1) clarify that the Prohibited Resources Policy does not apply to energy storage; 2) suspend the requirement that energy storage meet the existing SGIP emissions metric in order to provide load reduction during demand response events, pending adoption of a more accurate greenhouse gas method; and 3) clarify that existing non-SGIP storage projects and previously executed contracts governing the projects are not subject to the incorporation of the SGIP greenhouse gas metric.

---

<sup>1</sup> D.16-09-056 required the Prohibited Resources Policy to be implemented on January 1, 2018. Due to regulatory and technical delays, the implementation is now anticipated sometime in the second half of 2018.

<sup>2</sup> California SB 1414 (Wolk) Chapter 627 approved by the Governor on September 26, 2014. SB 1414 requires utilities and regulators to include demand response in resource adequacy plans, as specified. California AB 2514 (Skinner) Chapter 469 approved by the Governor on September 29, 2010. AB 2514 requires the Commission to determine appropriate targets, if any, for load serving entities to procure energy storage systems.

<sup>3</sup> Rule 16.4(c) requires that if more than one year has elapsed since the effective date of the decision proposed to be modified, the petition must explain why the petition could not have been presented within one year of the effective date of the decision.

<sup>4</sup> Petition at 2 referencing the 2016 SGIP Energy Storage Impact Evaluation prepared by Itron with assistance from Energy + Environmental Economics (E3) and released in September 2017.

On February 26, 2018, the following parties filed responses to the Petition: California Energy Storage Alliance (CESA); California Solar & Storage Association (CALSSA); Engie Storage Services NA, LLC (Engie); the Joint Demand Response Parties;<sup>5</sup> the Office of Ratepayer Advocates (ORA), and Pacific Gas and Electric Company (PG&E) and Southern California Edison Company (SCE) (jointly, PG&E/SCE).

## **2. Party Positions**

In its Petition, Stem provides new information to this proceeding directly related to the SGIP emissions metric referenced in the Prohibited Resources Policy. Stem references the 2016 SGIP Energy Storage Impact Evaluation (Itron Report), which has shown that “the SGIP round-trip efficiency standard adopted nearly eight years ago as a proxy greenhouse gas emissions measure is at best “an imperfect metric for achieving greenhouse gas reductions.”<sup>6</sup>

According to Stem, the Itron Report found that the round trip efficiency alone does not accurately or reliably measure greenhouse gas emissions reductions associated with energy storage operations and recommended that the Commission should consider a more accurate method that signals storage operators to enable them to charge and discharge their systems to minimize greenhouse gas emissions.<sup>7</sup> An Assigned Commissioner Ruling in R.12-11-005 established an “Energy Storage Greenhouse Gas Signal Working Group” to develop alternative operational requirements to improve greenhouse gas emissions impacts from storage project, including the development of a

---

<sup>5</sup> The Joint Demand Response Parties are CPower, EnerNOC, Inc., and EnergyHub.

<sup>6</sup> Petition at 2 quoting a December 29, 2017 Assigned Commissioner Ruling in R.12-11-005.

<sup>7</sup> *Ibid.*

greenhouse gas signal to help SGIP energy storage systems reduce greenhouse gas emissions.<sup>8</sup>

Stem requests the Commission exempt storage from the Prohibited Resources Policy until the R.12-11-005 working group develops and the Commission adopts some variant of the greenhouse gas emissions signal, as described in the December 29, 2017 Assigned Commissioner Ruling. Stem argues that implementing the policy as currently written “will cause far more harm than the very slight greenhouse gas annual emissions increase attributed by Itron to SGIP-eligible energy storage for all of 2016.”<sup>9</sup> Conveying that no party has challenged this conclusion, Stem asserts that the Itron Report reveals that the SGIP greenhouse gas metric is not by itself a reliable indicator of greenhouse gas emissions from energy storage.<sup>10</sup>

There is support for revising the current Prohibited Resources Policy, but to varying degrees ranging from support for complete exemption of energy storage from the Prohibited Resources Policy to support for modification of the current greenhouse gas emissions metric. First, several parties support the complete exclusion of storage from the Prohibited Resources Policy. Arguing that Conclusion of Law 10 makes clear that the Commission seeks to include storage resources generally in demand response programs, Joint Demand Response Parties assert that tying storage resources artificially to the SGIP policies circumvents that policy.<sup>11</sup> Joint Demand Response Parties as well as

---

<sup>8</sup> *Ibid* and R.12-11-005 Assigned Commissioner Ruling, December 29, 2017 at 3.

<sup>9</sup> Petition at 2, footnote 6, citing the Itron Report findings.

<sup>10</sup> *Id.* at 8.

<sup>11</sup> Joint Demand Response Parties Response at 3.

CESA caution that the current policy could yield the unintended consequence of eliminating all storage from participating in demand response programs, including resources providing demand response services in accordance with Local Capacity Requirement and Demand Response Auction Mechanism contracts.<sup>12</sup> Engie fully supports the development of greenhouse gas standards for energy storage, but discourages the Commission from adopting standards already identified as problematic.<sup>13</sup>

ORA and PG&E/SCE also support Stem's recommendation to modify D.16-09-056 to more accurately ensure energy storage reduces greenhouse gas emissions.<sup>14</sup> However, all three entities recommend maintaining the current policy until a new method to improve greenhouse gas emissions impacts from storage projects can be established.<sup>15</sup> Contending that the new SGIP emissions method—currently being developed in R.12-11-005—will only apply to storage projects that receive SGIP incentives, ORA recommends that the Commission establish a greenhouse gas metric for energy storage independent of the SGIP.<sup>16</sup> Further, ORA highlights that the SGIP is scheduled to sunset in 2020 making it unclear whether the Commission could rely on the new method adopted in SGIP.<sup>17</sup> PG&E/SCE recommend expeditious collaboration through the R.12-11-005 greenhouse gas working group. Once completed, PG&E/SCE

---

<sup>12</sup> *Id.* at 2 and CESA Response at 3.

<sup>13</sup> Engie Response at 3.

<sup>14</sup> ORA Response at 2 and PG&E/SCE Response at 2.

<sup>15</sup> ORA Response at 2 and PG&E/SCE Response at 2.

<sup>16</sup> ORA Response at 4, citing R.12-11-005 December 29, 2017 Assigned Commissioner Ruling.

<sup>17</sup> *Id.* at 4 and footnote 16.

suggest the new SGIP method should apply to storage participating in demand response and in the Demand Response Auction Mechanism.<sup>18</sup>

### **3. Discussion**

This decision addresses: 1) whether the continued use of a recently-deemed-inaccurate SGIP emissions metric in the Prohibited Resources Policy is reasonable, and 2) whether and how the Commission should modify D.16-09-056 to address the concern.

The Commission determines that the Prohibited Resources Policy, which currently requires energy storage to meet the current SGIP emissions metric, should not include requirements associated with the SGIP for multiple reasons, as further described below. Furthermore, it is reasonable to balance the Commission's responsibilities to ensure the commitment to clean energy policies while recognizing the nascent nature of energy storage participating as demand response. Accordingly, this decision clarifies that it is reasonable to exempt but not exclude energy storage from the list of prohibited resources and takes a balanced approach and revises D.16-09-056, Ordering Paragraph 3, to exempt all energy storage resources not coupled with fossil-fueled generation from the list of prohibited resources in the Prohibited Resources Policy at this time. The exemption from the list of prohibited resources includes Commission-approved behind-the-meter energy storage resource contracts. The Commission will review the exemption of storage resources in either the proposed rulemaking on new models of demand response or the 2023-2027 demand response program applications.

---

<sup>18</sup> PG&E/SCE Response at 2.



### **3.1. Linkage Between SGIP and the Prohibited Resources Policy**

We begin with a discussion of whether to continue the linkage between the SGIP and the Prohibited Resources Policy. R.12-11-005 determined that a working group should develop alternative operational requirements to improve greenhouse gas emissions impacts from storage projects, including a greenhouse gas signal to help SGIP energy storage systems reduce net greenhouse gas emissions.<sup>19</sup> Parties in this proceeding have voiced concern that current demand response storage contracts outside of the demand response portfolio may not meet the SGIP emissions standard, currently required by the Prohibited Resources Policy, but which is now being considered to be replaced.

Since 2015, the Commission has approved several demand response energy storage resources contracts external to the demand response portfolio, as well as energy storage contracts for the demand response auction mechanism. Stem highlights examples of currently contracted or pending potential procurement of energy storage that may not meet the existing emissions metric: SCE's 2014 Local Capacity Resource Request for Offer, which has resulted in 135 megawatts of demand responsive energy storage contracts and SCE's Puente-Moorpark procurement of storage as an alternative to new gas-fired generation.<sup>20</sup> Stem underscores that these contracts may not be eligible for or may not seek SGIP incentives and yet will be required to meet the SGIP emissions metric pursuant to the Prohibited Resources Policy anticipated to be soon implemented by the Commission. Stem contends that "unless the current

---

<sup>19</sup> R.12-11-005 Assigned Commissioner Ruling, December 29, 2017 at 3.

<sup>20</sup> Petition at 4.

reference to an SGIP [greenhouse gas] standard is modified, [these contracts] may be precluded from using storage for demand response.”<sup>21</sup> Stem further asserts that the current SGIP emissions metric may also severely impact the Demand Response Auction Mechanism. No party disputes these contentions.

We agree that as a result of the linkage with the current SGIP emissions metric—now under further review by the Commission— contracts for demand response energy storage could be determined to be out of compliance with the Prohibited Resources Policy, as currently written, which could result in an inability of those resources to contribute to demand response. This may impact grid reliability. Meeting the needs of the grid is a cornerstone of the demand response goal, as well as one of the highest responsibilities of the Commission. Hence, the Commission should not continue to rely on the SGIP emissions metric, widely considered imperfect by parties in R.12-11-005, as a requirement in the Prohibited Resources Policy.<sup>22</sup>

We now review the appropriateness of the linkage between the SGIP and the Prohibited Resources Policy. To begin, the SGIP and demand response are two different programs with different objectives and operations. In D.11-09-015, the Commission established the SGIP to encourage the development and commercialization of new distributed generation technologies; distributed generation is described as generation technologies installed on the customer’s side of the utility meter that provide electricity for all or a portion of that customer’s onsite electric load.<sup>23</sup> In comparison, demand response is reductions,

---

<sup>21</sup> Petition at 4.

<sup>22</sup> See R.12-11-005 Assigned Commissioner Ruling, December 29, 2017 at 2.

<sup>23</sup> D.11-09-015 at 4.

increases, or shifts in electricity consumption by customers in response to either economic signals or reliability signals.<sup>24</sup> Hence the objectives of the two programs are different. Furthermore, the operations of the two programs are also different in that SGIP responds to retail rates, while demand response responds to market rates. Lastly, we note that the principle objective of the Prohibited Resources Policy is to ensure that demand response is not supported by fossil-fueled resources. While both demand response and SGIP have an intention of reduced emissions, how the programs reduce emissions are very different.

Furthermore, as pointed out by ORA, the SGIP is expected to sunset in 2020. Therefore, the Prohibited Resources Policy should not rely on a standard from a program that may cease to exist.

Because of the concerns with the current SGIP emissions metric, the differences between SGIP and demand response, and the fact that SGIP is expected to sunset in 2020, we find it inappropriate to rely on a standard developed in the SGIP for establishing demand response related policy. Accordingly, the Commission should disengage the linkage between the Prohibited Resources Policy and the SGIP.

### **3.2. Energy Storage Resources and the Prohibited Resources Policy**

We turn to the issues of the Petition: 1) whether the Prohibited Resources Policy should be applicable to energy storage resources; 2) if the policy is determined to be applicable to energy storage resources, whether the Commission should adopt a new method to replace the current SGIP greenhouse

---

<sup>24</sup> D.17-12-003 at 3.

gas metric and; 3) if a new method should be adopted, what that new method should be.

### **3.2.1. Applicability of the Prohibited Resources Policy to Storage**

First, we address the applicability of the Prohibited Resources Policy to energy storage resources. Stem, CALSSA, CESA, Engie, and the Joint Demand Response Parties assert that energy storage resources should not be required to comply with the current emissions metric but rather the Commission should determine the Prohibited Resource Policy not applicable to energy storage.<sup>25</sup> Stem argues that the Commission specifically called out energy storage as a strategic resource to meet AB 2514 requirements and thus excluded energy storage from the list of prohibited resources. On the other hand, PG&E/SCE and ORA support the continued applicability of the Prohibited Resources Policy to energy storage resources. ORA highlights that the exclusion of energy storage from the list of prohibited resources was with the condition that the resource meet the relevant SGIP emissions metric.<sup>26</sup>

As stated in D.16-09-056, the Commission considers energy storage a strategic resource to meet AB 2514 storage targets but, simultaneously, the Commission must ensure that storage coupled with fossil resources is not permitted. Hence, the Commission could not then and should not now exclude all energy storage resources from the Prohibited Resources Policy. D.16-09-056 concluded it should exempt stand-alone and storage coupled with renewables so

---

<sup>25</sup> Petition at 9; CESA Response at 7; CALSSA Response at 4; Engie Response at 3; and Joint Demand Response Parties Response at 2.

<sup>26</sup> ORA Response at 2-3.

long as the resources can meet the SGIP emission metric. In this decision, we determine that the Commission should not rely on a metric or method from the SGIP for establishing demand response related policy. This determination does not mean, however, that the Prohibited Resource Policy does not apply to energy storage. Again, the Commission is responsible for carrying out California's clean energy policy while also meeting AB 2514 requirements. Accordingly, we clarify that we exempt energy storage and to avoid confusion, the Commission should modify Conclusion of Law 10 to replace the word "exclude" with the word "exempt".

### **3.2.2. Exemption of Storage Not Coupled With Fossil-Fueled Generation**

Now we address whether the Commission should adopt a new emissions metric to replace the current SGIP metric. We have determined that it is inappropriate for the Prohibited Resources Policy to rely upon a metric or method from the SGIP so we consider whether to develop an independent demand response emissions measurement.

CESA suggests that while greenhouse gas emissions reduction is an important objective for demand response programs, a balanced approach is more appropriate where the other objectives of demand response such as customer choice and grid support are factored into the value of energy storage resources provided through demand response.<sup>27</sup> Agreeing that the Commission should prohibit the use of fossil-fueled fired generators, CESA posits that energy storage, which has zero point-source emissions, should neither be prohibited from use in demand response nor subject to discriminative rules in comparison

---

<sup>27</sup> CESA Response at 7.

to traditional demand response resources.<sup>28</sup> CESA contends that the Prohibited Resources Policy may be holding energy storage resources participating in demand response programs to stricter operating requirements from traditional demand response resources.<sup>29</sup>

ORA recommends expanding the scope of R.13-09-011 to include the development of a stand-alone emissions metric for energy storage. We note that the rulemaking has resolved all issues and has been closed, except for addressing the Petition at hand.

In our consideration of the replacement emissions metric the Commission should adopt, we are compelled to evaluate the allegation that energy storage may not be on a level playing field with traditional demand response curtailment resources in terms of the Prohibited Resources Policy.<sup>30</sup> D.16-09-056 adopted a set of principles for all Commission-regulated demand response.<sup>31</sup> The principles of demand response include a requirement that all demand response shall be market-driven leading to a competitive, technology-neutral open market in California. Policies unfair to a particular technology conflict with this principle. Our intention in adopting the Prohibited Resources Policy was and remains to ensure resources meet the Commission's clean energy policies including SB 1414, whereby demand response shall reduce greenhouse gases.<sup>32</sup> However, the Commission should balance this intention with other objectives

---

<sup>28</sup> *Ibid.*

<sup>29</sup> *Ibid.*

<sup>30</sup> CESA Response at 7.

<sup>31</sup> D.16-09-056 at Ordering Paragraph 8.

<sup>32</sup> D.16-09-056 at 20-21.

such as customer choice and grid support, and competitive neutrality.

Additionally, we also consider the report from the California Air Resources Board, that the emissions from energy storage comprise less than .0009 percent of California's total greenhouse gas emissions of electricity generation for all of 2016.<sup>33</sup>

Having determined that we should disengage the linkage between the SGIP and the Prohibited Resources Policy, we are left with the option of creating an independent energy storage emissions metric. However, singling out energy storage by creating this independent metric could send the wrong signal to energy storage providers. Some perceive the Prohibited Resources Policy as requiring energy storage to comply with stricter operating requirements from traditional demand response resources. Again, the Commission should ensure that regulatory metrics are not discriminatory of one technology over another. Furthermore, because of the nascent nature of storage and since emissions from storage are low, it may be reasonable to exempt energy storage from the Prohibited Resources Policy. Taking all of these elements into consideration, the Commission should grant an exemption to energy storage resources not coupled with fossil-fueled generation from the list of prohibited resources in the Prohibited Resources Policy at this time.

#### **4. Conclusion**

This decision partially grants the Petition filed by Stem to modify D.16-09-056. First, to avoid further confusion, D.16-09-056, Conclusion of Law 10 is modified to replace the word "exclude" with the word "exempt". Second, we

---

<sup>33</sup> Petition at 8, footnote 22, citing data on the California Air Resources Board website at <https://www.arb.ca.gov/cc/inventory/data/data.htm>.

revise D.16-09-056, Ordering Paragraph 3 to exclude energy resources, not coupled with fossil-fueled generation, from the list of prohibited resources at this time. The Commission will review this determination in either the proposed new rulemaking on new models of demand response or the 2023-2027 demand response program applications, whichever commences first. At that time, the Commission will consider whether to continue the exemption and/or develop a new independent emissions requirement for energy storage. As part of its review, the Commission will consider the elements discussed above, having had additional experience with the use of energy storage as a demand response resource.

R.13-09-011 is closed.

#### **5. Comments on Proposed Decision**

The proposed decision of Administrative Law Judges Hymes and Atamturk in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on \_\_\_\_\_, and reply comments were filed on \_\_\_\_\_ by \_\_\_\_\_.

#### **6. Assignment of Proceeding**

Martha Guzman Aceves is the assigned Commissioner and Kelly A. Hymes and Nilgun Atamturk are the assigned Administrative Law Judges in this proceeding.

#### **Findings of Fact**

1. An Assigned Commissioner Ruling in R.12-11-005 (the Self Generation Incentive Program) determined that the Commission should develop alternative



operational requirements to improve greenhouse gas emissions impacts from storage projects, including a greenhouse gas signal.

2. Since 2015, the Commission has approved several demand response energy storage resource contracts external to the demand response portfolio, as well as energy storage contracts for the demand response auction mechanism.

3. Contracts for demand response energy storage could be determined to be out of compliance with the Prohibited Resources Policy, as currently written, and could result in the inability of those resources to contribute to demand response.

4. The inability of the energy storage contracts to contribute to demand response may impact the reliability of the grid.

5. Meeting the needs of the grid is a cornerstone of the demand response goal and one of the Commission's responsibilities.

6. The SGIP and demand response are two different programs with different objectives and operations.

7. The SGIP is expected to expire in 2020.

8. It is inappropriate to rely on a standard developed in the SGIP for establishing demand response policy.

9. Energy storage is a strategic resource to meet AB 2514 storage targets.

10. Storage coupled with fossil-fueled resources should not be permitted to receive incentives for load reduction during a demand response event.

11. The principles of demand response include a requirement that all demand response shall be market driven leading to a competitive, technology-neutral open market in California.

12. Policies unfair to a particular technology conflict with the demand response principles.

13. The intention of the Commission in adopting the Prohibited Resources Policy is to ensure resources meet the Commission's clean energy policies.

14. In developing demand response policies, the Commission should consider other objectives such as customer choice, grid support and competitive neutrality.

15. The California Air Resources Board reports that emissions from energy storage comprise less than .0009 percent of California's total greenhouse gas emissions of electricity generation for all of 2016.

16. Singling out energy storage resources by creating an independent metric for them could send the wrong signal to energy storage providers.

17. Energy storage is a nascent industry.

18. It may be reasonable to exempt energy storage from the list of prohibited resources at this time.

19. By the time that either the new rulemaking on new models of demand response or the 2023-2027 demand response applications commences, the Commission will have additional experience with the use of energy storage as a demand response resource.

### **Conclusions of Law**

1. The Commission should not continue to rely on the current SGIP greenhouse gas emissions metric for use in the Prohibited Resources Policy.

2. The Commission should not continue to rely on a metric from a program that is expected to expire.

3. The Commission should disengage any linkage between the Prohibited Resources Policy and the SGIP.

4. The Commission should modify Conclusion of Law 10 in D.16-09-056 to replace the word "exclude" with the word "exempt".

5. The Commission should ensure that regulatory metrics are not discriminatory to one technology over another.
6. The Commission should exempt energy storage, not coupled with fossil-fueled generation, from the list of prohibited resources in its Prohibited Resources Policy at this time.
7. The Commission should consider whether to continue the exemption for energy storage or develop a new emissions metric in either the proposed new rulemaking on new models of demand response or the 2023-2027 demand response program applications, whichever commences first.

## O R D E R

### IT IS ORDERED that:

1. Stem, Inc.'s Petition for Modification of Decision 16-09-056 is granted in part, as described in the subsequent ordering paragraphs.

2. Decision 16-09-056, Conclusion of Law 10 is modified as follows:

*The Commission should exempt energy storage from the list of prohibited resources.*

3. Decision 16-09-056, Ordering Paragraph 3 is modified as follows:

*Beginning on January 1, 2018, the following list of resources are prohibited to be used for load reduction during demand response events: distributed generation technologies using diesel, natural gas, gasoline, propane, or liquefied petroleum gas, in topping cycle Combined Heat and Power (CHP) or non-CHP configuration. The following resources are exempt from the list of prohibited resources: pressure reduction turbines and waste-heat-to-power bottoming cycle CHP, as well as energy storage resources not coupled with fossil-fueled generation. The following programs are exempt from the prohibition: air conditioner cycling programs, permanent load shifting programs, schedule load reduction programs, the optional binding mandatory curtailment, time of use rates, critical peak pricing, real time pricing, and peak time rebate.*

A review of this determination will be performed in either the proposed new rulemaking on new models of demand response or the 2023-2027 demand response program applications, whichever commences first. At that time, the Commission will consider whether to continue this exemption or develop a new emissions requirement for energy storage resources to be used for load reduction during demand response events.

4. Rulemaking 13-09-011 is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.