



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

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Application of San Diego Gas & Electric
Company (U902E) for Approval of its 2018
Energy Storage Procurement and Investment
Plan.

Application 18-02-016
(Filed February 28, 2018)

And Related Matters

Application 18-03-001
Application 18-03-002

**REPLY COMMENTS OF SAN DIEGO GAS & ELECTRIC COMPANY (U902-E) ON
PROPOSED DECISION REGARDING AB 2868 APPLICATIONS**

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FORM OF CITATION TO PARTY COMMENTS

Citations to party comments are as follows: [party abbreviation] comments at [page number(s)].

TABLE OF ACRONYMS AND ABBREVIATIONS

Acronym/Abbreviation	Definition
AB	Assembly Bill
CESA	California Energy Storage Alliance
CoL	Conclusion of Law
D.	Decision
Fluence	Fluence Energy, LLC
LS Power	LS Power Development, LLC
MW	Megawatt
OIR	Order Instituting Rulemaking
Ordering paragraph	OP
PD	Proposed Decision
RA	Resource Adequacy
SCE	Southern California Edison Company
SDG&E	San Diego Gas & Electric Company
Tesla	Tesla, Inc.

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Pursuant to Commission Rule 14.3(d) SDG&E hereby replies to certain parties' comments on the PD¹ in the above-captioned matter. Because SDG&E's comments anticipate most matters raised in other parties' comments, this does not attempt reply to every comment with which SDG&E disagrees, but it focuses on the most urgent issues – statutory compliance and public safety, especially as related to emergency operations and wildfires.

**I. COMMENTS CONFLATE AB 2868 INVESTMENTS WITH AB 2514
PROCUREMENT**

SDG&E's comments (at 2-3) point out that the PD improperly treats the AB 2868 applications as an extension of, and governed by, AB 2514. SCE comments (at 8) cite a canon of statutory interpretation proving that the PD gets it wrong (emphasis added; citations omitted):

Section 2835(f)'s definition [*i.e.*, AB 2514] of "procurement" broadly encompasses a wide suite of activities, including utility investments by procuring for ownership of a facility. It is not surprising that the greater (all types of acquisition activities) includes the smaller (utility investing as an ownership vehicle). In fact, there is a maxim of California jurisprudence codified in the Civil Code [§ 3536] that states "the greater includes the less." But the converse is simply not true. Stated differently, "procurement" includes utility investments, but utility "investments" does not and cannot include all forms of procurement. AB 2868's reference to AB 2514 "investments" does not mean that the Legislature used procurement and investment interchangeably. *It means that the Commission is authorized to allow utility investments under AB 2868 that were in addition to any utility investments it authorizes under AB 2514.*

¹ Proposed *Decision Implementing the AB 2868 Energy Storage Program and Investment Framework and Approving AB 2868 Applications with Modifications* (February 26, 2019). Abbreviations and acronyms used in this reply are defined at ii, above.

Even CESA (comments at 7, n. 10) accepts that “... AB 2514 is not directly or fully applicable to the AB 2868 framework and plans ...” But the PD simply disregards the plain words and different contexts of AB 2514 and AB 2868, and literally cuts-and-pastes the Appendix A from D.13-10-040 (implementing AB 2514) into its own Appendix A. But AB 2514 charges the Commission with setting the target for the amount (MW) of energy storage IOUs must procure, and D.13-10-040 set the target at 1,325 MW. Since then, *the Commission has declined to increase the AB 2514 target.*²

The Commission cannot legally vary AB 2868 standards by applying those of AB 2514, nor can it increase the AB 2514 targets in a proceeding convened to implement AB 2868. Otherwise, other issues litigated within the AB 2514 proceeding would have been included within the scope of the AB 2868 proceeding, such as the three grid domains established for AB 2514 procurement,³ or the 50% limit on utility ownership (which AB 2868 notably lacks). The Commission cannot, as the PD would have it, pick and choose from among substantive AB 2514 standards to vary those of AB 2868.

II. COMMENTS IGNORE COMMUNITY AND INDUSTRY SUPPORT FOR, AND WILDFIRE PROTECTION BENEFITS OF, SDG&E’S PROJECTS

Certain comments confirm industry support for getting at least some of SDG&E’s projects started now.⁴ Such robust support underscores that the resiliency projects do not “limit or impair” the current third-party energy storage market, but provide additional market

² D.17-04-039 at 65 (CoL 6), declined request of CESA and others to increase the AB 2514 target previously established (1,325 MW). SCE (comments at 6-7) notes that, while the body of the PD is permissive as to whether SCE applies for future AB 2868 projects, PD Appendix A could be construed to make it mandatory. SDG&E supports SCE’s clarification request, as any ambiguity affects SDG&E as well. For the reasons stated above, and in SCE’s comments, the Commission may not mandate any procurement in the context of this AB 2868 proceeding. Consideration of any such mandate is appropriate only where properly noticed and scoped under AB 2514 in a proceeding such as an OIR.

³ CESA (comments at 3) would extend AB 2868 to other domains, but only the legislature can do this:
... by developing standalone or hybrid energy storage solutions to mitigate impacts from local power plant emissions while providing grid services. Such projects may not necessarily fit with the ‘distribution-connected’ aspect of the AB 2868 statute but fit well with the goals of AB 2868 and so should be authorized as part of this AB 2868 finding.

⁴ As described in the next section, CESA and Fluence comments support proceeding with the three SDG&E projects for which a solicitation has been conducted and contracts have been executed. And noted in SDG&E’s PD comments (at 21), Tesla supports SDG&E’s proposal in its entirety.

opportunities that are urgently relevant and that nonutility entities cannot monetize. Also ignored is that the workshops convened pursuant to D.17-04-039 (OP 2, 3 at 67) vetted the resiliency use case, and utility ownership was deemed appropriate for this particular use.⁵

Opposing comments and the PD also ignore the substantial community support for SDG&E's proposed projects,⁶ and the wildfire protection afforded by SDG&E's proposal. SDG&E's seven proposed projects provide emergency resiliency support to public sector facilities, including eight fire stations, the County Emergency Operations Center, 911 dispatch, and several other facilities critical to emergency wildfire response.⁷ Using the Commission's fire threat map, SDG&E's reply brief showed how the proposed projects form a defensive perimeter protecting San Diego County's more populated areas from the Santa Ana-driven wildfires that typically start in the sparsely-populated eastern part of the county.⁸ Neither opponents' comments nor the PD address SDG&E's considerable evidence concerning the emergency wildfire response aspects of its resiliency projects.⁹

In sum, opponents' comments and the PD fail to acknowledge the potential contribution of SDG&E's projects to public safety, or the support expressed for the projects by public sector entities and low-income communities that would benefit from such support. These are the

⁵ In these workshops, SDG&E worked with the energy storage industry and low-income stakeholders to focus proposed investments and programs on currently underserved markets with little potential for third parties to monetize. CESA's presentation during the first AB 2868 workshop stated that "AB 2868 allows an opportunity to explore storage-related solutions to grid problems that may not currently have monetizable benefit streams" (CESA, *Comments on the September 14, 2017 AB 2868 Implementation Workshop* (October 2, 2017) at 4). The workshops identified resiliency as a key area for the utilities to pursue in such markets, because it is hard for third-parties to monetize benefits there. Resiliency for public critical infrastructure was underlined as a key role for utility investment and an important source of learning.

⁶ The application (at Attachment 1) contains letters of support for SDG&E's proposals from the following stakeholders: City of San Diego, County of San Diego, San Diego County Air Pollution Control District, San Diego North Economic Development Council, Low Income Oversight Board, City of Chula Vista, City of Vista, CONNECT, Federal Aviation Administration, Promises2Kids, Cleantech San Diego, Marine Corps Air Station Miramar, San Diego Unified Port District, San Diego County Sheriff's Department, and University of California, San Diego.

⁷ San Diego County Office of Emergency Services, San Diego County Sheriff's Department HQ, City of San Diego Metropolitan Operations Center, and CA State Police and Border Division HQ.

⁸ SDG&E reply brief (October 19, 2018) at 32.

⁹ In contrast, the PD acknowledges the wildfire response aspects of PG&E's proposal. PD Appendix A also requires applications to address wildfire response, implying falsely that SDG&E has not done so.

mandates of AB 2868, not the AB 2514 guidance that the PD imports to its Appendix A. Finally, opponents and the PD fail to acknowledge any benefits of learning from the novel resiliency use case, proposed at a time when the state is trying to bolster its wildfire response.

III. THE RECORD SUPPORTS APPROVING SDG&E'S APPLICATION NOW, BUT CESA'S LIMITED REOPENING IS AN ALTERNATIVE PATH FORWARD FOR SOME PROJECTS

CESA and Fluence¹⁰ decry the PD's prospect for project delay, and offer allowing the three AB 2868 projects SDG&E has already contracted for to proceed. However, their offer is conditioned on additional delay, albeit not as protracted as that of the PD. CESA and Fluence both cite the reasonableness of SDG&E's solicitation process that yielded the contracts for three of the resiliency projects thus far, and would have the Commission approve these projects.¹¹ But CESA proposes unspecified further proceedings as follows:

Further elaboration regarding which utility-owned energy storage projects necessitate utility ownership (rather than allowing for competition from third-party ownership structures) and including updates to projects sizes where appropriate, with subsequent advice letter filing approval for the appropriate projects [CESA comments at 2].

SDG&E does not support this suggestion, for two reasons. First, it requires the Commission to issue a decision, which conflicts with the expressed intent of reopening the record, and then further unspecified process. Second, it ignores (as do the PD and the other parties) that, starting with its prepared testimony supporting the application, much of SDG&E's proof focused on the utility ownership issue. This proposal thus would relitigate what SDG&E has already provided on the record early and often.

In the alternative, if the Commission is attracted by CESA's suggestion, the best way to proceed (other than remedying the concern with substantial PD revisions or an alternate consistent with the statute) is to withdraw the PD and issue a ruling reopening the record to accept additional evidence. A new PD could then issue based on the updated record.

IV. THE PROPOSED RESILIENCY USE CASE REQUIRES UTILITY OWNERSHIP

Citing the substantial amount of non-utility generation supplying the grid under contract, LS Power (comments at 3) suggests that there are no technical reasons why a third-party storage

¹⁰ CESA comments at 8-10, Fluence comments at 3-4.

¹¹ CESA comments at 8-10, Fluence comments at 4-5.

provider could not automate the response or operation of its storage, and that third-party resources participating in the market are equivalent to microgrids installed to ensure resiliency for public safety agencies. The two uses are simply not equivalent as LS Power implies. Other than that bald assertion, LS Power does not engage with SDG&E's evidence (also ignored by the PD) showing that, to provide the multi-use services SDG&E's projects offer, the energy storage must be tightly integrated for instantaneous operation with SDG&E's electric distribution assets and operations.¹² Nor does LS Power address SDG&E's showing that contracts cannot resolve the fundamental conflict from inserting a third party into the resiliency operations. SDG&E prioritizes the safety and reliability of the grid, and SDG&E is not conflicted in this role because it does not profit from sales of storage discharge or availability. SDG&E can dispatch or conserve energy storage assets it owns to prioritize resiliency, where a third party is incented to maximize market profits.¹³ This failure to engage with SDG&E's public safety case is particularly ill-timed given the Commission's current priority to ameliorate wildfire risks.

V. CONCLUSION

SDG&E's evidence conclusively shows that SDG&E's proposals comply with AB 2868, and therefore must be approved. The PD comments reflect substantial industry support for getting SDG&E's proposed projects underway now. Opponents' PD comments and the PD ignore the SDG&E proposals substantial contribution to fire safety. The PD must be rejected.

Respectfully submitted,

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¹² SDG&E comments (at 6-9) describe the evidence and argument regarding why operating the distribution resiliency use case for public safety requires utility ownership.

¹³ For example, a third party may not be willing to maintain a charge in the energy storage asset beyond contractual minimums during a high-risk period, *e.g.* anticipated Red Flag conditions, without additional compensation for foregone market revenues (in SDG&E's territory, such conditions and high electricity demand often coincide). While the market has substantial experience with providing RA under contract, the resiliency operation poses very different challenges from RA in that it would insert a third party into emergency distribution operations requiring both advanced preparation and instantaneous response, and neither the PD nor LS Power address, or even acknowledge this issue.