

Decision 16-05-053

May 26, 2016

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U 338-E) for Approval of the Results of Its 2013 Local Capacity Requirements Request for Offers for the Western Los Angeles Basin.

Application 14-11-012
(Filed November 21, 2014)

ORDER MODIFYING DECISION 15-11-041
AND DENYING REHEARING OF THE DECISION AS MODIFIED

I. SUMMARY

This decision addresses the applications for rehearing of Decision (D.) 15-11-041 (or “Decision”) filed separately by EnerNOC, Inc. (“EnerNOC”), Powers Engineering, the Sierra Club, and Los Cerritos Wetlands Land Trust.¹ In D.15-11-041, we approved, in part, the results of Southern California Edison’s (“SCE’s”) request for offers (“RFO”) for the Western Los Angeles Basin (“Western LA Basin”) pursuant to our directives in D.13-02-015 (“*Track 1*”) and D.14-03-004 (“*Track 4*”).²

¹ Unless otherwise noted, citations to Commission decisions are to the official pdf versions, which are available on the Commission’s website at: <http://docs.cpuc.ca.gov/DecisionsSearchForm.aspx>

² *Order Instituting Rulemaking to Integrate and Refine Procurement Policies and Considering Long Term Procurement Plans – Decision Authorizing Long-Term Procurement for Local Capacity Requirements (“Track 1”)* [D.13-02-015] (2013), modified and rehearing denied in *Order Instituting Rulemaking to Integrate and Refine Procurement Policies and Considering Long Term Procurement Plans -- Order Modifying D.13-02-015, and Denying Rehearing of the Decision, As Modified* [D.14-10-051] (2014).

Order Instituting Rulemaking to Integrate and Refine Procurement Policies and Considering Long Term Procurement Plans – Decision Authorizing Long-Term Procurement for Local Capacity Requirements Due to Permanent Retirement of the San Onofre Nuclear Generations Stations (“Track 4”) [D.14-03-004] (2014).

In its application for rehearing, EnerNOC alleges D.15-11-041 is unlawful because: (1) the Decision does not address contested issues which were included within the scope of the proceeding and violated due process by failing to consider certain evidence; (2) the Decision does not comply with the Loading Order and related procurement mandates set forth in *Track 1* and *Track 4*; (3) the Decision does not contain Findings of Fact on all material issues; (4) the Decision is not supported by record evidence; and (5) the Commission violated due process by modifying prior decisions without notice or an opportunity to be heard.

In its application for rehearing, Powers Engineering alleges: (1) D.15-11-041 violates statutory procurement mandates, the Loading Order and related procurement mandates set forth in *Track 1* and *Track 4*; (2) the Commission abused its discretion by ignoring changed circumstances since issuance of *Track 1* and *Track 4*; (3) the Commission abused its discretion by failing to provide reasoned analysis; (4) the Commission abused its discretion by allowing SCE to act in a manner that did not comply with prior Commission decisions; and (5) D.15-11-041 and its findings are not supported by the record.

The Sierra Club's application for rehearing is limited to two Commission approved offers, 473237 and 473238, with Stanton Energy Reliability Center. In its rehearing application, the Sierra Club alleges that approval of these contracts violates the Loading Order and related procurement requirements set forth in *Track 1* and *Track 4* and that the Decision is not supported by record evidence.

In its application for rehearing, the Los Cerritos Wetlands Land Trust alleges D.15-11-041 does not comply with the Loading Order and *Track 1* and *Track 4* and as a result the Commission has acted in excess of its powers or jurisdiction, has not proceeded in the manner required by law and has abused its discretion, and that D.15-11-041 is not supported by Findings of Fact, and the Decision's Findings of Fact are not supported by the record.

We have carefully considered the arguments raised in the applications for rehearing and do not find grounds for granting rehearing. We modify D.15-11-041 to

require SCE to procure the minimum procurement amounts established in *Track 1* and *Track 4*. We also find that D.15-11-041 would benefit from additional discussion, Findings of Fact and Conclusions of Law on some issues, and we modify the Decision as set forth in the ordering paragraphs below to address the reasonableness of SCE's inclusion of a 20-minute response time condition for demand response resources, to provide further discussion on our determination that the 100-megawatt ("MW") cap on in front of the meter ("IFOM") storage was reasonable, and to address the reasonableness of the Stanton contracts. Rehearing of D.15-11-041, as modified, is denied.

II. DISCUSSION

A. **D.15-11-041 is modified to remove discussion and findings regarding SCE's substantial compliance with the procurement directives in *Track 1* and *Track 4* to purchase the minimum preferred resources.**

In D.15-11-041, we found that SCE substantially complied with the procurement directives of *Track 1* and *Track 4* and relieved SCE of the prior requirement to procure additional minimum resources as part of the RFO required by these decisions. EnerNOC argues that in relieving SCE from the minimum procurement requirements of our prior decisions, the Commission abused its discretion and violated due process. EnerNOC argues that Public Utilities Code section 1708³ requires the Commission to provide notice and an opportunity to be heard before altering or rescinding a prior order or decision, which it contends was not done here.

Track 1 and *Track 4* together required SCE to procure at least 550 MW from preferred resources and 50 MW from energy storage. (*Track 4*, p. 142 [Ordering Paragraph ("OP") 1.b. & 1.c.].) In setting procurement for preferred resources, we authorized SCE to fulfill 400 MW of the 550 MW minimum requirement with preferred resources or energy storage. (*Track 4*, pp. 2, 7, 95, 100 & 133 [Finding of Fact ("FOF") 86].) In D.15-11-041, we approved SCE contracts for 166.96 MW of preferred resources,

³ Subsequent section references are to the Public Utilities Code, unless otherwise noted.

and 263.64 MW of energy storage for a total of 430.6 of preferred resources or energy storage. Thus, SCE was 169.4 MW short of required procurement of preferred resources or energy storage.

Upon further review and in response to the applications for rehearing, we modify D.15-11-041, as set forth in the ordering paragraphs below, to require SCE to procure an additional 169.4 MW of preferred resources or energy storage. SCE can file a petition for modification of these decisions if additional procurement is not necessary.

EnerNOC argues *Track 1* and *Track 4* require SCE to procure an additional 383 MW of preferred resources. (EnerNOC Rehg. App., p. 22.) EnerNOC contends that these decisions required SCE to procure 550 of preferred resources, which cannot be offset by energy storage. We disagree. In *Track 4*, we increased the minimum procurement for the preferred resources category to 550 MW. However, in setting the minimum, we authorized SCE to fulfill 400 MW of the 550 MW minimum requirement with preferred resources or energy storage. (*Track 4*, pp. 2, 7, 95, 100 & 133 [FOF 86].).)

EnerNOC contends that because energy storage is not a preferred resource, and we stated that this authorization was “subject to any other conditions in the decision,” we intended to keep energy storage and preferred resources commitments separate. EnerNOC is not correct. If this was the case, there would be no purpose for our statement that SCE could procure energy storage as part of its preferred resources requirements.

B. Although the Commission is not required to address each and every issue in a scoping memo, D.15-11-041 is modified to discuss the reasonableness of SCE’s inclusion of a 20-minute demand response condition.

EnerNOC contends that D.15-11-041 is unlawful because it does not address scoping memo sub-issues 4(d), (e), and (f).⁴ D.15-11-041 similarly lists these as issues to be determined in the proceeding. (D.15-11-041, p. 6.)

EnerNOC contends that section 1701(b) and Commission Rule of Practice and Procedure (“rule”) 7.3⁵ require the Commission to address each and every issue in the scoping memo in its decision. Section 1701(b) states, “the assigned commissioner shall prepare and issue by order or ruling a scoping memo that describes the issues to be considered and the applicable timetable for resolution.” Rule 7.3 states, “the assigned Commissioner shall issue a scoping memo for the proceeding, which shall determine the schedule . . . and issues to be addressed.”

EnerNOC is not correct that we must always address each issue in the scoping memo in our decision. This proceeding is a ratesetting proceeding as defined by section 1701.1(c)(3). While section 1701.1(b) and rules 1.3⁶ and 7.3 address scoping

⁴ Scoping issue 4 and sub-issues (d), (e), and (f) state:

4. Are the results of SCE’s 2013 LCR RFO for the LA Basin a reasonable means to meet the 1,900 to 2,500 MW of identified LCR need determined by D.13-02-015 [*Track 1*] and D.14-03-004 [*Track 4*]? This issue includes consideration of the reasonableness of at least the following:
 - d. Did SCE’s RFO process limit certain resource bids from being considered? If so, were these limitations reasonable?
 - e. Was the process used to develop the eligibility requirements reasonable?
 - f. Did the process and outcome of any consultations between the California Independent System Operator and SCE impact resources requirements and contract selection? If so, was this impact reasonable?

⁵ Unless otherwise noted, subsequent rule references are to the Commission’s Rules of Practice and Procedure.

⁶ Rule 1.3 defines a scoping memo as an “order or ruling describing the issues to be considered in a proceeding and the timetable for resolving the proceeding.” (Cal. Code Regs., tit. 20, § 1.3, subd. (f).)

memos, they require only that the issues in the scoping memo be considered or addressed in the proceeding. Nothing in the statute or the rules requires the Commission to address each and every issue described in the scoping memo in our decisions.

Section 1705 addresses the requirements of Commission decisions and provides that a Commission decision "shall contain, separately stated, findings of fact and conclusions of law by the commission on all issues material to the order or decision" It is within the Commission's discretion to determine what factors are material to its decision based on the issues before it. (*Clean Energy Fuels Corp., v. Public Utilities Commission* (2014) 227 Cal. App. 4th 641, 659.) The Commission's "findings and conclusions are sufficient if they provide 'a statement which will allow us a meaningful opportunity to ascertain the principles and facts relied upon by the [Commission] in reaching its decision.'" (*Toward Utility Rate Normalization v. Public Utilities Com.* (1978) 22 Cal.3d 529, 540.) In other words, "a complete summary of all proceedings and evidence leading to the decision" is not required. (*Ibid.*) Section 1705 does not require the Commission to make express legal and factual findings as to each and every issue or sub-issue raised in a scoping memo or by a party to the proceeding.

Here, EnerNOC contends that the scoping memo required us to address certain issues it raised with the 20-minute demand response condition. EnerNOC argues that we did not consider evidence that it presented that demonstrated that the 20-minute demand response time condition limited demand response resource bids from being considered and that this limitation was not reasonable. (EnerNOC Rehg. App., p. 8.) EnerNOC argues that the 20-minute demand response condition created an unreasonable barrier to demand response participation in the RFO and that D.15-11-041 does not address the reasonableness of the limitation. EnerNOC argues that the finding that the RFO was reasonable and consistent with the law is not supported by the record. Powers Engineering also raises this issue, arguing that the Commission erred in accepting an unsupported 20-minute demand response condition sought by the California Independent System Operator ("CAISO" or "ISO"), and thus, incorrectly eliminated conventional

demand response resources from SCE's application. (Powers Engineering Rehg. App., p. 14.)

In D.15-11-041 we stated that SCE's RFO was reasonable. (D.15-11-041, p. 11.) We concluded that while SCE's choices regarding the RFO were not perfect, they were reasonable based upon our directives in *Track 1* and *Track 4* and the circumstances at that time. (D.15-11-041, p. 36, [Conclusion of Law ("COL") 1.].) While implicit in our conclusion that the RFO results were reasonable is the conclusion that the RFO requirements were reasonable, we realize that our decision would have benefited from a discussion of the reasonableness of SCE's inclusion of a 20-minute demand response condition. Thus, we modify D.15-11-041, as set forth in the ordering paragraphs below, to provide additional discussion and Findings of Fact and Conclusions of Law on the reasonableness of SCE's inclusion of this condition.

Finally, EnerNOC contends that the 20-minute response time is not supported by any Commission decision and that D.15-06-063 and Resolution E-4754⁷ reject the proposed 20-minute response time. EnerNOC's citations to D.15-06-063 and Resolution E-4754 are not on point. In D.15-06-063 we adopted local capacity procurement and flexible capacity obligations for 2016. In Resolution E-4754 we approved elements of a Demand Response Auction Mechanism pilot program to be held in 2016 for deliveries in 2017. Neither of these decisions governs the long-term procurement we directed SCE to undertake in the *Track 1* and *Track 4* long-term procurement plan decisions.

C. Approval of the Stanton Project was reasonable and does not violate the Loading Order.

The Sierra Club challenges our approval of two SCE contracts with Stanton Energy Reliability Center for a 98 MW gas-fired peaker plant (hereafter "Stanton" or "Stanton contracts").⁸ The Sierra Club contends that approving the Stanton contracts

⁷ EnerNOC cites to draft resolution E-4754 that has since become final.

⁸ These were offers 473237 and 473238.

violates the Loading Order, which requires utilities to procure preferred resources to the fullest extent possible, and violates the procurement requirements set forth in *Track 1* and *Track 4*. (Sierra Club Rehg. App., p. 1.)

Together, *Track 1* and *Track 4* authorized SCE to procure between 1,900 and 2,500 MW in the Western LA Basin subject to the condition that procurement be met by specifically identified resource designations. In *Track 1* we specifically required SCE to procure at least 1,000 MW, but no more than 1,200 MW of this capacity from conventional gas-fired resources to ensure reliability. (*Track 1*, pp. 82 & 131 [O.P 1.a.) We specifically found that “[i]t is necessary that a significant amount of this procurement level be met through conventional gas-fired resources in order to ensure LCR [long-term local capacity requirement] needs will be met.” (*Id.* at p. 123 [FOF 30].) In *Track 4* we found that there was “nothing in the record of *Track 4* of this proceeding that would require a change to this Finding [of Fact 30].” (*Track 4*, pp. 90 & 133 [FOF 82].) We determined it was not necessary to increase the minimum procurement from gas-fired resources beyond that specified in *Track 1* but expanded the range of potential gas-fired procurement from 1,000 – 1,200 MW (per *Track 1*) to 1,000 – 1,500 MW to provide greater flexibility to SCE to meet reliability needs. (*Track 4*, p. 133 [FOF 84].)

Including Stanton, D.15-11-041 approved SCE contracts for 1,382 MW of gas-fired generation, which is within the 1,000-1,500 MW range we authorized in *Track 1* and *Track 4*. In approving the Stanton contracts, we considered parties opposition but determined that the Stanton contracts were a reasonable means of meeting the procurement directives of our *Track 1* and *Track 4* decisions. Thus, D. 15-11-041 did not violate the procurement requirements of these decisions.

The Sierra Club argues that our approval of Stanton violates the Commission’s Loading Order, which requires utilities to procure preferred resources to the fullest extent possible. The Sierra Club contends that the Decision’s rationale for approving Stanton did not justify noncompliance with the Loading Order. (Sierra Club Rehg. App., p. 8.)

Our actions are fully consistent with the Loading Order. All relevant authority acknowledges that the Loading Order requirements must be balanced with the State's reliability and economic needs. (*Track 4*, p. 13).

The Loading Order was originally set forth in our 2008 Energy Action Plan, and ratified in subsequent decisions. The Loading Order “established that the state, in meeting its energy needs, would invest first in energy efficiency and demand-side resources, followed by renewable resources, and only then in clean conventional electricity supply.” (D.12-01-033, p. 17 citing Energy Action Plan 2008 Update at p. 1.)²

The Legislature also adopted the requirement:

Section 454.5(b)(9)(C) states that utilities must first meet their “unmet resource needs through all available energy efficiency and demand reduction resources that are ***cost-effective, reliable and feasible.***” Consistent with this code section, the Commission has held that all utility procurement must be consistent with the Commission's established Loading Order, or prioritization.... Instead of procuring a fixed amount of preferred resources and then procuring fossil-fuel resources, the IOUs are required to continue to procure the preferred resources “***to the extent that they are feasibly available and cost effective.***”

(*Track 4*, pp. 13-15, emphasis added.)

As both the Legislature and the Commission have repeatedly emphasized, the need for reliability is paramount in the utility's procurement efforts. (See, e.g., *Track 4*, p. 139 [COL 37, which states: “It is prudent to promote preferred resources to the greatest extent feasible, subject to ensuring a continued high level of reliability.”].) As we have explained, “California law repeatedly emphasizes the importance of maintaining the reliability of the electric grid.” (*Track 4*, at p. 13, citing Pub. Util. Code, § 334 [“Reliable electric service is of paramount importance to the safety, health, and

² *Order Instituting Rulemaking to Integrate and Refine Procurement Policies and Consider Long-Term Procurement Plans – Decision Approving Modified Bundled Procurement Plans* [D.12-01-033] (2012).

comfort of the people of California.”], and other similar provisions in the Public Utilities Code.)\

In recognition of this State policy, *Track 1* and *Track 4* required SCE to procure at least 1,000 MW but no more than 1,500 MW of the local capacity from conventional gas-fired resources; (2) at least 50 MW of local capacity from energy storage resources, (3) at least 550 MW of local capacity from preferred resources;¹⁰ and (4) at least 300 MW but no more than 500 MW of local capacity beyond the above specified minimums from any resources available to meet local capacity. (*Track 4*, p. 142 [OP 1.a. through 1.d].)

Although approval of the Stanton contracts does not violate the Loading Order, D.15-11-041 would benefit from additional discussion of the reasonableness of the Stanton contracts. Thus, we modify D.15-11-041, as set forth in the ordering paragraphs below, to add further discussion and Findings of Fact on the reasonableness of the Stanton contracts.

D. The cap on IFOM storage is reasonable and is supported by record evidence.

The Sierra Club and Powers Engineering contend that evaluation in D.15-11-041 of the cap on IFOM energy storage is not based on record evidence. (Sierra Club Rehg. App., p. 9; Powers Engineering Rehg. App., p. 13.) The Sierra Club argues that D.15-11-041 does not articulate the record-based evidence and reasoning leading to our determination that the IFOM energy storage cap and the subsequent procurement of Stanton was reasonable. Powers Engineering contends that by failing to provide a reasoned analysis of the reasonableness of the IFOM cap, the Commission failed to proceed in a manner required by law and abused its discretion. (Powers Engineering Rehg App., p. 13.)

¹⁰ In setting the minimum procurement for preferred resources, we authorized SCE to fulfill 400 MW of the 550 MW minimum requirement with preferred resources or energy storage. (*Track 4*, pp. 2, 95, & 100.)

In D.15-11-041 we found that SCE acted reasonably at the time in adopting a 100-MW cap for IFOM energy storage because this RFO was unique, was issued on a tight timeline, and needed to be performed in the absence of key information. (D.15-11-041, pp. 23, 35 [FOF 19] & 38 [COL 7].) The record evidence supports our findings and conclusions. When SCE issued the RFO, energy storage was a relatively new resource for which SCE did not have meaningful market operations and reliability effectiveness experience. As SCE's Independent Evaluator noted, there was no direct point of comparison for SCE's undertaking in this area. (Ex. SCE-2, Appendix D, D-34.) The lack of key information at the time increased the risk associated with energy storage procurement. As SCE explained, there was uncertainty in the relative valuation results, uncertainty regarding the impact on SCE's balance sheet as debt equivalents, and risks due to uncertainties surrounding a new and unknown resource. (SCE-6, pp. 4-7; Reporter's Transcript ("RT"), pp. 23-26.) It was reasonable at the time for SCE to mitigate risks by implementing the 100-MW cap on energy storage. Moreover, the cap does not appear to have limited energy storage procurement, as SCE procured over five times the minimum energy storage we required. Thus, Sierra Club's allegations on this issue have no merit.

However, we believe some clarification is warranted to better identify the record evidence that supports our Finding of Fact and Conclusions of Law. Thus, we modify D.15-11-041, as set forth in the ordering paragraphs below, to add further discussion with cites to evidence supporting Finding of Fact 19 and Conclusion of Law 7.

The Sierra Club and Powers Engineering contend that the cap on IFOM energy storage led to SCE entering the Stanton contracts. (Sierra Club Rehg. App., p. 4; Powers Engineering Rehg. App., p. 12.) This is not correct. The IFOM cap was reasonable. That this cap produced a selection of projects that included Stanton does not make Stanton unreasonable. Moreover, while there may have been other preferred resource or non-IFOM offers, they were not all cost effective and SCE reasonably determined that more cost effective options could be secured later. (Ex. SCE-1, pp. 61-

62.) Thus, Stanton was not procured in lieu of other cost-effective, viable preferred resources.

E. D.15-11-041 does not violate the Loading Order or State law.

Powers Engineering contends that in D.15-11-041 we improperly allow SCE to procure fossil fuels over clean energy. Powers Engineering argues that D.15-11-041, violates the Loading Order and section 454.5(b)(9)(C). Powers Engineering contends that approval of two-thirds of SCE's proposed procurement from two high-capacity combined-cycle power plants will substantially increase greenhouse gas emissions in violation of California law. (Powers Engineering Rehg. App., pp. 15-18.) Powers Engineering contends that approval of these two plants (Huntington Beach and Alamos) violates orders in *Track 1*, the Loading Order, and Governor Brown's Executive Order B-30-15.

Powers Engineering is merely rearguing the issues it raised throughout this proceeding, which have been considered and rejected. Rehearing applications are not a proper vehicle to merely reargue positions taken during a Commission proceeding. (D.12-12-040, p. 3.)¹¹ Rehearing applications are limited by section 1732 to specifications of legal error, which was not done.

Moreover, D.15-11-041 does not violate the Loading Order, State law, or prior Commission decisions. SCE's procurement of gas-fired generation was within the bounds of our procurement authorization in *Track 1* and *Track 4*. As discussed above, both the Legislature and the Commission have repeatedly emphasized the need for reliability is paramount in the utility's procurement efforts. (See, e.g., *Track 4*, p. 139 [COL 37].) In recognition of this State policy, *Track 1* and *Track 4* require SCE to

¹¹ *Application of Consumers Power Alliance et al. for Modification of D.08-09-039 and a Commission Order Requiring Southern California Edison Company to File an Application for Approval of a Smart Meter Opt-Out Plan Application of Utility Consumers' Action Network for Modification of Decision 07-04-043 so as to Not Force Residential Customers to Use Smart Meters* [D.12-12-040] (2012).

procure at least 1,000 MW, but no more than 1,500 MW of local capacity from conventional gas-fired resources. Both *Track 1* and *Track 4* found that it was necessary for a significant amount of required procurement to be met through conventional gas-fired resources to ensure that LCR needs were met. (*Track 1*, p 123 [FOF 30]; *Track 4*, p. 133 [FOF 82].) SCE's procurement of gas-fired generation was within this range and was needed for long-term local capacity requirements.

F. The RFO and bid process was fair.

Powers Engineering contends that SCE's bid selection process was heavily biased toward incumbents and insiders and thus failed to comply with the direction in *Track 1* and *Track 4* that the solicitation process be fair and impartial. (Powers Engineering Rehg. App., pp. 19-20.) Powers Engineering argues that D.15-11-041 fails to address its arguments.

As previously stated, we are not required to address each and every issue raised by a party. In D.15-11-041 we found that SCE's RFO was reasonable based on our directives and the market circumstances at the time. (D.15-11-041, pp. 11 & 36 [COL 1].) SCE presented evidence on the solicitation process. (Ex. SCE-1; SCE-6, pp. 23-24.)¹² As the Decision discusses, the RFO was unique as it was the first all sources RFO where both conventional and preferred resources competed in the same solicitation. (D.15-11-041, p. 11.) D.15-11-041 noted that the evidence demonstrated that RFO was well publicized and solicitation was robust. (D.15-11-041, pp. 11 & 34 [FOF 9].) The Independent Evaluator noted that SCE received over 800 Western LA Basin offers from more than 60 bidders and the response included bids from all resource categories. (Ex. SCE-2, Appendix D, D-17.) The Independent Evaluator further determined that SCE

¹² SCE LCR RFO transmittal letter contained over eight pages of information including how resources would be evaluated (Ex SCE-3, Appendix E, E-145-152; SCE-6, p. 23.) SCE reviewed this information at the bidders conference and held separate webinars to provide additional information specific to energy efficiency, energy storage. (Ex. SCE-6, pp. 23-24.) SCE modified LCR RFO schedule to help bidders of preferred resources reach agreement on a form agreement. (Ex. SCE-6, p. 24.) SCE work collaboratively with stakeholders and bidders to remove obstacles from contracting with preferred resources. (Ex. SCE-6, p. 24.)

provided consistent information throughout the outreach and negotiations process and that it believed that SCE conducted all negotiations in a fair and appropriate manner. (Ex. SCE-2, Appendix D, D-38.) Although there were some conditions included by SCE such as the 20-minute demand response condition and IFOM cap, it was reasonable for SCE to include them at this time. Based upon the evidence, we found that the RFO was reasonable and consistent with the law. (D.15-11-0410, p. 34 [FOF 10].)

What Powers Engineering is seeking is to have us reweigh the evidence in the record, which does not constitute a basis for granting rehearing. The purpose of a rehearing application is to specify legal error, not to relitigate issues already determined by the Commission. (Pub. Util. Code, § 1732; Cal. Code Regs., tit. 20, § 16.1, subd. (c).) If the challenged findings are supported by a reasonable construction of the evidence in the record, there is no demonstration of legal error, and thus, no basis for granting rehearing. (See *The Utility Reform Network v. Public Utilities Com.* (2014) 223 Cal.App.4th 945, 959; *SFPP, L.P. v. Public Utilities Com.* (2013) 217 Cal.App.4th 784, 794.)

G. D.15-11-041 addressed changed circumstances.

Powers Engineering contends that we failed to proceed in the manner required by law and abused our discretion by failing to consider changed circumstances since the issuance of *Track 1* and *Track 4*. (Powers Engineering App. Rehg., p. 9.) Powers Engineering contends changes in both the law and fact have eliminated the need for the gas-fired generation authorized by these decisions. (Powers Engineering App. Rehg., pp. 9-10.) Powers Engineering states that the Decision did not address many of these changes and instead agrees with SCE that it acted reasonably without out any analysis. (Powers Engineering App. Rehg., p. 10.) Powers Engineering has not alleged legal error. Moreover, Powers Engineering is rearguing issues it raised through the proceeding, which were considered and rejected.

In D.15-11-041 we found that SCE acted reasonably even if circumstances have changed. Specifically, we state:

SCE notes that CAISO's 2014-2015 Transmission Plan identifies that the total amount of this procurement is required [citation omitted]. SCE further states that any request to relook at the prior Commission procurement directive in D.13-02-015 and D.14-03-004 and examine the CAISO Transmission Plan obscures the fact that the transmission plan is already an exhibit to this proceeding, and the assumptions behind the plan were published as part of the 2014 LTPP proceeding. [citation omitted]. We agree with SCE.

Regardless of whether circumstances have changed since the issuance of D.13-02-015 and D.14-03-004, and even if the political landscape is solidly looking toward 50 percent renewables, SCE acted reasonably in relying on a 33 percent scenario and contracting for the proposed amount of GFG.

(D.15-11-041, pp. 28-29 & 38, [COL 11].)

CASIO 2014-2015 Transmission Plan incorporated changed assumptions since the issuance of *Track 1*. CASIO determined that the full amount of procurement selected by SCE through the RFO is necessary to meet LCR. (CASIO-2, pp. 4-5.) This supports our determination that SCE acted reasonably in contracting for the proposed amount of gas-fired generation.

Powers Engineering argues that we failed to address or acknowledge many of the changed circumstances that it raised. Again, we are not required to address every single issue presented by a party in a proceeding. (Pub. Util. Code, § 1705; *California Manufacturers Ass'n v. Public Utilities Com.* (1979) 24 Cal. 3d 251, 258; *Toward Utility Rate Normalization v. Public Utilities Com.* (1978) 22 Cal. 3d 529, 540.) Section 1705 requires us to make findings and conclusions "on all issues material to the order or decision." Based on the evidence, we concluded that SCE acted reasonably in contracting for the proposed amount of gas-fired generation. (D.15-11-041, p. 38 [COL 11].) Powers Engineering contends that by relying on CAISO's conclusions in its 2014-2015 Transmission Plan, we fail to analyze changed circumstances, and thus, have violated our statutory obligations to ensure just and reasonable rates.

Pursuant to Section 1732, an application for rehearing must set forth specifically the ground or grounds on which the applicant considers the decision or order

to be unlawful. . . ." (Pub. Util. Code, § 1732.) On this issue, Powers Engineering has failed to comply with this statutory requirement because it has failed to specify, analyze, or explain how the Commission has allegedly violated its statutory obligations to ensure just and reasonable rates and to protect the environment. A conclusory allegation that does not provide any explanation but leaves the Commission to guess how its decision may be in error does not meet the requirements of section 1732.

H. Los Cerritos Wetlands Land Trust's application for rehearing does not comply with section 1732 and Rule 16.1(c)

Los Cerritos Wetlands Land Trust's application for rehearing fails to comply with the requirements of section 1732, which requires applicants for rehearing to "set forth specifically the ground or grounds on which the applicant considers the decision or order to be unlawful or erroneous." (Pub. Util. Code § 1732.) It also fails to comply with rule 16.1(c), which states that "the purpose of an application for rehearing is to alert the Commission to legal error." (Cal. Code of Regs., tit. 20, § 16.1, subd. (c).) Los Cerritos Wetlands Land Trust simply fails to identify and explain any legal errors with D.15-11-041. To the extent Los Cerritos Wetlands Land Trust cites arguments in other parties' briefs, that does not "set forth specifically" the claims of error in the rehearing application, and thus, is insufficient to meet the requirements of section 1732.

I. SCE's motion to file a confidential version of its response to the applications for rehearing is granted.

Concurrent with SCE's filing of a confidential and a public redacted version of its Response to the Applications for Rehearing of D.15-11-041 ("Response"), SCE filed a motion for leave to file the confidential version of its response under seal ("Motion"). The public version of the Response redacts parts or all of four sentences which SCE states fall into allowable categories of confidential information protected under the matrix adopted in D.06-06-066 and by section 454.5(g) and General Order 66-C.

SCE's Response cites to information that is contained in confidential exhibits that have been filed under seal. We grant SCE's Motion in the ordering

paragraphs below to maintain the confidentiality of information contained in confidential exhibits.

J. Request for oral argument should be denied.

The Sierra Club requests oral argument pursuant to rule 16.3. The Sierra Club contends that compliance with the Loading Order is a question of profound public importance and thus oral argument is warranted. (Sierra Club Rehg. App., p. 12.)

We have complete discretion to determine the appropriateness of oral argument in any particular matter. (See rule 16.3(a); Cal. Code of Regs., tit. § 20, 16.3, subd. (a).) The request for oral argument does not meet the requirements specified by our rules. We set forth the Loading Order in our 2008 Energy Action Plan and have ratified it in many subsequent decisions. Accordingly, there is no basis to conclude oral argument would benefit disposition of the application for rehearing. Consequently, the request for oral argument is denied.

III. CONCLUSION

As discussed above, we modify D.15-11-041 to require SCE to procure the minimum procurement amounts established in *Track 1* and *Track 4*; to add discussion, Findings of Fact and Conclusions of Law on the reasonableness of SCE's inclusion of a the 20-minute response time condition for demand response resources; to add a discussion of the evidence supporting our determination that the 100-MW cap on IFOM storage was reasonable; and to add further discussion and Findings of Fact on the reasonableness of the Stanton contracts. Rehearing of D.15-11-041, as modified, is denied as no legal error has been shown.

THEREFORE, IT IS ORDERED that:

1. D.15-11-041 is modified as follows:
 - a. Page 2, first full paragraph: delete the last sentence, "SCE has substantially complied . . . and 14-03-004" in its entirety.
 - b. Page 9, first sentence of the second full paragraph, replace with the following:

Taking into account the six contracts we reject in this decision, SCE is 99.4 MW short in total minimum procurement and 169.4 MW short of preferred resource or energy storage minimum procurement as ordered in D.13-02-015 and D.14-03-004.

- c. Page 10, the second full paragraph and third paragraph continuing through line 4 on page 11, replace with the following:

Accordingly, we conclude that the results of the SCE RFO issued pursuant to D.13-02-015 and D.14-03-004 reasonable with the exception of six contracts. We find reasonable SCE's request to consider CAISO updated LCR studies to account for planned transmission upgrades and load forecasts update when procuring the remaining minimum preferred resources or energy storage. To further the Commission's efforts of grid reliability and safety in the Western LA Basin, SCE shall continue to procure to meet, at least, the minimum requirements set forth in D.13-02-015 and D.14-03-004 via any procurement mechanism and reviewing all relevant updated grid reliability information. Should SCE determine that additional procurement is not necessary, it may file a petition to modify D.13-02-015 and D.14-03-004.

- d. Page 11, after the second full paragraph that begins with "This RFO...", add the following:

EnerNOC contends that there were problems with solicitation for demand response resources because the rules governing the performance of those resources were under development and not well understood. (Ex. EnerNOC- 1, p. 9.) EnerNOC takes issue with SCE's consultations with CAISO that resulted in the 20-minute response time condition.

We find SCE's inclusion of a 20-minute response time condition for demand response resources procured through this RFO reasonable given the circumstances. As we noted in D.13-02-015 "[o]ur concern is, without knowing upfront exactly what the ISO would find acceptable, that SCE could procure resources that would not pass [sic] ISO muster. In that case, the ISO -- consistent with its reliability mandate -- could seek

Commission action authorizing additional resources (thus lowering the value to ratepayers of already-procured resources) or could use its own authority (or seek new authority) to contract with resources to meet local needs (also increasing total costs). Either of these approaches is sub-optimal, both in cost terms and in environmental terms.” (D.13-02-015, p. 75.)

In R.12-03-014, we dealt with issues related to “first” and “second” contingency resources with regard to modeling long-term procurement needs in local areas and the scoping memo “took a conservative view of the potential of demand response resources” (D.14-03-004, p. 57). In D.14-03-004, we stated that “in the future it is reasonable to expect that some amount of what is now considered ‘second contingency’ demand response resources can be available to mitigate the first contingency and therefore meet LCR needs” (D.14-03-004 p 57) and that “there is reasonable likelihood that more demand response resources will be available for such purposes in the future.” (D.14-03-004, p. 57.)

We thus required “SCE to consult with the CAISO regarding CAISO performance characteristics for local reliability. (D.13-02-015, pp. 75, 136 [OP 14.]; D.14-03-004, p. 146 [OP 11].) Implicit in this requirement to consult with CAISO is the authorization to include necessary performance characteristics in this particular circumstance. As a result of these consultations, SCE learned that CAISO was seeking a 20-minute response time condition for demand response resources procured through the LCR RFO. CASIO stated that it required the 20-minute response time condition for demand response in local areas for reliability reasons. (Reporters Transcript Vol. 2, p. 340.) Although the RFO process was underway and the response requirement may have reduced the amount of qualifying demand response bids, it was reasonable for SCE to take a conservative approach by including the CAISO condition in bid evaluations to assure the procured resources would not be de-valued by CAISO. SCE communicated this change during RFO negotiations.

- e. Page 17, heading 6.2, delete the word “No”.

- f. Page 17, second full paragraph, replace with following:
We further find that additional procurement is required by D.13-02-015 and D.14-03-004. SCE is required to procure a minimum of 169.4 MW of preferred resources or energy storage as required by those decisions. SCE may undertake such additional procurement, following additional analysis, either through additional RFOs or via other authorized procurement mechanisms.
- g. Page 23, first full paragraph, add the following after the second sentence:
When SCE issued the RFO, energy storage was a relatively new resource for which SCE did not have meaningful market operations and reliability effectiveness experience. As SCE's Independent Evaluator noted, there was no direct point of comparison for SCE's undertaking in this area. (Ex. SCE-2, Appendix D, D-34.) The lack of key information at the time increased the risk associated with energy storage procurement. As SCE explained, there was uncertainty in the relative valuation results, and uncertainty regarding the impact on SCE's balance sheet as debt equivalents, and risks due to uncertainties surround a new and unknown resource. (SCE-6, pp. 4-7; RT pp. 23-26.) It was reasonable at the time for SCE to mitigate risks by implementing the 100-MW cap on energy storage. Moreover, the cap does not appear to have limited energy storage procurement, as SCE procured over five times the minimum energy storage we required.
- h. Page 26, second full paragraph, replace with the following:
We find the contracts meet the requirements in D.13-02-015 and D.14-03-004. While Sierra Club raises strong arguments, we find that under the circumstances as they existed at the time SCE made its selections the contracts were reasonable means of meeting the Commission's procurement directive. Stanton will enhance local area reliability. Stanton will be interconnected to the Barre Substation, which is located in the Southwest sub-area of the Western LA Basin, which CASIO identified as having the highest locational effectiveness factor ("LEF"). (Ex. SCE-1, p. 79.) Higher LEFs mean a resource at that

location would be more effective at relieving the subject constraint. Generation sited at Barre will be most effective at relieving the critical N-1-1 contingency affecting the combined LA Basin and San Diego local capacity areas. (Ex. SCE-1, pp. 26 & 79.) Because of the long lead times to procure GFG resources and the lack of guarantee that other cost-effective resources would be available in the same local areas with the same effectiveness, it was reasonable for SCE to enter into the Stanton contracts to address reliability constraints.

- i. Page 35, Finding of Fact 11, is modified to read:

The results of the RFO, without the six contracts rejected herein, are 99.4 MW short in total minimum procurement requirements and 169.4 MW short of preferred resource or energy storage minimum procurement requirements as ordered in D.13-02-015 and D.14-03-004.
- j. Page 35, Finding of Fact 12, is modified to read:

Additional procurement of 169.4 MW of preferred resources or energy storage is required to meet the minimum procurement requirements of D.13-02-015 and D.14-03-004.
- k. Add the following as Finding of Fact 26:

In D.14-03-004 the Commission directed SCE to consult with California Independent System Operator to develop performance characteristics for local reliability.
- l. Add the following as Finding of Fact 27:

In D.14-03-004, the Commission discussed issues around “first” and “second” contingency resources for local areas and took a conservative view of the potential of demand response resources.
- m. Add the following as Finding of Fact 28:

No persuasive evidence was presented by parties in this proceeding to demonstrate that it was unreasonable for SCE to include a 20-minute demand response condition for demand response resources in this RFO.
- n. Add the following as Finding of Fact 29:

Stanton will be located in a local reliability area having the highest location effectiveness factor, as identified by CASIO.

- o. Add the following as Finding of Fact 30:
Stanton will enhance local area reliability.
- p. Add the following as Finding of Fact 31:
Stanton will be effective at addressing the critical 500 kV contingency affecting both the LA Basin and San Diego local capacity areas.
- q. Page 37, Conclusion of Law 4, is modified to read:
It is reasonable to allow SCE to consider CAISO updated LCR studies when procuring the remaining minimum preferred resources or energy storage.
- r. Page 37, Conclusion of Law 6, is modified to read:
While SCE complied with most RFO requirements in D.13-02-015 and D.14-03-004, it did not procure the minimum preferred resources set forth in those decisions.
- s. Add the following Conclusion of Law 13:
SCE reasonably limited its procurement of resources to those that would meet the CAISO stated conditions for demand response in local areas to respond to a first contingency as studied by CAISO and discussed in D.14-03-004.
- t. Add the following Conclusion of Law 14:
Procuring demand response resources with a one-hour response time would not have been reasonable given the discussion of the need to respond to first contingencies in D.14-03-004 and the local reliability constraints in the Western LA Basin.
- u. Page 39, Ordering Paragraph 1, is modified to read:
All contracts presented are approved with the exception of Offers 447200- 447205. Offer 447250 is approved, subject to the condition that within 45 days of the effective date of this decision, SCE submit a Tier 1 Advice Letter amending the contract to exclude use of BTM gas-fired generation to support the 5 Megawatt of demand response. Southern California Edison Company shall procure by any

procurement mechanism, a minimum of 169.4 MW of preferred resources or energy storage as required by the procurement directives in Decisions 13-02-015 and 14-03-004.

2. Sierra Club's request for oral argument is denied.
3. Southern California Edison Company's motion for leave to file the confidential version of its response to applications for rehearing of Decision 15-11-041 under seal is granted.
4. Rehearing of D.15-11-041, as modified, is denied.
5. This proceeding, Application 14-11-012, is closed.

This order is effective today.

Dated: May 26, 2016, at San Francisco, California.

MICHAEL PICKER

President

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

CARLA J. PETERMAN

LIANE M. RANDOLPH

Commissioners