ORDER MODIFYING DECISION (D.) 18-07-023 AND DENYING REHEARING, AS MODIFIED

I. INTRODUCTION

In this Order, we dispose of the application for rehearing of Decision (D.) 18-07-023 (or “Decision”) filed by the Office of Ratepayer Advocates (“ORA”).

This matter involves Southern California Edison Company’s (“SCE’s”) application for approval of 19 Purchase and Sale Agreements (“PSAs”) resulting from its second Preferred Resources Pilot Request for Offers (“PRP RFO 2”). Our Decision approved all 19 PSAs, representing approximately 125 megawatts (“MW”) of preferred resources that will interconnect to lower voltage level substations and circuits, electrically in-line with either the Johanna A-Bank or Santiago A-Bank substations (“J-S Region”) of the Western Los Angeles subarea of the Los Angeles Basin (“Western LA Basin”).

1 Unless otherwise noted, citations to Commission decisions issued since July 1, 2000 are to the official pdf versions, which are available on the Commission’s website at: http://docs.cpuc.ca.gov/DecisionsSearchForm.aspx.


3 Preferred resources as used in this memo refers to energy efficiency (“EE”), demand response (“DR”), renewable resources, distributed generation (or distributed energy resources (“DER”), and energy storage (“ES”). Through the PRP RFO 2 SCE procured 60 MW of in-front of the meter ES, 55 MW of DR supported by ES and load reduction, and 10 MW of behind the meter solar photovoltaic (“PV”) paired with ES Hybrid. (See SCE Application, p. 2.)
The Office of Ratepayer Advocates (“ORA”) filed a timely application for rehearing alleging the Decision is unlawful because: (1) the PSAs are not necessary to fill an established local capacity requirement (“LCR”) need; (2) the PSAs are not cost-effective; (3) the Commission wrongly found that the PSAs support objectives consistent with other programs, mandates and procurement; (4) the PRP Program has never been approved; (5) the Decision conflates scoping memo issues; (6) the Decision makes erroneous findings and conclusions; and (7) PSA approval results in unjust and unreasonable rates.4 A response was filed by SCE. ORA then filed a motion for leave to file a reply to SCE’s response.5

We have carefully considered the arguments raised in the application for rehearing and are of the opinion that the Decision should be modified to more clearly conform certain discussion, findings and conclusions to the evidentiary record. We find that otherwise, good cause has not been established to grant rehearing. Accordingly, we deny the application for rehearing of D.18-07-023, as modified, because no legal error has been shown.

II. DISCUSSION
   A. Need
      1. LCR Need

ORA contends the Decision is unlawful because the PSA resources are not necessary to meet any LCR need in the Western LA Basin. As a result, ORA argues the Decision cannot rely on need to support PSA approval. (Rhg. App., pp. 4-9.)

In 2013, we authorized SCE to procure resources in the Western LA Basin to meet minimum LCR requirements established in the Commission’s Track 1 and Track

4 ORA has subsequently been renamed the Public Advocates Office.

5 We deny ORA’s motion to file a reply. While the Commission may allow replies for good cause, in this instance ORA fails to establish good cause for a reply. ORA merely reargues positions already made in its application for rehearing, alleges SCE misrepresented the Decision, or alleges SCE misrepresented its own or ORA’s positions in this proceeding. None of this information is instructive for purposes of disposing of the application for rehearing. The Decision speaks for itself and the matter can properly be disposed of based on the record evidence.
Long Term Procurement Plan (“LTPP”) decisions. Subsequently, we determined SCE was still 169.4 MW short of its preferred resource and energy storage requirements. Thus, SCE was ordered to procure an additional 169.4 MW of the residual LCR need, taking into account any updated LCR studies conducted by the California Independent System Operator (“CAISO”).

The recent 2018 and 2022 CAISO LCR Studies forecast no need in the LA Basin area through 2022. And the Decision agrees there is no foreseeable deficiency in the LA Basin. But, it is not necessarily unlawful to approve procurement that is not required to meet such a need.

In the case of preferred resources, procurement may be driven by considerations other than need. Often, it is driven by other statutory or Commission established goals and targets for resource penetration. In D.13-10-040, we explained:

System need determinations are required in CPUC generation resource procurement proceedings, such as LTPP….In other policy areas promoting preferred resources, such as renewables, the California Solar Initiative and demand

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7 Application of Southern California Edison Company for Approval of the Results of Its 2013 Local Capacity Requirements Request for Offers for the Western Los Angeles Basin (Order Modifying Decision D.15-11-041 and Denying Rehearing of the Decision as Modified) [D.16-05-053], pp. 3-4, 17-22 [Ordering Paragraph Number 1, subds. (b), (c), (f), (j), (q)] (slip op.).


9 D.18-07-023, pp. 21-24, 37.

10 See, e.g., Pub. Util. Code, § 399.11, subd. (1) [Renewables Portfolio Standard (“RPS”) Program targets]; & § 236, subd. (a)(1) [Energy Storage Systems].
response, the Commission has not set targets based on a system need determination, but rather administratively determined procurement requirements to meet public policy objectives. To the extent that energy storage is treated akin to a “preferred resource,” as it has been designated in D.13-02-015, the Commission has clear precedent to administratively establish procurement targets without a system needs determination.

(Order Instituting Rulemaking Pursuant to Assembly Bill 2514 to Consider the Adoption of Procurement Targets for Viable and Cost-Effective Energy Storage Systems [D.13-10-040] (2013) p. 24 (slip op.).)

Here, based on our regulatory authority, we made a determination that the procurement was reasonable to meet public policy objectives. The scoping memo reflects this potential, stating: “If the PSAs do not fulfill an existing procurement need, are there any other reasons why the PSAs should be approved?” For example, if the PSAs meet the PRP 2 objectives.\(^\text{12}\)

The primary objective for this solicitation was to obtain resources that would demonstrate whether a concentrated, localized, and integrated portfolio of preferred and distributed energy resources, once deployed, could effectively offset load growth and deliver electricity as reliability as traditional gas-fired resources. SCE stated that the CAISO has assumed preferred resources could offset reliance on gas-fired generation and meet energy demand. But that assumption has never actually been proven.

Our Decision found merit in these objectives because the resources from this RFO are should to provide discrete information regarding the operational

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\(^{11}\) See also the Energy Action Plan (“EAP”) II, p. 2 [Identifies preferred resources as energy efficiency, demand response, renewable resources, and distributed generation (resources).]; and Pub. Util. Code, § 769, subd. (a) [Defining “distributed resources” as distributed renewable generation resources, energy efficiency, energy storage, electric vehicles, and demand response technologies.]. The EAP II can be located at: [http://www.cpuc.ca.gov/eaps](http://www.cpuc.ca.gov/eaps).

\(^{12}\) Scoping Memo and Ruling of Assigned Commissioner, dated April 21, 2017, p. 4, Number 4 (a) & (c).
performance of a concentrated amount of preferred resources before customers must primarily rely on such resources to meet energy and reliability needs.\textsuperscript{13}

In addition, the resources have the benefit of being located in a region where, to date, there has not been significant distributed energy penetration.\textsuperscript{14} And they will interconnect at the A-Bank level, which is the interface between the transmission and distribution grids. Other authorized procurement programs focus on different grid locations.\textsuperscript{15}

In this regard, the PSAs are consistent with our past policy support for SCE’s PRP effort as a creative and innovative means to test procurement strategies for preferred resources.\textsuperscript{16} In finding merit to the specific objectives of this RFO, our Decision was clear that despite no forecasted LCR need, other practical and policy reasons combined to justify contract approval.\textsuperscript{17} Key among them is to obtain the above described information we do not currently have regarding the operational capability of these resources.\textsuperscript{18}

From a policy perspective, we also considered the PSAs to be consistent with California’s environmental and grid modernization goals. Such goals are readily discernable in Assembly Bill (“AB”) 32 [Global Warming and Solutions Act of 2006];

\textsuperscript{13} See, e.g., Reporters Transcript (“RT”), Volume (“Vol.”) 1, pp. 16-19, 26-31; SCE-01-A, pp. 5-6.
\textsuperscript{15} See, e.g., SCE-02, p. 5. ORA’s own testimony shows there can be significant negative consequences of in-service failures at the A-Bank level. (ORA-01, Appendix C, pp. 4-5.) Therefore, additional support at the A-Bank level is desirable.
\textsuperscript{16} D.18-07-023, p. 11, citing, e.g., Track 4 Decision [D.14-03-004], supra, pp. 65-66 (slip op.); California’s Distributed Energy Resources Action Plan: Aligning Vision and Action, dated May 2, 2017. (See also Application of Southern California Edison Company for Approval of the Results of its 2015 Preferred Resources Pilot Request for Offers [D.16-09-006] (2016) pp. 19-20 (slip op.).)
\textsuperscript{17} See, e.g., D.18-07-023, pp. 11-14, 22-24, 37.
\textsuperscript{18} D.18-07-023, pp. 12-13, 23-24, 41 [Finding of Fact Numbers 12 & 13].
Senate Bill 32 [Greenhouse Gas (“GHG”) Cap and Trade Program]; and the EAP II Loading Order, among others.  

While these reasons provide a reasonable and lawful basis to approve the PSAs, the Decision does contain one sentence that could be read to suggest the PSAs are needed and will fill an existing LCR need. We will modify the Decision as set forth in the below ordering paragraphs to clarify its meaning.

2. Need-Related Findings

Commission decisions must contain separately stated findings and conclusions on all issues material to an order or decision. ORA contends that whether the PSAs fulfill an existing LCR need was a material issue, and the Decision’s findings were inadequate because they merely state:

6. CAISO LA Basin Local Capacity Technical Analysis for 2018 forecast that there is a 10,735 MW of qualifying capacity.

7. CAISO LA Basin Local Capacity Technical Analysis for 2018 forecast that there is a 2018 LCR need of 6,873 in the case of a Category B event and 7,525 MW in the case of a Category C event.

There is some merit to ORA’s position. While FOFs 6 and 7 are factually correct and consistent with the evidence, they do not directly answer whether the PSA

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19 D.18-07-023, pp. 11-14, 23-24; SCE Application, p. 3; SCE-03, p. 1. Section 769 also promotes increased deployment of distributed energy resources as part of the distribution planning process.


21 CAISO defines a Category B event as the system performance expected after the loss of a single transmission element, such as a transmission circuit, generator, or transformer. A Category C event is expected system performance expected after the simultaneous loss of two or more system elements. (2018 CAISO LCR Study, pp. 8-10.)

22 ORA also argues the findings fail to bridge the analytic gap between the raw data (no LCR need) and the ultimate decision (approval of the PSAs). (Rhg. App., pp. 7-9., citing Association de Gente Unida por el Agua v. Central Valley Regional Water Quality Co. (2012) 210 Cal.App.4th 1255, 1281.) We reject this argument because it is similarly based on the premise that PSA approval must be predicated on the existence of an LCR need. As explained above, need is not always required.
resources are needed. Accordingly, we will modify these findings as set forth below in the ordering paragraphs.

ORA also suggests that PSA approval was dependent on a CAISO finding of LCR need. But nothing mandates such a result. And while CAISO’s updated LCR Studies are a useful planning tool, they are not the only consideration in determining resource planning.

As we explained in the Decision, CAISO studies are based on a particular set of assumptions regarding existing system facilities, resources planned to be operational by a certain date, and energy efficiency projections.\(^\text{23}\) The relevance of these assumptions may change, and expectations regarding available resources may vary – i.e., some anticipated projects may never come online and other plant retirements can occur. Even the fact that CAISO LCR forecasts are updated every year demonstrates that need is fluid. ORA may disagree with this reasoning. But disagreement does not establish legal error.\(^\text{24}\)

ORA also challenges FOFs 4 and 9, which state:

4. In D.16-05-053, the Commission’s Order Modifying D.15-11-041, the Commission required SCE to procure an additional 169.4 MW of preferred resources or energy storage.

9. SCE’s PRP RFO contributes 124.9 MW of preferred resources in the J-S Region to help meet a portion of the procurement authorized by D.16-05-053.

ORA contends we could not rely on D.16-05-053 to approve the PSAs, because that decision said SCE should consider updated CAISO LCR Studies in procuring any additional resources, and the CAISO studies show no expected need. For that reason ORA argues the PSAs cannot be counted against the 169.4 MW residual procurement requirement authorized by D.16-05-053. (Rhg. App., pp. 9-14.)

\(^{23}\) See, e.g., 2018 CAISO LCR Study, pp. 6, 17-21, Appendix A.

We acknowledged that the residual 169.4 MW procurement obligation was based on an LCR need that does not currently appear to exist. As a result, we could have denied the PSAs. But we were not legally required to do so.

It was within our discretion to leave the residual procurement obligation in place, and apply the PRP RFO 2 MWs toward it. It was a lawful practical and policy determination. In this instance, we found merit in having additional resources as a hedge, or cushion, against other expected resources not coming to fruition. The challenged findings are factually correct in that they merely reflect the decision to let the resources count toward the procurement obligation that we chose to leave in place.

Upon review, however, some Decision text implies the residual procurement obligation was left in place only because SCE never filed a petition to modify D.16-05-053. That was not the basis for our determination and we will modify the Decision as set forth below in the ordering paragraphs to clarify our reasoning.

3. **ORA’s LCR Need Analysis**

ORA contends that a number of statements in the Decision regarding it’s or the CAISO’s LCR analyses are factually incorrect and inconsistent with the evidence. (Rhg. App., pp. 14-17.)

For example, ORA claims we wrongly stated there is an LCR need in the J-S Region. (Rhg. App., pp 14-15.) That is incorrect.

The Decision repeatedly acknowledged that the updated CAISO LCR Studies forecast no LCR deficiency in the LA Basin for the immediate future. That ORA continues to insist we said otherwise does not establish error.

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26 ORA argues the Decision failed to make a finding to reflect SCE’s statement that it did not conduct the PRP RFO 2 to fulfill an LCR requirement. (Rhg. App., p. 10-11.) It is not necessary to make such a finding since the Decision already agreed the PSAs are not needed for LCR purposes.
28 D.18-07-023, pp. 26-27, citing D.16-05-053, p. 18 [Ordering Paragraph Number 1(c)].
29 D.18-07-023, pp. 21-24, 37.
ORA also argues it was wrongly criticized for relying on the CAISO LCR Studies. (Rhg. App., p. 15.)

Nothing in the Decision criticized ORA for utilizing the CAISO studies. We simply said we were concerned that ORA’s calculation of excess MW could be somewhat inflated because CAISO’s forecast may mask LCR deficiencies in smaller sub-areas.\(^{30}\)

ORA counters that the fact CAISO identified a deficiency in a Stockton sub-area just proves that it would have similarly found a deficiency in the J-S Region if it existed. (Rhg. App., p. 15.)

That is possible. But there is no way to know that with certainty since the CAISO studies did not list the J-S Region as an area it considered.\(^{31}\) Further, even if ORA is factually correct it does not establish legal error since approval was not predicated on LCR need.

Finally, ORA takes issue with the statement that CAISO’s studies would have been more instructive if they specifically addressed the J-S Region rather than the LA Basin on whole.\(^{32}\) ORA argues this just proves that SCE failed to provide adequate information regarding need in the J-S Region, and wrongly shifted the burden to ORA to show that SCE’s procurement was unreasonable. (Rhg. App., p. 16.)

We disagree for two reasons. First, although the resources were not procured to meet an LCR need, SCE did provide an incremental load growth analysis for the J-S Region.

Second, we did not shift the burden of proof to ORA. A utility always has the initial and ultimate burden to prove the reasonableness of any costs it seeks to

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\(^{30}\) D.18-07-023, pp. 22-23, fn. 68.

\(^{31}\) See, e.g., 2018 CAISO Study, pp. 51-54.

\(^{32}\) See D.18-07-023, p. 24.
recover. But where parties such as ORA propose a different result, they also have a burden to produce evidence to support their position and raise a reasonable doubt as to whether the requested relief is reasonable. Since need was not determinative in this case, and that was the primary basis of ORA’s opposition, we merely found that ORA did not raise a reasonable doubt here.

4. **The 2018 & 2022 Updated CAISO LCR Studies**

The Decision states that the CAISO’s studies represent the minimum amount of capacity needed in each Local Capacity Area for reliable grid operations. ORA contends no party argued the studies set a minimum, thus there is no record support for the Commission’s finding. (Rhg. App., at pp. 17-18.)

We reject this assertion based on the CAISO’s own description of its LCR analyses. For example, its 2018 LCR Study specifically states:

> The 2018 study results are provided to the CPUC for consideration in its 2018 resource adequacy requirements program. These results will also be used by the CAISO as “Local Capacity Requirements” of “LCR” *minimum* quantity of local capacity necessary to meet the LCR criteria and for assisting….

(CAISO 2018 Local Capacity Technical Analysis, dated may 1, 2017, p. 1 (emphasis added.))

ORA also argues that treating the CAISO’s studies as setting a minimum is inconsistent with how the Commission viewed CAISO’s analysis in the 2013 LTPP Track 1 Decision [D.13-02-015], *supra*, pp. 72-73 (slip.op.), which stated:

> The ISO contends that there is a need for 430 MW of total in-area generation in the Moorpark area….The ISO

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recommendation appears to be conservative on this point, as the ISO has not shown that the 430 MW is the minimum amount of LCR need necessary to maintain vital operational characteristics.

*(Track 1 Decision [D.13-02-015], supra, p. 72 (slip.op.))*

The excerpt ORA cites means only that we disagreed with CAISO’s estimate of the minimum need in that particular instance. ORA ignores that the *Track 1 Decision* also stated:

The ISO performed local capacity technical studies to determine the *minimum* amount of resources within a within a local capacity area needed to address reliability concerns following the occurrence of various contingencies on the electric system.

*(Track 1 Decision [D.13-02-015], supra, p. 14 (slip.op.))*

Based on a full and proper reading of D.13-02-015, ORA fails to establish error.

5. **Out of Date Data**

Our Decision cites to a 2014 CAISO locational effectiveness clarification tied to CAISO’s 2013-2014 Board-Approved Transmission Plan which found that the Southwest LA Basin sub-area was one of the most effective areas to cite resources to meet long-term local capacity needs.\(^{36}\)

ORA contends it was error to rely on that analysis because it is out of date and has been superseded by the recent LCR Studies. ORA argues the LCR studies do not find the Southwest LA Basin sub-area is the most effective location to place new resources. (Rhg. App., pp. 20-23.)

Contrary to ORA’s view, it was not irrelevant to look at the 2014 data. Transmission planning analyses and LCR analyses serve different purposes. CAISO’s

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transmission plans are based on a long-term planning horizon that identifies both system limitations and opportunities for reinforcements to improve system reliability.

LCR studies, by contrast, are short-term analyses that identify the minimum local resource capacity required in each local area to meet established reliability criteria. It is not surprising that the recent LCR studies did not identify the Southwest LA Basin sub-area as an effective location to place new resources. The LCR studies said nothing at all about the best locations to place new resources. That was not their purpose.

Nevertheless, ORA reiterates that the PSAs are not needed because of the procurement authorized by D.15-11-041, SCE procured 1,382 MW of gas-fired generation in the Southwest LA Basin. (Rhg. App., p. 21.)

ORA fails to acknowledge or address that the Decision approved the PSAs to obtain operational information about the ability of localized and concentrated energy efficiency and demand response resources to offset reliance on such gas-fired generation. To date, SCE has less than 1 MW of distributed energy resources deployed in the J-S Region. Thus, even if the PSAs are not strictly needed, the PSAs present the opportunity to conduct an operational experiment consistent with the CAISO’s long-term transmission planning goal of facilitating the use of preferred resources to offset reliance on conventional generation. For that reason, it was not irrelevant, unreasonable, or unlawful to take note of the CAISO’s 2014 transmission planning analysis.

B. Cost Effectiveness

ORA contends the Decision errs because it wrongly suggests that energy storage does not need to be cost-effective if the resources are procured outside the Commission’s biennial storage solicitation process. Specifically, the, Decision states:

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As we specified earlier, D.13-10-040 notes that energy storage must be cost-effective when procured through the biennial storage solicitation process. The SCE PRP RFO 2 resources were not procured through the biennial storage solicitation process.


ORA contends this statement contradicts the plain language of Section 2836.6, which provides:

All procurement of energy storage systems by a load-serving entity or local publicly owned electric utility shall be cost effective.

(Pub. Util. Code, § 2836.6 (emphasis added).)

We do see merit in ORAs’ position in light of the plain statutory language and the fact that many code sections generally require resource procurement to be cost-effective.40 Yet, the costs were not unreasonable when viewed from the perspective of whether the PSAs are cost-effective relative to other like resources in the same or similar locations.

The evidence suggested the resources selected from the PRP RFO 2 were cost-comparable to other similar resources, in light of the geographic location and other project eligibility requirements.41 As such, the cost of the PSAs is reasonable in light of the objectives served and compared to similar projects in similar locations.42

ORA disagrees, arguing all the PSAs have a negative Net Present Value (“NPV”). (Rhg. App., pp. 27-28.) That is true. But nothing prohibits the approval of

41 See, e.g., SCE-01-A, pp. 23-26; SCE-01C, p. 76, & Appendix D, Independent Evaluator Report, p. 28; SCE-03C, Table II-1 [Referencing preferred resources approved out of RFOs for programs such as the Solar Photovoltaic Program (“SPVP”), the Bioenergy Renewable Auction Mechanism (“BioRAM”), the Renewable Auction Mechanism (“RAM”), the Demand Response Auction Mechanism (“DRAM”), and the Renewable Energy Market Adjusting Tariff (“ReMAT”).]
resources with a negative NPV. In fact, it is not unusual for preferred resources to have a negative NPV. And NPV alone is not determinative of cost-effectiveness.

For most utility procurement, we require utilities to utilize a Least-Cost/Best-Fit (“LCBF”) analysis. SCE did that here, looking at cost-effectiveness based on both quantitative factors (such as NPV), and qualitative factors. Even with a negative NPV, resource costs may be reasonable when looked at on whole. That was the conclusion the RFO Independent Evaluator (“IE”) reached here. And ORA does not address the IE Report or any of the qualitative considerations.

Finally, ORA contends the Decision is flawed because it fails to make any formal finding whether the PSAs are cost-effective. (Rhg. App., pp. 27-28.)

We did state in Decision text that the PSA costs are reasonable in light of the objectives served and compared to other similar resources. However, to more clearly conform the formal findings to the text, we will modify the Decision to add a formal finding as set forth in the below ordering paragraphs.

C. Other Commission Mandates, Programs and Procurement

ORA challenges FOF Number 12, which states:

12. Many of the SCE RFO 2 PSAs support objectives that are consistent with existing Commission mandates, programs and procurement.

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43 See, e.g., SCE-03C, pp. 4-6, Table II-1.
44 D.18-07-023, pp. 18-19.
46 SCE-01C, Appendix D, Independent Evaluator Report, p. 28; SCE-01-A, pp. 34-52, 76; SCE-01C, pp. 34-80; SCE-03, pp. 4, 6 Table II-1.
47 ORA argues SCE failed to explain why it declined several similar energy storage bids received in a 2014 energy storage solicitation. ORA interprets that to mean SCE should also have declined these energy storage PSAs. (Rhg. App., p. 27, citing ORA-01C, pp. 3-15 to 3-17.) ORA, however, does not provide sufficient comparative detail to support any meaningful analysis of the two RFOs and resulting bids. Thus, we find no error.
ORA contends FOF Number 12 is ambiguous because the Decision fails to identify what programs it is referring to or what objectives are served. (Rhg. App., pp. 28-31.)

Our review reflects that the Decision does identify two programs we considered to be particularly relevant. We specifically referenced the Energy Storage Program and Demand Response Program since the PSAs in question were largely for energy storage and demand response resources.49

ORA argues these programs provide no basis to support PSA approval, because our Decision did not decide whether the PSAs count toward those program targets and requirements.50 (Rhg. App., pp. 30.)

We elected to leave it to the individual program proceedings to make any final determination whether particular PSAs can count toward the respective program targets, etc. But that was neither unreasonable nor unlawful. Those individual proceedings are best equipped to determine that issue. Still, it is neither factually or legally incorrect to conclude that energy storage and demand response resource PSAs are, by definition, at least generally consistent with related program areas. And ORA does not establish how they are not.

We also reasonably found that the PSAs do not duplicate other Commission programs. That is because the PSA resources will operate at different transmission and

48 See also D.18-07-023, p. 35.
49 D.18-07-023, pp. 28-34.
50 ORA contends the Decision failed to identify what specific PSAs related to each of the program areas. (Rhg. App., p. 29.) The Decision did identify certain PSAs related to the Demand Response Program. (D.18-07-023, p. 29.) It was not otherwise necessary to list every PSA and the related program area. That information was readily available in the record. (See, e.g., SCE-01-AC, pp. 62-72, Table VII-19.) ORA also suggests the Decision is flawed because it never addressed EPIC at all. (Rhg. App., pp. 29-30.) We were not required to address EPIC or every other Commission program or mandate. We considered the programs we deemed most relevant, and that was all that was required.
distribution levels than procurement for other programs. They will operate at the A-Bank level, while other programs focus resources on other grid locations.\(^5\)

Finally, ORA challenges COL Number 3, arguing it is ambiguous and inconsistent with other Decision findings. (Rhg.App., p. 31, citing, e.g., Renfer v. Skaggs (1950) 96 Cal.App.2d 380, 383.)

COL Number 3 states:

3. The PSAs under this PRP RFO 2 may be eligible to support procurement required through other Commission programs.

(D.18-07-023, p. 41 [Conclusion of Law Number 3].)

It is not clear what other findings ORA means. ORA could mean FOF Number 12. Or it might mean the determination to let the program specific proceedings decide if the PSAs can count toward the respective targets, etc. But COL Number 3 is not inconsistent with either. ORA is just of the view that the PSA resources cannot be consistent with other Commission programs unless they also count toward specific program targets. That may be ORA’s preference. But it offers no such legal requirement.

While the Decision is lawful, it does contain some language that could be misinterpreted regarding this issue and the basis for our approval. For clarity, we will modify the Decision as set forth in the below ordering paragraphs.

\textbf{D. PRP Program}

The scope of this proceeding was limited to evaluation of the PSAs that resulted from SCE’s specific PRP RFO 2. The proceeding did not evaluate the overall PRP Program, nor has the Commission reviewed or approved the program in the past.\(^6\)

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\(^5\) D.18-07-023, pp. 34-35. (See also SCE-02 & SCE-02C, pp. 4-5, Table II-2 [Also explaining, e.g., the PRP RFO 2 procurement differs in timing and scope.]& App. A, pp. A-11 to A-15; SCE-03.)

\(^6\) See, e.g., D.18-07-023, pp. 3, 12.
ORA contends that because PRP Program evaluation was outside the scope of this proceeding, i.e., we have not approved the program, the Commission could not rely on the conceptual merits of the PRP, or anything in the record regarding PRP, to support PSA approval. For the same reason, ORA argues it was unlawful to approve any ratepayer funds in connection to this PRP RFO 2.\textsuperscript{53} (Rhg. App., pp. 31-35.)

We reject this argument because ORA’s sole premise is that the PSAs could only be approved if the Commission had previously approved the overall PRP Program and authorized this specific PRP RFO 2 solicitation. We agree that is often the sequence of things. But it is not always required, and the lack of prior approval does not render this RFO, the resulting PSAs, or our approval unlawful.

It was reasonable and lawful to evaluate the PSAs in light of the specific objectives of the PRP RFO 2. SCE provided sufficient detail regarding the solicitation process and its targeted objectives to enable us to make a reasoned evaluation whether the proposed PSAs warranted approval.\textsuperscript{54}

There was also nothing unlawful or improper in taking note of our own past policy support for the PRP concept. Though not in itself dispositive of the outcome, it was relevant.

Finally, it was not unlawful, as ORA suggests, for the Decision to require PRP monitoring and annual compliance reports in connection with the approved PSAs. That is within our regulatory authority and discretion. ORA’s greater concern should have been any failure to put such requirements in place. Accordingly, we find no error.

\textsuperscript{53} ORA claims it was prejudiced by the Decision’s findings, i.e., by PSA approval. (Rhg. App., p. 34.) However, ORA fails to support that assertion. ORA had every opportunity to address the issues and make its case. The fact that we were not persuaded by ORA’s arguments does not mean that ORA was prejudiced.

\textsuperscript{54} See, e.g., SCE-01, pp. 18-29 [Solicitation Process Overview], pp. 30-33 [Summary of Participation], pp. 34-52 [Offer Valuation Methodology]; pp. 53-61 [Shortlist and Waitlist]; pp. 62-72 [Solicitation Results]; pp. 73-81 [Consistency With Commission Decisions]; pp. 82-87 [Cost Recovery and Revenue Allocation]; SCE-01C, Appendix D, Independent Evaluator Report; SCE-01-A, pp. 1-17; SCE-02 & SCE-02C; SCE-01A.
E. **Scoping Memo**

ORA contends the Decision conflated two separate scoping memo issues: (1) whether the PSAs fulfill an existing procurement or local area need; and (2) whether the PRP RFO 2 is duplicative of other Commission mandates, programs, or procurement.\(^55\) In ORA’s view the Decision combined these two issues to effectively decide neither. (Rhg. App., pp. 36-37.)

Review reflects otherwise. The Decision repeatedly acknowledged that the PSAs are not needed to fulfill any identified LCR need through 2022.\(^56\) That ORA does not like that we approved the PSAs despite that does not mean the Decision failed to determine the issue.

Similarly, the Decision found that PSAs are not duplicative of other Commission mandates, programs and procurement.\(^57\) ORA disagrees. But as explained above we found a distinct benefit in that the PSA resources will operate at different grid locations than other procurement.

ORA also contends that FOF Number 12 raised a new and separate issue, because it not only stated the PSAs are not duplicative, it added that the PSAs are “supportive” of other programs. This is a strained argument.

Whether the PSAs are duplicative of and/or supportive of other Commission programs, etc. is all part and parcel of the same thing. To argue otherwise is disingenuous. And the evidence bears this out, repeatedly explaining how the PRP was supportive, not duplicative, of other programs, etc.\(^58\)

Nevertheless, ORA claims that because FOF Number 12 first appeared in the alternate proposed decision, ORA was denied due process and the opportunity to be heard on this issue. This claim is without merit.

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\(^{55}\) Scoping Memo, dated April 21, 2017, pp. 4-5, Numbers 3 & 5.

\(^{56}\) See, e.g., D.18-07-023, pp. 22-23 & p. 40 [Finding of Facts Numbers 6 & 7] (as modified and clarified herein.)

\(^{57}\) See, e.g., D.18-07-023, pp. 43-35, 37, 40 [Finding of Fact Number 12].

\(^{58}\) SCE-01-A, pp. 10-14; SCE-02C, pp. 2-7; SCE-03, p. 11.
The crux of ORA’s objection is just that it did not know we might approve the PSAs until the alternate was issued. That is because the initial proposed decision would have denied PSA approval. The alternate, lawfully issued under governing statutes and rules, proposed a different outcome. That does not amount to introducing a new and out of scope issue. Nor does it mean ORA was denied due process. ORA had, and availed itself, of every opportunity to participate and be heard on this issue.

Nevertheless, to make the Decision as clear as possible on this point, we will modify FOF 12 as set forth in the below ordering paragraphs.

F. Miscellaneous Findings and Conclusions
ORA challenges various other findings and conclusions as either unsupported by the evidence or outside the scope of the proceeding. (Rhg. App., pp. 37-43.) As explained below, ORA fails to prove legal error.

ORA first challenges FOF Numbers 1, 2, and 3, which state, respectively:

1. SCE seeks approval of 19 PSAs totaling 125 MW supporting its second PRP, which intends to launch within the J-S Region in the Los Angeles Basin, which was served by now retired OTC plants and SONGS, closure of which represented loss of approximately 7,000 MW of generation capacity.

   (D.18-07-023, p. 39 [Finding of Fact Number 1].)

2. In D.14-03-004, the Commission stated support for the concept of the PRP as promising both as a way to meet LCR needs and as a laboratory for innovation regarding preferred resources.

   (D.18-07-023, p. 40 [Finding of Fact Number 2].)

3. The Commission has endorsed California’s Distributed Resources Action Plan to guide development and implementation of policy related to DERs, under which the PRP is listed as an existing DER sourcing mechanism.

   (D.18-07-023, p. 40 [Finding of Fact Number 3].)
ORA reiterates its objection to these findings on the ground the PRP Program itself was outside the scope of the proceeding. ORA therefore argues the findings are unsupported by the record and irrelevant.\textsuperscript{59} (Rhg. App., pp. 37-38.)

As already discussed, approval of the PRP Program was not prerequisite to considering the results of this specific RFO. And the evidence contained sufficient information about this specific solicitation and its objectives render the above findings. They are nothing more than factual statements which provide context for the PRP RFO 2. And they provide no grounds for legal error.

ORA next challenges FOF Number 10, which states:

10. SCE forecasts 238-275 MW load growth in the J-S Region by 2020 based on its internal analysis.

(D.18-07-023, p. 40 [Finding of Fact Number 10].)

ORA contends this finding misstates the record because SCE’s forecast was for 2022 not 2020. (Rhg. App., p. 39.)

We agree. While Decision text did accurately state the year as 2022, it was not correctly reflected in the related formal finding. The finding also appears to have unnecessarily combined two forecasts to create MW range.

The record stated at the time SCE launched the PRP RFO 2, it forecast a peak load growth of 275 MW in the J-S Region by 2022.\textsuperscript{60} Its 2016 forecast of peak load growth was 238 MW. But 275 MW was used to size the PRP RFO 2.\textsuperscript{61} We will modify FOF 10 as set forth in the below ordering paragraphs to more accurately reflect the record evidence.

\textsuperscript{59} ORA also suggests that reference to the DER Action Plan was unlawful because the document was not part of the formal record and the Commission took no judicial notice of the document in this proceeding. (Rhg. App., p. 38-39, fn. 155.) The DER Action Plan is a public Commission document, which the Commission endorsed at its November 10, 2016 public business meeting, and which can be located on the Commission’s website at: \url{http://www.cpuc.ca.gov/uploadedfiles/cpuc_public_website/content/about_us/organization/commissioners/michael_j__picker/der%20action%20plan%20(5-3-17)%20clean.pdf}. The Commission is not required to take judicial notice of its own documents.

\textsuperscript{60} D.18-07-023, p. 27, citing SCE-01-A, pp. 7-8.

\textsuperscript{61} SCE-01-A, p. 7.
ORA also challenges COL Number 2, which states:

2. The resources sought under this PRP RFO 2 can meet load growth in the J-S Region.

(D.18-07-023, p. 41 [Conclusion of Law Number 2].)

ORA objects to this finding on the ground that SCE testified its load growth could be met by imports. Accordingly, ORA argues the PRP RFO 2 resources are not in fact needed for load growth in the J-S Region. 62 (Rhg. App., p. 39.)

SCE did testify that strictly speaking, anticipated load growth could be met by imports. For that reason, the PSAs were not absolutely necessary to fill a reliability need. 63 At the same time, testimony explained locating the RFO resources in the J-S Region was desirable because the location is uniquely suited to testing whether concentrated preferred resources can displace reliance on traditional gas-fired resources. In addition, the PSAs could potentially serve over 20 percent of the load in that region. 64

Evidence also reflects that the PSAs can be used to meet incremental load, and offset the area’s peak load. 65 We will modify COL Number 2 as set forth in the below ordering paragraphs to more accurately reflect the record evidence.

Finally, ORA challenges FOF Number 13, which states:

13. The SCE RFO 2 PSAs will help support grid modernization and the state’s environmental goals.

(D.18-07-023, p. 41 [Finding of Fact Number 13].)

ORA objects to this finding alleging that SCE provided no analysis to show how the selected resources will support grid modernization, support GHG reduction

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62 ORA also states that SCE’s own internal analysis shows load growth has declined since 2014. (Rhg. App., p. 39.) The evidence did show a decline in demand between 2014 and 2016 (SCE-01-A, p. 8, Figure II-1). But ORA cites no evidence that contradicts SCE’s forecast numbers. Thus, the fact there was some decline after 2014 does not mean SCE’s forecast in this proceeding was incorrect.

63 RT Vol. 1, p. 17.

64 RT Vol. 1, pp. 16-19.

65 SCE-01-A, pp. 9-10, Figure II-2; SCE-03, pp. 8-9.
policies, or reduce future procurement of GHG emitting resources.\(^{66}\) (Rhg. App., pp. 39, 42-43.)

We agree that the evidence was fairly high level concerning these goals. Yet a detailed analysis was not particularly necessary. It is well established and accepted that preferred resources, by definition, support the State’s environmental policies as embodied in legislation such as AB 32 [The Global Warming Solutions Act of 2006], SB 32 [GHG Cap-and-Trade Program], SB 350 [Clean Energy and Pollution Reduction Act of 2015], and the Energy Action Plan II Loading Order for preferred resources.\(^{67}\) FOF Number 13 merely states the obvious.

The fact that SCE only generally referenced these and other environmental policies does not render FOF 13 incorrect or unlawful. And it was not necessary for purposes of evaluating this RFO, that SCE quantify just how much future procurement of GHG emitting resources might be avoided. That was not a material issue. The point of this solicitation is simply to obtain information regarding whether preferred resources deployed in this manner can be depended on to displace and reduce gas-fired (GHG emitting) generation.\(^{68}\) Obtaining such information precedes any ability to quantify how much future gas-fired procurement might be avoided. Accordingly, we find no error.

**G. Unjust and Unreasonable Rates**

ORA contends that in approving the PSAs results in the recovery of unjust and unreasonable costs in violation of Section 454. ORA argues the Decision failed to identify a single justifiable reason for approving cost recovery for an unauthorized PRP. (Rhg. App., pp. 43-46.)

\(^{66}\) ORA raises a number of challenges related to SCE’s statement that the PRP RFO 2 resources may also support State-led endeavors such as the EPIC IGP and at least two DRP demonstration projects. (Rhg. App., pp. 40-42.) These challenges have absolutely no bearing on the lawfulness of Finding of Fact Number 13, thus they are not discussed here.

\(^{67}\) See, e.g., SCE-01-A, p. 2; SCE-01C, p. 2.

\(^{68}\) RT Vol. 1, pp. 18-19, 28-31.
Once again, ORA’s challenge is based on the notion the PSAs could not be considered or lawful unless we had first approved the PRP Program and this specific RFO. That is wrong.

ORA also argues that SCE testified it launched the RFO in part to support programs such as the demand response and energy storage programs. But the Decision never found that the PSAs would count toward those programs. Thus, ORA reasons any cost recovery is unlawful. That is incorrect.

As discussed above, the Decision did consider whether the PSAs would support and/or count toward other Commission programs. But we were not bound to justify PSA approval only on those grounds. The scoping memo clearly contemplated there could be other valid reasons to approve the PSAs.

Here, we found PSA approval was justified for their potential to support other Commission programs and mandates, for their ability to support the State’s environmental and grid modernization goals, and for their ability to provide valuable information regarding the ability of concentrated and localized preferred resources to offset reliance on traditional gas-fired generation.69

ORA may not consider these reasons to be adequate. But it was ultimately a policy determination that is within our authority and expertise to make. Therefore, we find no error.

III. CONCLUSION

For the reasons stated above, D.18-07-023 is modified as set forth in the below ordering paragraphs. The application for rehearing of D.18-07-023, as modified are denied because no legal error has been shown.

THEREFORE, IT IS ORDERED that:

1. D.18-07-023 is modified as follows:
   a. The first sentence of the second full paragraph on page 14 of D.18-07-023 is modified to state:

69 See, e.g., D.18-07-023, pp. 12-14, 34-35, 37, 41 [Finding of Fact Numbers 12 & 13].
As discussed in further detail in this section, we find that SCE has met its burden of proof to demonstrate that it conducted the PRP 2 RFO in a fair and reasonable manner.

b. Finding of Fact Number 6 on page 40 of D.18-07-023 is modified to state:

6. CAISO LA Basin Local Capacity Technical Analysis for 2018 forecast that there is a 10,735 MW of qualifying capacity, a LCR need of 6,873 in the case of a Category B event and a 7,525 MW need in the case of a Category C event.

c. Modify D.18-07-023, p. 40, Finding of Fact Number 7 to state:

7. Based on the CAISO 2018 and 2022 LCR forecasts, the 19 PSAs are not required to fill an expected LCR need in the LA Basin area.

d. The first full paragraph through the end of Section 7.4.1.3. on page 26 of D.18-07-023 is modified to state:

We agree in part with ORA. The approval of additional preferred resources and energy storage procurement in D.16-05-063 contemplated SCE would require, at minimum, an additional 169.4 MW to meet its local capacity need in the Western LA Basin. We recognize that the CAISO’s 2018 and 2022 updated LCR studies no longer forecast such a need. But as explained herein, such forecasts are fluid and often change.

Although we could deny the PSAs or require SCE to file a petition to modify D.16-05-053 to eliminate the residual procurement obligation, we are not required to do so. It is within our discretion to leave that procurement obligation in place as a hedge against other projects never coming to fruition. But we see no reason to do that and then also approve the instant PSAs as additional resources. Thus, we will allow the PRP 2 MWs to offset the 169.4 MW of preferred resource and energy storage procurement authorized by D.16-05-053.

e. The second sentence of the first full paragraph on page 33 of D.18-07-023 is modified to state:
In this instance, we approve the PRP RFO 2 PSAs because we expect they will provide valuable practical operational information, and because we find them to be consistent with the State’s environmental goals.

f. The fifth full sentence on page 39 of D.18-07-023 is modified to state:

We disagree with ORA’s reasoning because it fails to account for the qualitative factors which, on balance, support PSA approval. ORA also fails to take into account that it is not unusual for preferred resources to have a negative NPV. Here, the PSA resources are comparable in cost to other similar resources in similar locations, with similar on-line dates.

g. The sixth full sentence on page 39 of D.18-07-023 is deleted.

f. Page 41 of D.18-07-023 is modified to add Finding of Fact Number 14 stating:

14. The Independent Evaluator concluded that all 19 PSAs should be approved because the economics and general terms and conditions represented the best available resources.

h. Page 41 of D.18-07-023 is modified to add Finding of Fact Number 15 stating:

15. SCE demonstrated that the cost of the PSAs is reasonable in light of the objectives to be served and compared to similar preferred resource projects in similar locations.

i. The last full paragraph of Section 7 on page 35 of D.18-07-023 is modified to state:

We find the goal of the PRP RFO 2 - to confirm the ability of preferred resource DERs, deployed in a highly localized manner, to offset reliance on gas-fired generation resources the urban J-S Region - is a unique and novel concept that is not specifically being pursued by any other Commission mandate, program, or procurement. This information will be particularly valuable to have before utility customers must rely on preferred resources in large quantities to meet demand and reliability needs. We also agree with SCE, that the PRP RFO 2 resources
are supportive rather than duplicative of other Commission programs because they have different timing and scope, and will provide a different grid level support.

j. FOF Number 12 on page 40 of D.18-07-023 is modified to state:

12. The PRP RFO 2 is supportive of, not duplicative of, other Commission mandates, programs, or procurement.

k. Finding of Fact Number 10 on page 40 of D.18-07-023 is modified to state:

10. At the time of the PRP RFO 2 launch, SCE forecast a peak load growth in the J-S Region of 275 MW by 2022, and it sized the PRP RFO 2 accordingly.

l. Conclusion of Law Number 2 on page 42 of D.18-07-023 is modified to state:

2. The PRP RFO 2 resources can potentially decrease reliance on traditional gas-fired generation resources in the J-S Region, help meet incremental load, and offset peak load.

2. Rehearing of D.18-07-023, as modified, is denied.

3. This proceeding, application (A.) 16-11-002, is closed.

This order is effective today.

Dated December 13, 2018, at San Francisco, California.

MICHAEL PICKER
President

CARLA J. PETERMAN
LIANE M. RANDOLPH
MARTHA GUZMAN ACEVES
CLIFFORD RECHTSCHAFEN
Commissioners