

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
Southern California Edison Company
(U338E) for a Certificate of Public
Convenience and Necessity for the RTRP
Transmission Project.

Application 15-04-013

ORDER DENYING REHEARING OF DECISION 20-03-001

I. INTRODUCTION

On April 17, 2020, the Public Advocates Office (Cal Advocates) filed a timely application for rehearing of Decision (D.) 20-03-001.¹ In D.20-03-001 (Decision), the Commission granted the application of Southern California Edison (SCE) for a Certificate of Public Convenience and Necessity (CPCN) for SCE’s portion of the Riverside Transmission and Reliability Project (RTRP). The Decision also certifies that the subsequent environmental impact report (SEIR) the Commission staff prepared for the revised portions of the project meets the requirements of the California Environmental Quality Act (CEQA). Cal Advocates now argues that the environmental analysis failed to consider the air quality impacts of increased dispatch from the Riverside Energy Resource Center (RERC) generation facility that Cal Advocates alleges would result from the RTRP.

The RTRP is a joint project sponsored by SCE and Riverside Public Utilities (RPU) in response to the California Independent System Operator (CAISO) direction to SCE in 2006. The purpose of the RTRP is to: “Increase capacity to meet existing electric system demand and anticipated future load growth,” and “Provide an

¹ The official pdf versions of all Commission decisions, orders, and resolutions since 2000 are available on the Commission’s website www.cpuc.ca.gov at <http://docs.cpuc.ca.gov/DecisionsSearchForm.aspx>.

additional point of delivery for bulk power into the RPU electrical system.” (SEIR, ES.2.2.1.) The main problem RTRP will solve is that, “Riverside is served by 69-kV subtransmission lines from Vista Substation, which is its single point of interconnection to the CAISO grid.” (Decision, at p. 20.)

As we have explained, the RTRP includes elements to be owned and operated by RPU, including a 69-kV substation and 69-kV subtransmission lines, as well as elements to be owned and operated by SCE. (See Decision, at p. 3.) The SCE portion of the project, requiring Commission review, includes new overhead and underground 230-kV transmission line, a new 230-kV substation, telecommunications facilities, and modifications to existing distribution lines and substations (Proposed Project). As laid out in the SEIR, the RTRP is the entire project, the “Proposed Project” is the SCE portion of the RTRP, for which it applied for a CPCN, and the “Revised Project” consists of those changes to the RTRP that necessitated additional environmental review and are analyzed in the SEIR.

Cal Advocates raised their current argument for the first time in its comments on the proposed decision, which was circulated on January 17, 2020. In that pleading, Cal Advocates alleged that the Commission violated CEQA and the Public Utilities Code because, “it did not consider the air quality impacts that may result from making the Riverside Energy Resource Center (RERC) generation units available to the California Independent System Operator (CAISO) for market dispatch.” (Cal Advocates 2/6/20 Comments, at pp. 1-2.)

In the Decision, we responded to Cal Advocates’ comments as follows:

Public Advocates Office argues for the first time in its comments on the proposed decision that the SEIR fails to comply with CEQA because it does not consider air quality impacts that may result from making the Riverside Energy Resource Center generation units available to the CAISO for market dispatch. We reject this argument for being mere speculation that is refuted by the record and prejudicially late.

(Decision, at p. 31.)

In its application for rehearing, Cal Advocates alleges: (1) the Commission violated CEQA by failing to analyze the impacts of increased RERC dispatch from CAISO, and failing to adequately incorporate it in the project definition or baseline analysis; (2) the Decision errs in including CAISO RERC dispatch in its statement of overriding considerations when it was not analyzed in the SEIR; and (3) the failure to analyze the impact from market dispatch of the RERC by the CAISO violated Public Utilities Code section 1002(a). SCE and Riverside filed responses to the application for rehearing.

We have carefully considered the arguments presented by Cal Advocates, and are of the opinion that grounds for rehearing have not been demonstrated. Accordingly, we deny Cal Advocates' application for rehearing.

II. DISCUSSION

Cal Advocates' main argument is that the Commission erred in failing to consider the air quality impacts of a potential increase in CAISO dispatch of the RERC units resulting from RTRP operations as part of its CEQA review. In making this argument Cal Advocates ignores the mechanics of CEQA, and in particular that the main CEQA review was not done by the Commission. Rather, Riverside prepared an EIR on the "whole of the action" in 2013. The Commission prepared SEIR *only* covered the Revised Project, which were SCE's later changes to the project. (Decision, at p. 4; SEIR, ES.1.1. ES.2, 4.3-1.) As discussed below, Cal Advocates' arguments fail because they untimely and procedurally improper. Moreover, there is no merit to substance of these claims.

A. Background

1. RERC Dispatch

Historically, Riverside's electric needs had been met through seven 69-kV lines which interconnect to SCE's Vista Substation. (Exh. RIV-1, at p.4.) In the 2000s, Riverside began building peaking generation to provide loading relief to Vista Substation, as well as to provide emergency power to Riverside city functions. (*Id.*, at pp. 7-8.)

While pursuing permanent options to upgrade interconnections between Riverside and SCE, Riverside built the RERC facilities. (*Id.*, at p. 8.) As Cal Advocates explains, “The RERC consists of four 48 megawatt (MW) General Electric LM-6000 gas turbines, with a combined generating capacity of 192 MW.” (App. Rhrgr., at p. 2; Exh. RIV-1, at p. 6.)

From their inception, the RERC units were subject to CAISO dispatch instructions because Riverside “is required to adhere to CAISO resource adequacy requirements.” (Exh. RIV-1, at p. 57.) Riverside explained in its testimony that:

Riverside designates RERC units as Riverside’s flexible RA [Resource Adequacy] capacity to the CAISO in fulfillment of Riverside’s RA obligations under the CAISO tariff. Once designated as flexible RA capacity, each RERC unit must follow CAISO’s dispatch instructions to generate power for the benefit of the entire CAISO grid, not just satisfy Riverside’s power needs.

(*Ibid.*) Therefore, when it applied for approval of the RTRP, Riverside’s use of the RERC units was limited to some degree by CAISO requirements.

Although the RTRP is planned as a more permanent interconnection solution to the Riverside interconnection issues, planning and development has taken many years. Riverside approved the EIR and its portion of RTRP in 2013, and SCE then applied for a CPCN from the Commission for its portion of the project in 2015. In 2016, CAISO and Riverside agreed to a variance from the Federal Energy Regulatory Commission (FERC) RA requirements to address Riverside’s energy needs. The variance enables RPU “to dispatch [RERC] during periods of high local load ... even if RERC is not dispatched in the CAISO market, if RPU’s load is above 400 MW” (Riverside Resp., at pp. 2-3.)

Significantly, there was no variance in place at the start of the RTRP review process or when SCE filed its application with us, and there likely will be no variance in place when the RTRP is operating because Riverside will no longer need the RERC dispatch. (Exh. RIV-1, at p. 58.)

As CAISO explained the variance:

Riverside controls dispatch of the RERC during high load events and the CAISO markets do not have access to these resources. During these events, the CAISO can only gain access to the RERC resources by calling Riverside and asking it to provide unloaded generation to the CAISO.

(Exh. ISO-1, at p. 2.) After the variance is rescinded when RTRP is operational:

[T]he CAISO will dispatch RERC generation based on its market software, without any variance. As a result, dispatch will be optimized to serve the full CAISO system based on a security constrained economic dispatch.

(*Id.*, at p. 3.)

2. CEQA Review

Pursuant to CEQA, when a lead agency, such as Riverside, prepares an EIR, it is binding on responsible agencies, such as the Commission. (Pub. Resources Code, §§ 21165, 21166.) Indeed, a responsible agency is only allowed to prepare a SEIR where there are subsequent substantial changes to the project after the EIR has been prepared, or new information, “which was not known and could not have been known at the time the environmental impact report was certified as complete.” (Pub. Resources Code, § 21166.) The only reason we performed any type of subsequent CEQA review on the RTRP in this case was that subsequent “revisions posed potentially new or increased impacts that were not addressed in the 2013 EIR.” (Decision, at p. 4; CEQA Guidelines (Cal. Code Regs., tit. 14), § 15162 (a).)

Moreover, CEQA caselaw has made it clear that when a subsequent EIR is prepared it should only address the changes in the project since the initial EIR, rather than redo the entire analysis. As the California Supreme Court explained:

Once a project has been subject to environmental review and received approval, section 21166 and CEQA Guidelines section 15162 limit the circumstances under which a subsequent or supplemental EIR must be prepared. These limitations are designed to balance CEQA's central purpose of promoting consideration of the environmental consequences of public decisions with interests in finality and

efficiency. [Citation] Thus, as both *Save Our Neighborhood* and *Mani Brothers* explained, “The purpose behind the requirement of a subsequent or supplemental EIR or negative declaration is to explore environmental impacts not considered in the original environmental document. ... ***The event of a change in a project is not an occasion to revisit environmental concerns laid to rest in the original analysis. Only changed circumstances ... are at issue.***” [Citations]

(*Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2006) 1 Cal.5th 937, 949-950, emphasis added.)

Here, the specific changes that comprise the Revised Project are limited to:

- Approximately 8 miles of new overhead 230-kV transmission line
- Approximately 2 miles of new underground 230-kV transmission line
- New 230-kV Wildlife Station
- Modifications of existing overhead distribution lines
- Modifications at existing substations
- Telecommunication facilities between the existing Mira Loma and Vista Substations, and the proposed Wildlife Substation

(SEIR ES.P-1.) The SEIR only analyzes the environmental impacts from these changes. For this reason, our discretionary decision to approve the RTRP was informed by the environmental analyses in both SEIR and the 2013 EIR.

B. Procedural Bars To Cal Advocates’ Claims

It is undisputed that the Cal Advocates did not raise its concern about the impacts of CAISO dispatch of RERC units during the initial Riverside EIR process, during the Commission’s SEIR process, or during this proceeding before the record was submitted. Rather, Cal Advocates first raised its largely factual challenge in its comments on the Draft Decision. (See Decision, at p. 31.) Cal Advocates suggests that its late challenge should be permitted because CAISO only belatedly announced it will

have increased ability to dispatch from RERC. (App. Rhrgr., at p. 6.) As discussed below, Cal Advocates' claims are time barred.

1. New Information

In response to the Decision's holding that Cal Advocates' arguments were raised too late, Cal Advocates states that it only learned of the potential RERC dispatch plans from CAISO testimony filed in June 2019, after the final SEIR was issued. (App. Rhrgr., at p. 8.) Cal Advocates argues that because this information was revealed belatedly, the SEIR was required to analyze this information and we should have supplemented our analysis and allowed for additional public input. (App. Rhrgr., at p. 10.)

An agency will need to prepare a subsequent EIR or prepare a supplement to an EIR, where there is, "New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence," and that new information will cause or exacerbate a significant effect on the environment. (CEQA Guidelines, §§ 15162 (a), 15162.) Rescission of the RERC variance in this case does not qualify as "new information."

As the record concerning the history of the RERC variance and future dispatch plans, there is nothing new about anticipating that the 2016 variance would be rescinded when RTRP is operational. The entire reason for the variance was the difficulty in meeting Riverside's electricity needs during peak periods, and Riverside should have ample electric supply after RTRP is built. (See Riverside Resp., at pp. 4-7.) Moreover, since the variance has only been in effect since 2016, there was no variance when the project was originally reviewed or when SCE applied to the Commission for a CPCN. As CAISO testified once those constraints are lifted there is no need for the variance. (Exh. ISO-1, at p. 3.) Common sense would dictate that the variance might be rescinded when the need for it no longer exists. Therefore, contrary to Cal Advocates' claims, the rescission of a temporary variance when it no longer needed cannot be considered new or surprising information.

In its testimony, Cal Advocates acknowledges that the variance was adopted in 2016, and suggests that variance could stay in place to eliminate the need for RTRP. Its testimony further states that the variance was granted “with the ‘acknowledgment that Riverside was actively pursuing RTRP’.” (Exh. PAO-1, 3-11; see also App. H, at p. 2.) However, Cal Advocates’ application for rehearing ignores when the variance began and provides no argument explaining why a temporary variance which began during the application review process should be significant in the CEQA review. Instead, Cal Advocates complains that SCE’s CPCN application failed to “anticipate that dispatch of RERC by the CAISO would be a consequence” of RTRP operation. (App. Rhrgr., at p. 6.) As Riverside notes, a 2015 application could not acknowledge rescission of a variance that was not yet in place. (Riverside Resp., at p. 8.) Accordingly, Cal Advocates’ implication that SCE was in any way misleading in its CPCN application is unjustified.

Cal Advocates does not demonstrate the rescission of the variance is new information that, “was not known and could not have been known with the exercise of reasonable diligence...” It appears that if they had asked SCE, Riverside or CAISO earlier they could have learned more about the plans for the variance, and Cal Advocates puts forth no explanation about why this would not be the case. There is no indication that any party was misleading or secretive.

For these reasons, the planned rescission of the variance after RTRP becomes operational cannot be considered “new information” that could not have been known earlier. Any argument that there should be any subsequent or supplemental environmental review based upon the late discovery of this information lacks merit.

2. Challenges To The SEIR

Framing its argument as a challenge to the Commission’s SEIR, Cal Advocates argues that “the Commission erred in that it did not determine whether market dispatch by the CAISO of the RERC may have a significant effect of the environment.” (App. Rhrgr., at p. 11.) Because this argument is in fact a challenge to

Riverside's 2013 EIR, it is time barred. Moreover, Cal Advocates did not raise this challenge during the SEIR process.

As mentioned, pursuant to CEQA, Riverside's 2013 EIR evaluated the environmental impacts of the whole of the RTRP project. (CEQA Guidelines, § 15378 (a).) Cal Advocates' current claims about the impact of possible increased RERC dispatch concern the impacts of the RTRP project as whole. Those impacts could not be caused by the specific changes to the original RTRP, termed the Revised Project as described above (SEIR ES.P-1), that were analyzed in the SEIR. None of those specific route changes and modifications to lines and facilities could possibly have any impact on whether the RTRP project would cause additional dispatch from RERC, a collateral facility. Nor would those changes cause any additional air quality impacts from the operation of the RTRP (as opposed to air quality impacts from the Proposed Project's construction which the SEIR analyzed, and are not at issue currently).

For these reasons, Cal Advocates' CEQA challenges are actually directed to the 2013 EIR analysis and not our SEIR. "The event of a change in a project is not an occasion to revisit environmental concerns laid to rest in the original analysis. Only changed circumstances ... are at issue." [Citations]" (*San Mateo Gardens, supra*, 1 Cal.5th, at 950.)

The time for Cal Advocates to challenge Riverside's 2013 EIR has long passed, and such a challenge is not properly directed to the Commission. The Commission was a responsible agency for that earlier review and is bound by that review. (Pub. Resources Code, §§ 21165, 21166.) The lead agency, Riverside, is the entity that prepared and certified the EIR. The time to challenge that EIR was in 2013, and CEQA provides for short time limits to prevent unnecessary delay. (See Pub. Resources Code, § 21167.) In this case, challenges to that EIR were fully litigated. (See *City of Jurupa Valley v. City of Riverside*, B257623 (Cal. Ct. App. 2015).) Cal Advocates cannot challenge the fundamentals of the original CEQA analysis with a different agency seven years after the EIR was certified.

Even if the SEIR analysis were not limited to the Revised Project, and Cal Advocates had any basis to challenge that analysis, its claims would be barred because it did not raise them during the SEIR CEQA review process. Pursuant to CEQA, any challenge to an environmental analysis must be raised, “during the public comment period or before the close of public hearing” on the project. (Pub. Resources Code, § 21177 (a).) Cal Advocates acknowledges that it did not raise the RERC issues during the CEQA review. As discussed above, Cal Advocates does not demonstrate that planned rescission of the variance was new information that could not be known during SEIR process. Therefore, to the extent Cal Advocates’ challenges are directed at the SEIR, those arguments are barred because Cal Advocates failed to raise them at during that process.

In sum, because Cal Advocates’ challenges to the environmental analysis concern the broader EIR that was completed in 2013, their claims are time-barred. Moreover, since Riverside, and not the Commission, prepared that document, Cal Advocates’ claims are misdirected. Even if those arguments were properly directed to our SEIR, they would be barred because Cal Advocates did not raise them during the environmental review process.

3. Challenges To Decision Holdings

Certain of Cal Advocates’ arguments are directed toward the holdings in the Decision, rather than the CEQA analysis itself. Specifically, Cal Advocates argues that the Decision’s findings are defective because they are based on a faulty environmental analysis, the statement of overriding considerations is flawed because the impacts of the project were not considered, and the Decision did not fulfill the section 1002 requirement to consider a proposed project’s influence on the environment. (App. Rhrgr., at pp. 11-16.) These arguments are untimely.

Any factual claims in a proceeding need to be presented during the proceeding before the close of the evidentiary record. The comment stage, and more so the application for rehearing stage, are not equipped to evaluate new factual arguments. For that reason, both comments on proposed decision, as well as applications for

rehearing, must point to errors based on the existing record. (Commission Rules, §§ 14.3 (c), 16.1 (c).) That record closes after the last brief is filed. (Commission Rules, § 13.14 (a), December 20, 2018 Scoping Memo, at p. 4.)

Even if the RERC dispatch information took Cal Advocates by surprise, in its June 24, 2019 testimony it acknowledges that the variance limiting CAISO market dispatch of RERC may end when RTRP is approved. (Exh. PAO-1, at 4-1.) As SCE notes, Cal Advocates admits that by June 2019 it was fully aware that CAISO intended to market dispatch the RERC units when RTRP is operational, after CAISO filed its testimony. (SCE Response, at p. 13.) Despite this notice during the proceeding of CAISO's intent to rescind the variance, Cal Advocates did not raise the issue in the briefing that occurred after CAISO's testimony was filed.

Cal Advocates argues that it was unable to raise the RERC dispatch issue because the Scoping Memo and other rulings made clear that that certain evidence would not be considered in the formal proceeding. (App. Rhrng., at p. 5.) The Scoping Memo provides that information pertaining to:

...the identification of significant environmental impacts, mitigation measures and alternatives, and the environmentally superior alternatives should do so through public comment on the draft SEIR.

(Scoping Memo and Ruling (Dec. 20, 2018), at pp. 3-4.) That ruling correctly explains that issues pertaining to the environmental review must be raised during that process, as discussed above.

Most of Cal Advocates' current challenges to the Decision are in fact challenges to the environmental analysis. As such, they would have been correctly excluded from the Commission's formal proceedings for that reason. For instance, Cal Advocates argues the Decision's findings are not based on an adequate analysis of impacts, and therefore the lack of an adequate environmental analysis violates Public Utilities Code section 1002. (App. Rhrng., at pp. 11-16.) The environmental analysis itself is handled in the CEQA review process, and that was where Cal Advocates would have needed to raise those arguments.

At the same time, the ruling also expressly allows for evidence in areas where the Decision's holdings go beyond the SEIR. These areas include overriding considerations that justify any significant impacts, and the feasibility of alternatives and mitigation. (Scoping Memo and ruling (Dec. 20, 2018, at pp. 3-4.) To the extent Cal Advocates has factual arguments that are properly within the scope of the formal proceeding, it would have needed to raise them in its testimony and in subsequent briefing before the case was submitted. For these reasons, Cal Advocates' factual challenges to the Decision's holdings, as opposed to its challenges to the CEQA review, are not timely.

C. The Merits Of Cal Advocates' Claims

In addition to the fact that Cal Advocates did not raise its arguments in a timely fashion, there is no indication from the record that there is any factual or legal merit to its claims. Cal Advocates argues that: (1) rescission of the variance likely would result in increased RERC dispatch; (2) the project definition, baseline assumptions and Public Utilities Code section 1002 (a) analysis should have included possible additional CAISO RERC market dispatch; and (3) the statement of overriding considerations errs because the environmental review did not consider RERC dispatch. Cal Advocates fails to demonstrate that any of these allegations are correct.

1. Impact Of Rescission Of Variance

The underpinning of Cal Advocates' challenge is the assumption that the RERC units "may be used more often after the construction of the RTRP," and that it is "reasonably foreseeable ... that this action may result in an impact to air quality." (App. Rhrgr., at pp. 7, 15.) As SCE and Riverside explain, however, there is no basis for the assumption that the rescission of the variance after the RTRP is operational will result in increased RERC run-times and negative air-quality impacts.

According to Riverside, Cal Advocates' claim is speculative and unsupported because the reason for the variance was the concern that "CAISO would be dispatching RERC less (not more)" in the absence of the variance. (Riverside Resp., at

p. 5.) Riverside stated in its testimony that the reason for the variance was its concern that CAISO would dispatch other units instead of RERC when Riverside needed power from those units to maintain local reliability. (Exh. RIV-1, at p. 57, fn 39.) Moreover, since there is no question that RTRP will reduce Riverside's need for RERC, it is not clear why any greater CAISO dispatch ability in Riverside's place would increase total RERC run times. As SCE explains, "The variance does not establish any limit on RERC operations, and as a consequence, the rescission of the variance would not increase any limit on RERC operations." (SCE Resp., at p. 17, citing 2013 FEIR, Vol. 2, at 1-14, Exh. RIV-1, at 57-58.)

None of Cal Advocates arguments counter these points. Cal Advocates provides no support for its assertion that rescission of the variance would increase RERC run-times and impact air quality.

2. CEQA Project And Baseline Assumptions

There is also no support for Cal Advocates' suggestions that we erred in analyzing the CEQA project and baseline assumptions because the CEQA review did not include the impact of rescission of the variance. (App. Rhrgr., at pp. 9-11.) As the record demonstrates, the RERC units and the variance cannot be considered a part of the RTRP or the Revised Project. Moreover, there is reason that the operation of the RERC variance would be considered in any baseline for the RTRP.

Cal Advocates claims that we erred in its definition of the CEQA project because that definition must include CAISO's plan for additional dispatch of RERC generation. (App. Rhrgr., at p. 9.) Although Cal Advocates correctly states that a project must include the whole of an action (CEQA Guidelines, § 15378), the operation of RERC cannot be considered part of RTRP. As SCE notes, because there is no *change* in the status of the RERC facilities from when Riverside began environmental review of RTRP to when RTRP is operational, there is no need to include any portion of RERC operations in the environmental review. (See SCE Resp., at p. 18.)

Accordingly, Cal Advocates' connected argument that the Commission erred in determining the baseline for environmental review is also incorrect. An EIR

should “describe physical conditions as they exist ... at the time the environmental analysis is commenced....” (CEQA Guidelines, § 15125 (a)(1).) As courts have explained,

In determining whether there is a potential for such an adverse change in the environment, the “baseline” environmental conditions against which a project is to be compared are the physical conditions existing at the time the agency makes its CEQA determination and/or approves the project. [Citation] ... This baseline principle means that a proposal to continue existing operations without change would generally have no cognizable impact under CEQA. [Citation]

(*North Coast Rivers Alliance v. Westlands Water Dist.* (2014) 227 Cal. App. 4th 832, 872-873.) Because the RERC operations will be unchanged from before RTRP review began to after RTRP is operational, no part of the RERC operation would have any “cognizable impact under CEQA.”

Cal Advocates fails to present any argument explaining why the operation of a collateral facility, which is identical before and after an environmental review, should be considered in an environmental review document on a different facility. In fact, as noted, Cal Advocates does not even acknowledge that the variance was not in place before the RTRP review began or for the first years of review of the RTRP project. As this omission highlights, Cal Advocates fails to demonstrate that the operation of the RERC units should have been part of either the baseline or the project description for the SEIR.

Cal Advocates’ section 1002 (a) argument lacks merit for the same reason. Public Utilities Code section 1002 (a) requires that we consider influence on the environment before approving a CPCN. As Cal Advocates acknowledges, this requirement is met through the CEQA process. (App. Rhrng., at p. 14.) Because Cal Advocates cannot show the possibility of an environmental impact where the impact of RERC does not change before SCE’s application versus after the RTRP CPCN is granted, it cannot show any violation of section 1002 (a).

D. Overriding Considerations

Cal Advocates' challenge to the statement of overriding considerations is similarly flawed. According to Cal Advocates, "It is not lawful for the Commission to find overriding considerations of the market dispatch aspect of RERC when it never considered the environmental impacts of that part of the project." (App. Rhrgr., at p. 13.) This claim is based on a misunderstanding of the CEQA statement of overriding considerations requirements.

CEQA requires that when a proposed project will have unavoidable significant impacts, the agency must adopt a statement explaining that the benefits of the project outweigh its impacts. As the Guidelines explain the statement of overriding considerations:

CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve a project.

(CEQA Guidelines, § 15093 (a); see also Pub. Resources Code, § 21081 (b).)

In the Decision, we adopted a statement of overriding considerations prior to granting the CPCN. We concluded:

[T]he need to provide Riverside with a second source line that includes enough capacity to accommodate Riverside's existing and projected load needs and that provides reliability in the event existing facilities serving Riverside are rendered inoperable, as well as the project benefits of making the Riverside Energy Resource Center generation units available for California Independent System Operator (CAISO) market dispatch to support system reliability, flexibility and efficiency and reducing the need for non-consequential load shedding with Riverside, are overriding considerations that serve the public convenience and necessity and outweigh the project's unavoidable impacts on aesthetics, agricultural and forestry resources, noise and transportation and traffic, and its significant contribution to cumulative hydrology and water quality impacts.

(Decision, at p. 20.)

Cal Advocates takes issue with the portion of the statement citing the benefits of making RERC available for CAISO dispatch, arguing that those benefits were not evaluated as part of the environmental review. Contrary to Cal Advocates' argument, however, courts have clarified that although the overriding considerations must be based on evidence, there is no requirement that those benefits be analyzed within the EIR itself. "CEQA specifically provides that in making these determinations, the public agency shall base its findings on substantial evidence *in the record*, a provision reflecting an understanding that the decisionmaking entity will not limit its review to matters set forth in the EIR, but will base its decision on evidence found anywhere in the record. [Citation]." (*Sierra Club v. County of Napa* (2004) 121 Cal.App.4th 1490, 1503.) Because the CAISO dispatch benefit is based on evidence in the record (see Exh. ISO-1), the statement is legal and adequately supported.

III. CONCLUSION

For the reasons discussed above, we deny Cal Advocates' application for rehearing of D.20-03-001.

THEREFORE, IT IS ORDERED:

1. Rehearing of Decision 20-03-001 is denied.
2. Application 15-04-013 is closed.

Dated August 6, 2020 at San Francisco, California.

MARYBEL BATJER
 President
 LIANE M. RANDOLPH
 MARTHA GUZMAN ACEVES
 CLIFFORD RECHTSCHAFFEN
 GENEVIEVE SHIROMA
 Commissioners