Decision 21-12-032 December 16, 2021

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Continue Implementation and Administration of California Renewables Portfolio Standard Program.	Rulemaking 11-05-005 (Not Consolidated)
Order Instituting Rulemaking to Continue Implementation and Administration, and Consider Further Development, of California Renewables Portfolio Standard Program.	Rulemaking 15-02-020 (Not Consolidated)
Order Instituting Rulemaking To Continue Implementation and Administration, and Consider Further Development, of California Renewables Portfolio Standard Program.	Rulemaking 18-07-003 (Not Consolidated)

DECISION MODIFYING THE RENEWABLE MARKET ADJUSTING TARIFF PROGRAM AND DIRECTING IMPLEMENTATION

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DECISION MODIFYING THE RENEWABLE MARKET ADJUSTING TARIFF PROGRAM AND DIRECTING IMPLEMENTION

Summary

This decision addresses issues related to the Renewable Market Adjusting Tariff (ReMAT) that were not addressed in Decision (D.) 20-10-005. Specifically, this decision directs San Diego Gas & Electric Company to reopen its ReMAT program following the parameters adopted in D.20-10-005, as modified in this decision. This decision further requires the utilities to accept facilities with storage devices in their ReMAT programs, establishes a de minimis threshold for each product category, and a process through which the investor-owned utilities shall aggregate remaining capacity across one or two of the three product categories, if necessary, to meet their individual shares of the statewide ReMAT capacity target. This decision reaffirms the utilities' option to provide information-only time-of-delivery factors, as adopted in D.19-12-042, resolves several petitions for modification of D.12-05-035 and D.13-05-034, and defers consideration of the August 19, 2016 motion filed by Community Renewable Solutions and the February 11, 2021 joint petition for modification of D.13-05-034 filed by Pacific Gas and Electric Company and Southern California Edison Company until more information is available.

These proceedings remain open.

1. Background

State law requires investor-owned utilities (IOU) in California to purchase output from certain eligible small, distributed generation resources through a feed-in tariff (FiT) program.[1] Since 2007, the Commission has issued decisions

[1] California Public Utilities Code Section 399.20. All code references included in this decision refer to Public Utilities Code unless otherwise noted.

directing the IOUs to establish specific FiT programs that support eligible distributed generation resources. In this section, we discuss the establishment of the Renewable Market Adjusting Tariff (ReMAT) program, the program's history, and the procedural background of this decision's changes to the ReMAT program.

1.2. Establishment of the ReMAT Program

In 2006, the Legislature added Section 399.20 to the Public Utilities Code, adding a requirement to California's Renewables Portfolio Standard (RPS) requiring procurement from a limited class of public water and wastewater facilities (the § 399.20 FiT Program).[2] The Section 399.20 Program in 2007 had a state-wide procurement limit of 250 megawatts (MW), and was later expanded to include renewable generators of 1.5 MW or less.[3]

Amendments to Section 399.20 increased the size threshold for eligible facilities to 3 MW, and required all eligible facilities to be interconnected to a utility and "strategically located" on the grid to optimize delivery to consumer demand.[4] The statewide procurement cap was increased to 750 MW.[5] We also determined that, since municipal utilities are included in the statute, the appropriate share for the three largest electric utilities regulated by the Commission to procure is 493 MW.[6]

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[2] *See* 2006 Cal. Legis. Serv. Ch. 731 Assembly Bill (AB) 1969) and D.07-07-027, as modified by D.08-02-010.

[3] *See id.* at 5, 7-9, 17-19, and 83-84.

[4] *See* Section 399.20(b), 399.12(e); Cal. Pub. Res. Code § 25741.

[5] *See* Section 399.20(e).

[6] *See* D.12-05-035, Conclusion of Law 39.

The Commission issued D.12-05-035, D.13-01-041, and D.13-05-034 to implement the 2008-2011 statutory amendments to Section 399.20 and established the ReMAT program, which launched in October 2013.[7] The IOUs were directed to seek contracts with facilities that meet three different product categories: baseload, as-available peaking (AAP), and as-available non-peaking (AANP) electricity. The Commission allocated the legislatively-mandated megawatt procurement threshold among the three large IOUs, set capacity targets for the three separate product categories, and established that a utility could close its program once it reached a de minimis capacity in one of the three product categories.[8] D.13-05-034 also modified D.12-05-035 to adopt a Price Adjustment Mechanism that included bimonthly caps on IOUs' procurement for each of the three product categories and provided for bimonthly changes to the ReMAT prices available to project developers.[9] D.12-05-035 established the following allocation of the statewide ReMAT procurement requirement: Pacific Gas and Electric Company (PG&E): 218.8 MW; Southern California Edison Company (SCE): 226 MW; and San Diego Gas & Electric Company (SDG&E): 48.8 MW. The IOUs were directed to equally split their assigned capacity across the three product categories (baseload, as-available peaking, and as-available non-peaking electricity). D.13-05-034 modified D.12-05-035 by authorizing the IOUs to close their individual ReMAT programs 24 months following the date

[7] *See* D.12-05-035 at 2. *See also, e.g.*, Senate Bill (SB) 32 (Negrete McLeod, 2009) and SB 2 (1x) (Simitian, 2011).

[8] *See* D.12-05-035, Finding of Fact 11: Baseload projects provide firm energy deliveries (*e.g.*, bioenergy and geothermal); peaking projects provide non-firm energy deliveries during peak hours (*e.g.*, solar); and non-peaking as-available projects provide non-firm energy deliveries during non-peak hours (*e.g.*, wind and hydro).

[9] *See* D.13-05-034 at 9-15.

any of the three product categories' capacity reached zero remaining megawatts (or a de minimis amount approaching zero).[10] D.12-05-035 also required the IOUs to adjust ReMAT contract prices by time-of-delivery (TOD) factors.[11]

1.2.1. Suspension and Reopening of the ReMAT Program with Modifications

In 2013 Winding Creek Solar LLC (Winding Creek) filed a complaint in federal court alleging that the ReMAT Program did not comply with the Public Utility Regulatory Policies Act of 1978 (PURPA). [12] On December 6, 2017, a federal district court granted Winding Creek's summary judgment motion and enjoined the further implementation of D.12-05-035, D.13-01-041, and D.13-05-034.[13] In response, the Commission suspended the ReMAT program in December 2017.

To resume the ReMAT program in compliance with federal and state law, on June 26, 2020, an assigned Commissioner and assigned Administrative Law Judge (ALJ) ruling (Ruling) was issued with a *Staff Proposal for Modification to the ReMAT Program* (Staff Proposal).[14] After evaluating party comments on the Staff Proposal, D.20-10-005 directed SCE and PG&E to make modifications to their ReMAT program tariffs and power purchase agreements (PPA) to allow for

[10] *See* D.13-05-034 at 14-15 and Ordering Paragraph 5. The de minimis amount was not defined.

[11] *See* D.12-05-035, Conclusions of Law 24 and 30; Ordering Paragraph 4.

[12] *See Winding Creek Solar, LLC v. Peevey* (N.D. Cal. 2017) 293 F.Supp.3d 980, 983, 989-90 (*Winding Creek Order*), aff'd sub nom. *Winding Creek Solar, LLC v. Carla Peterman, et al.* (9th Cir. 2019) 932 F.3d 861.

[13] 293 F.Supp.3d at 983.

[14] *Assigned Commissioner's and Assigned Administrative Law Judge's Ruling Seeking Comment on Proposed Modifications to the Renewable Market Adjusting Tariff Program*, R.18-07-003 (June 26, 2020).

the resumption of their ReMAT programs as quickly as possible. The modifications adopted in 2020 included:

1. Implementation of an electricity pricing methodology that calculates a fixed avoided-cost rate for electricity available to eligible renewable generators that is determined by a rolling weighted average of the executed long-term RPS contracts with facilities sized 20MW or less, calculated by representative Product Category (baseload, peaking, and as-available non-peaking) and including time-of-delivery adjustment periods and factors.
2. Authorization for Energy Division to annually update the ReMAT program prices via a draft Resolution in May of each year using utility data and information from Community Choice Aggregators and Electric Service Providers, when available.
3. Elimination of the caps on procurement during bimonthly Program Periods.
4. Authorization of ReMAT program procurement on a first-come, first-served basis until each electric utility fulfills its proportionate share of procurement under § 399.20.[15]

1.2.2. Procedural Background of Current Changes to ReMAT Program

The ReMAT program was closed entirely during the federal court consideration of Winding Creek. Further, SDG&E was authorized to close its program after reaching the capacity allocated to one product category, consistent with the pricing methodology and associated bi-monthly caps on product category procurement adopted in D.13-05-034. Specifically, SDG&E filed a Tier 1 Advice Letter in 2016 indicating that its ReMAT program's as-available peaking product category had reached the de minimis threshold established in

[15] D.20-10-005 at 10-47.

D.13-05-035, and therefore that it intended to wholly close its ReMAT program within 24 months.[16]

Although D.20-10-005 achieved the Commission's goal of the ReMAT program's "prompt resumption in accordance with all applicable law," it did not address several issues raised by parties in comments that were found to be out-of-scope or lacking in record evidence.[17] These issues included the incorporation of storage; changes to the capacity allocation between ReMAT product categories; and changes to the cost-allocation methodology to recover ReMAT costs. In response to comments, D.20-10-005 noted that SDG&E's ReMAT program was closed after only one product category was deemed fully subscribed in 2016 and that reopening SDG&E's ReMAT Program "is worth exploring as additional changes to the ReMAT program are considered."[18] Further, D.20-10-005 did not address several outstanding petitions to modify (PFM) D.12-05-035 and/or D.13-05-034, finding many of the issues raised in those PFMs to be out of scope.[19]

On April 22, 2021, the assigned ALJs issued a Ruling seeking party feedback on issues related to the outstanding PFMs and the potential reopening of SDG&E's ReMAT program.[20] Additionally, the April 2021 Ruling sought

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[16] D.13-05-034 stated, in part "we modify D.12-05-035 to establish the end date at 24 months after the first product type goes to zero MW or goes to a de minimis amount approaching zero. An end date for the program is important because, otherwise, the program could go into perpetuity with a miniscule amount of megawatts being offered each bi-monthly period. An end date also promotes administrative ease by defining the length of time the Commission and the utilities must dedicate resources to the program."

[17] *Ibid.* at 52-53.

[18] *Ibid*. at 54.

[19] *Ibid.* at 47-49.

[20] Attachment A of the April 22, 2021 Ruling provides a list of the pending PFMs.

party feedback about applying time-of-delivery (TOD) factors to ReMAT contract prices and the current definition and applicability of the three product categories.

A separate Ruling clarifying the questions and deadlines for responding to the April 2021 Ruling was issued on April 30, 2021. The two April 2021 Rulings are collectively referred to as the April 2021 Rulings for the remainder of this proceeding.

Opening comments on the April 2021 Rulings were filed on June 9, 2021, by the Solar Energy Industries Association (SEIA) and Vote Solar; San Diego Gas & Electric Company (SDG&E), Southern California Edison Company (SCE), and Pacific Gas and Electric Company (the Joint IOUs); the California Energy Storage Alliance (CESA); the Public Advocates Office of the California Public Utilities Commission (Cal Advocates); Renewable Properties; the Green Power Institute (GPI); Western Gas and Electric Inc., JTN Energy LLC, Solar Electric Solutions LLC (SES), Burning Daylight, LLC, and Reido Farms LLC (the Joint ReMAT Parties); Shell Energy North America (US) L.P (Shell Energy); the California Community Choice Association (CalCCA); and the Coalition for the Efficient Use of Transmission Infrastructure (CEUTI) and the California Wind Energy Association (CalWEA).

Reply comments were filed on June 23, 2021, by the Alliance for Retail Energy Markets (AReM); GPI; the Joint ReMAT Parties; the Joint IOUs; CESA; SEIA and Vote Solar; CEUTI and CalWEA; and Cal Advocates.

2. Issues Before the Commission

As provided in the April 2021 Rulings, the following ReMAT issues are currently before the Commission:

1. Should the Commission direct SDG&E to reopen its ReMAT program consistent with the provisions adopted in D.20-10-005, as potentially modified in this decision, to procure the remaining 20.9 MW of its share of the statewide ReMAT capacity requirement?
2. How should the Commission ensure the IOUs fully meet their share of the ReMAT statutory requirement?
3. Should the Commission remove the megawatt limits for the three product categories and establish one pool of available megawatts for each IOUs' remaining share of the ReMAT target?
4. Should the Commission direct IOUs to keep all three product categories open until the IOUs have reached a de minimis capacity in each category?
5. Should the Commission direct IOUs to implement variable TODs and location-based payment allocation factors in their ReMAT tariffs and Power Purchase Agreements (PPA)? If so, should the TODs and payment allocation factors be based on the publicly accessible data provided in the information-only heat maps currently provided, or some other electric pricing data?
6. How should the IOUs communicate changes in their ReMAT tariffs with the service list(s) of these proceedings and their ReMAT queues? Should the Commission explicitly direct the IOUs to open their ReMAT programs to facilities with co-located storage?
7. If so, should this occur in the form of a modification to the standard contract or through separate, facility-specific contracts for sites with co-located storage or shared facilities?
8. Which product category/categories should facilities with storage be included?
9. Should the Commission direct the IOUs to accept facilities that share transformers or other facilities, as requested in the CalWEA PFM?

10. Should the Commission explicitly direct the IOUs to accept otherwise-eligible facilities that are already connected to the transmission system, as requested in the CEUTI PFM?
11. Should the Commission authorize the utilities to eliminate the 'guaranteed energy production' provision from their standard PPA for baseload resources, as requested in SCE's PFM?
12. Should other retail sellers, including community choice aggregators or other non-IOU load-serving entities, be eligible to participate in the ReMAT program?

3. ReMAT Modifications to Meet Statutory Requirements

Parties had various positions related to the issues and questions posed in the April 2021 Rulings. In this section we discuss and analyze parties' comments on each issue to develop modifications to the ReMAT program that meet the statutory requirements established in Section 399.20 and further the implementation of the ReMAT program consistent with state and federal law.

3.1. SDG&E ReMAT Reopening

Issue 1 identified in Section 2 above was the first question posed in the April 2021 Rulings, regarding the potential reopening of SDG&E's ReMAT program. SDG&E's program closed in 2016, pursuant to D.13-05-034, which authorized utilities to close their program fully 24 months after one of the three product categories' capacity reached a de minimis threshold. However, SDG&E had 20.9 MW of its total ReMAT capacity allocation remaining when its program ended.

Section 399.20(f)(1) requires each IOU to implement the tariff until that IOU's proportional share of the statewide ReMAT requirement is fulfilled.[21]

[21] Section 399.20(f)(1) specifically states "[a]n electrical corporation shall make the tariff available to the owner or operator of an electric generation facility within the service territory of

Footnote continued on next page.

SDG&E closed its program after meeting only 65% of its share of the total program capacity, pursuant to the ReMAT program parameters adopted in D.12-05-035 and D.13-05-034. The utility's tariff filing closing its ReMAT program was submitted as an information-only advice letter after SDG&E posted notice on its ReMAT website and stopped accepting new applications.

The Joint IOUs request that the ReMAT closure rules adopted in D.13-05-034 remain unchanged because they will meet their overall RPS, carbon reduction, reliability goals, and other statutory requirements regardless of any MWs unsubscribed in the ReMAT program.[22] The Joint IOUs argued that "the Commission exercised its broad authority" in 2013 to adopt rules related to the closure of the IOUs' ReMAT programs, and that SDG&E complied with those rules when it closed its ReMAT program in 2016. Further, the Joint IOUs suggested that "the ReMAT program has been successfully implemented ever since" D.13-05-034 was issued.[23]

Vote Solar and SEIA in joint comments suggested that "[g]iven the lack of statutory directive for product types, and the fact that product type allocation has appeared in the past to be a limiting factor in achieving the statutorily mandated procurement targets, the MW allocation to various product types should be eliminated."[24] While we agree with the Joint Utilities that Vote Solar and SEIA's comments could result in a program that largely, if not exclusively, favors solar photovoltaic installations, we disagree that the solar parties'

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the electrical corporation, upon request, on a first-come-first-served basis, until the electrical corporation meets its proportionate share of a statewide cap of 750 MWs cumulative rated generation capacity…."

[22] Joint IOUs opening comments on the April 2021 Rulings at 6.

[23] Joint IOU reply comments on the April 2021 Rulings at 6-7.

[24] Vote Solar and SEIA joint reply comments on the April 2021 Rulings at 3.

arguments must be wholly rejected.[25] Instead, we agree with Vote Solar and SEIA that this decision offers an opportunity to ensure the ReMAT program functions effectively to reach the legislative mandate established in Section 399.20.[26] Moreover, we find that our prior decisions, which have been revisited and modified multiple times – most recently in D.20-10-005 – can and should be improved based on the record built in this proceeding. Although SDG&E complied with the criteria established in 2013, it is still responsible for procuring an additional 20.9MW of ReMAT-eligible resources in order to meet its share of the statewide ReMAT requirement.

Therefore, we find it reasonable for SDG&E to reopen its ReMAT program with the pricing mechanism adopted in D.20-10-005, and the ReMAT program modifications adopted in Sections 3.2 through 3.6, *infra*.

We note that the rationale associated with the closure notice and thresholds adopted in D.13-05-034 was based on an adjusting price mechanism and bimonthly program periods which no longer exist in the newly reopened ReMAT Program, as provided in D.20-10-005. Given the new avoided cost pricing methodology adopted for the ReMAT program, it should not be particularly onerous for SDG&E to administer the ReMAT Program. Although SDG&E will incur costs to reopen its program, the statute does not suggest that the burden of administration is an excuse for a utility to fail to procure its share of the statewide statutory ReMAT procurement requirement. Therefore, no later than February 28, 2022, SDG&E shall file a Tier 2 advice letter reopening its ReMAT program and identifying the capacity available in the three product

[25] Joint IOU reply comments on the April 2021 Rulings at 2-4.

[26] Vote Solar and SEIA opening comments on the April 2021 Rulings at 1-2 and 12.

categories. Additionally, SDG&E shall implement the provisions regarding the optional information-only TOD factors (as described in Section 3.3 *infra*.) it was authorized to implement pursuant to D.19-12-042.[27] SDG&E may also reallocate its ReMAT capacity between product categories as further discussed in Section 3.2 below.

3.2. ReMAT Product Categories and *De Minimis* Thresholds

Issue 2 in the April 2021 Rulings asked parties to consider mechanisms that would allow the IOUs to fully subscribe their portions of the statewide statutory ReMAT procurement requirement given the three separate product categories referenced in Section 399.2(d)(2)(C). D.12-05-035 directed the IOUs to equally allocate their share of the ReMAT procurement requirement to each of the three product categories.[28] On November 16, 2015, Solar Electric Solutions (SES) filed a PFM to modify several issues within D.12-05-035 and D.13-05-034 that, among other issues, argued that the bi-monthly capacity allocation, coupled with the bi-monthly pricing adjustments and the product categories, has stymied the market for as-available peaking resources. SES argued that the as-available non-peaking and baseload resources had not matured adequately to meet the ReMAT capacity thresholds established in D.12-05-035 and D.13-05-034 and proposed to reallocate the majority (80%) of the undersubscribed categories' capacity to as-available peaking resources.

In comments on the April 2021 Rulings, the Joint IOUs opposed modifications to the ReMAT program that would provide greater flexibility

[27] D.19-12-042 at 66-67 found that the IOUs' shall also provide workpapers to confirm there is high correlation between the public, information-only TOD factors and confidential IOU forecasts.

[28] D.12-05-035 at 49.

across the three product categories, arguing that "it will increase the likelihood that procurement will consolidate around a specific category rather than all categories proposed by statute." Further, the Joint IOUs suggested that based on the existing subscriptions of solar technologies in the "generally higher peaking category… suggests that solar technology no longer needs to be 'encouraged' to the same extent as the technologies eligible for the other categories."[29]

However, as noted by the Joint ReMAT parties, California's statute requires each IOU's ReMAT tariff to remain available until its share of the statewide cap of 750 MWs is met.[30] As of the issuance of this decision, SCE has less than 5 MW of capacity remaining in its as-available peaking category, but about 35 MW and 40 MW remaining in its as-available non-peaking and baseload product categories, respectively. Closing SCE's program after its as-available peaking category meets a de minimis threshold would leave 75 MW– or approximately 10% of the total statewide ReMAT capacity – unmet.

Table 1: Remaining Capacity in IOU ReMAT Programs

IOU	*Remaining Capacity*[31]
PG&E	**122.0 MW**
AANP	31.385 MW
AAP	40.952 MW
Baseload	49.432 MW
SCE	**86.9 MW**

[29] Joint IOU opening comments on the April 2021 Rulings at 2-3.

[30] Joint ReMAT Parties opening comments on the April 2021 Rulings at 4, citing Section 399.20(f)(1) which states: "An electrical corporation shall make the tariff available to the owner or operator of an electric generation facility within the service territory of the electrical corporation, upon request, on a first-come-first-served basis, until the electrical corporation meets its proportionate share of a statewide cap of 750 MWs cumulative rated generation capacity served under this section and Section 399.32.

[31] Values taken directly from PG&E and SCE's ReMAT Program web pages (PG&E as of 9/1/2021; SCE as of 2/11/2021).

AANP	35.20 MW
AAP	4.82 MW
Baseload	39.67 MW
SDG&E[32]	**20.9 MW**
AANP	11.1 MW
AAP	0.9 MW
Baseload	8.85 MW
TOTAL REMAINING	**229.8 MW**

Therefore, we must determine a strategy to ensure the three IOUs have a ReMAT tariff available until they have each met their allocated share of ReMAT capacity as required by statute.

CESA suggested that the IOUs should be granted additional flexibility between the as-available peaking and as-available non-peaking product categories, because TOD factors, and the associated differences they create in PPA value, will "favor the product categories that align with the generation capabilities needed to achieve California's environmental goals and reliability objectives and appropriately [drive] commercial interest to develop capacity of a particular product type."[33] CESA suggested this increased flexibility could be achieved by allowing the IOUs to count as-available peaking projects toward compliance of the as-available non-peaking category once the capacity in the as-available peaking product category has been exhausted.

GPI recommended consolidating each of IOUs' remaining ReMAT capacity into a single bucket, rather than having separate targets for each of the three existing product categories. GPI argued there is currently "extreme delay in deploying the authorized megawatts" and a consolidation of product

[32] SDG&E capacity as of the closure of its ReMAT program in 2016.

[33] CESA opening comments on the April 2021 Rulings at 4-5.

categories would make it "considerably more likely that solar and perhaps some other technologies also could utilize remaining program capacity."

CEUTI and CalWEA agreed with GPI that the capacity could be consolidated into a single category, arguing that despite the modifications adopted in D.20-10-005, "further changes to the program are necessary if the program is to be fully subscribed."[34] Further discussion of CEUTI and CalWEA's PFM and related issues are included in Sections 3.5 and 3.6, *infra.*

Cal Advocates noted that the ReMAT program was only formally relaunched in November 2020 and asserted that there is not adequate data on the record to determine whether substantive changes are necessary to meet the statutory requirements.[35]

We find the arguments that the current product categories may prevent the IOUs from procuring their full capacity allocations have merit. However, we agree with the Joint IOUs and Cal Advocates that consolidating the ReMAT program into a single product category at this time would not provide enough time to determine whether the pricing methodology adopted in D.20-10-005 and the recent re-launching of the ReMAT program will effectively encourage developers' participation in the as-available non-peaking and baseload categories. We clarify that the directive of Section 399.20 requires us to adopt a pricing methodology that ***considers*** the value of different electricity products: baseload, as-available peaking, and as-available non-peaking (emphasis added), but that the Commission's determination to equally allocate each IOUs' ReMAT capacity requirement to each of the three product categories was not legislatively

[34] CEUTI and CalWEA joint reply comments on the April 2021 Rulings at 2.

[35] Cal Advocates reply comments to the April 2021 Rulings at 1-2.

mandated.[36] D.20-10-005 adopted a ReMAT pricing methodology that separately determines the pricing for the different electricity product categories (baseload, as-available peaking, and as-available non-peaking). The ReMAT program was only reopened 12 months ago, and only for projects in PG&E and SCE's service territory. Therefore, we find it appropriate to preserve the existing product categories as defined in the IOUs' existing ReMAT tariffs and PPAs for the next 12 months but adopt provisions that provide additional flexibility in the future, as described below.

To fully implement the statute, we find it necessary to require the three IOUs to offer their ReMAT tariffs until each IOU has met its portion of the statewide ReMAT procurement requirement. Therefore, all three IOUs are directed to maintain their ReMAT tariffs and offer the standard PPAs for any product categories that have remaining capacity until their share of the statewide ReMAT procurement target is met.

To facilitate the IOUs meeting their share of the statewide ReMAT procurement requirement, today we provide some additional flexibility to allow the IOUs to allocate megawatts remaining in harder to fill product categories to other product categories. As part of this flexibility, we establish a de minimis threshold of less than one megawatt (0.99 MW or below) as a trigger. If, 12 months following the issuance date of this decision, an IOU reaches the allocated capacity in one or more of the three product categories (or a de minimis threshold of 0.99 MW or below), and there is remaining capacity in the other

[36] Joint IOU opening comments on the April 2021 Rulings at 2-3; Cal Advocates opening comments on the April 2021 Rulings at 1-2; Section 399.20(d); D.12-05-035 Finding of Fact 23, "The statute ***allows*** for first-come-first-served on a product specific basis as it specifically directs the Commission to ***consider*** the value of different electricity products including baseload, peaking, and as-available electricity (emphasis added)."

product category (or categories), the IOU shall file a Tier 2 Advice Letter seeking authorization to combine two product categories to make the remaining ReMAT capacity also available to projects in the product category (or categories) that has no remaining capacity. If two product categories have remaining capacity, the fully subscribed category shall be combined with the one that has the most remaining capacity. Subsequently, if that category becomes fully subscribed, the IOU shall file another Tier 2 Advice Letter seeking authorization to combine all three categories, so any product type may utilize the remaining capacity. The IOUs' capacity flexibility proposals should reflect the first-come, first serve requirements such that program participation requests (PPR) are considered in the order they are received, contingent upon the filed PPR being complete. We find this option for IOUs to combine product category capacity resolves SES' request in its November 2015 PFM as it relates to ensuring the ReMAT capacity can be met with other eligible resources if there are not enough as-available non-peaking or baseload resources enrolling in the program.

Further, SDG&E is authorized to reallocate its remaining 20.9 MW of capacity equally to all three of the product categories within the implementation advice letter reopening its ReMAT program described in Section 3.1 above. It would then need to wait 12 months from the approval date of its implementation advice letter before changing its product category capacity allocation again.

The flexibility adopted above aligns with the requirement of Section 399.20(f), which requires IOUs to offer the ReMAT program to electric generators on a first-come, first-served basis until the IOU meets its proportionate share of the statewide ReMAT cap of 750MW. We clarify that although capacity may be combined across product categories, the avoided costs

developed using the pricing methodology adopted in D.20-10-005 will apply still apply to the different product types.

Turning to the trigger for ending an IOU's ReMAT program, the Joint IOUs suggest that "the rationale for establishing an end date has not changed since originally established" in D.13-05-034. We disagree. The Commission never intended for an individual IOU's ReMAT program to close with a large number of megawatts remaining for it to meet its allocated portion of the statewide ReMAT statutory requirement. While we still do not foresee ReMAT program continuing "into perpetuity with a miniscule amount of megawatts being offered,"[37] this Decision increases the flexibility regarding the ReMAT Product Categories. Once an IOU has reached the de minimis threshold of less than one megawatt (0.99 MW or less) in its ReMAT capacity allocation in ***total***, it shall file a Tier 2 Advice Letter seeking Energy Division review and approval of its request to close its ReMAT program. However, to allow for implementation of the capacity flexibility adopted above, and the inclusion of storage described in Section 3.4 *infra.*, IOUs may not seek to close their ReMAT programs less than 12 months following the issuance date of this decision. No sooner than 12 months of the issuance date of this decision, if an IOU reaches the de minimis threshold described above across its total share of the ReMAT requirement, it may submit a Tier 2 Advice Letter seeking authorization to close its ReMAT program. The Tier 2 Advice Letter should (1) account for the potential for projects failing to come online within the current standard 24-month period, as provided in PG&E and SCE's current ReMAT tariffs,[38] and (2) provide provisions

[37] Joint IOU opening comments on the April 2021 Rulings at 4; D.13-05-034 at 14.

[38] *See* SCE and PG&E's ReMAT Tariffs at D.6(a).

to accept new contracts if more than the de minimis threshold of 0.99MW remain in the IOU's share of the ReMAT requirement due to project failure. As noted in D.13-05-034, "[t]he FiT program shall close to new applicants upon the full subscription of total program capacity." This new procedure for closing an IOUs' ReMAT program shall replace the provisions related to the duration of the ReMAT program established in D.13-05-034 which set "the end date at 24 months after the first product type goes to zero MW or goes to a de minimis amount approaching zero."[39]

In comments on the proposed decision, SDG&E requested specific authorization that its ReMAT procurement be counted toward the procurement requirements adopted in the IRP proceeding.[40] We find this request to be reasonable and authorize each of the IOUs to count ReMAT procurement toward the requirements adopted in D.21-06-035, so long as the ReMAT capacity procured meets the other requirements associated with the IRP procurement mandates.[41]

3.3. Time-Of-Delivery and Locational Adders

As noted in D.12-05-035, SB 2 1X included a provision that adopted two ***optional*** inputs to the FiT pricing methodology, suggesting that the Commission may consider both or either of (1) the value associated with time-of-delivery (§ 399.20(d)(3)); and/or (2) the value of an electric generation facility

[39] *See* D.13-05-034 at 14.

[40] SDG&E opening comments on the Proposed Decision at 2 and 10-13.

[41] D.21-06-035 OP 14.

located on a distribution circuit that generates electricity at a time and in a manner so as to offset the peak demand on the distribution circuit (§ 399.20(e)).[42]

D.12-05-035 directed PG&E, SCE, and SDG&E to offer two sets of TOD factors in their standard ReMAT PPA and tariffs: one for generators that do not provide resource adequacy and another for generators that do provide resource adequacy.[43] The TOD factors were intended to place higher values on resources that deliver electricity during high demand hours without placing incremental strain on the grid. The goal was to encourage development of more resources that can serve peak demand without requiring incremental grid upgrades.

TOD factors have been used in two different ways in the RPS program. First, IOUs have used TOD factors in their least-cost best-fit (LCBF) valuations to forecast a bid's total contract cost, by adjusting expected contract payments according to the time and quantity of energy deliveries provided in a bid. Second, the IOUs have used TOD factors to calculate actual contract payments for procured renewable generation over the term of a contract.[44]

In recent years, however, IOUs were granted the option to stop applying a TOD adjustment to their RPS contracts.[45] If it exercises this option, the IOU must publish an information-only heat map that provides similar information to project developers but does not offer additional value in the contracts signed

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[42] D.12-05-035 at 16-17. SB 2 1X (Simitian, Kehoe, and Steinberg, 2011) states "The commission ***may*** adjust the payment rate to reflect the value of every kilowatt hour of electricity generated on a time-of-delivery basis." (Emphasis added). Thus, TOD is an optional provision within the ReMAT price-setting methodology.

[43] D.12-05-035 at 56.

[44] If a PPA includes time of delivery (TOD) factors, the periods and factors are fixed over the course of the contract. Energy benefits are based on the unique hourly values of energy for every year in the procurement horizon and energy cost forecasts

[45] D.19-02-007 at 95-100 and Ordering Paragraphs 16 and 17.

with developers that offer resources at times of peak demand.[46] This option was authorized largely because providing a fixed incremental TOD valuation for a contract of 10 years or longer is increasingly difficult given California's evolving energy resource mix, policy priorities, and changing load profile.[47] Prior to this allowance of information-only TOD factors, the Commission adopted provisions that allow the IOUS to apply the same TOD periods and any associated pricing factors across all RPS related programs, including ReMAT.[48]

D.20-10-005 adopted a new avoided cost pricing methodology for ReMAT and requires IOUs to file annual advice letters with updated ReMAT prices determined using the new methodology.[49] As provided in D.20-10-005, the IOUs are required to file annual advice letters adopting the administratively-established avoided cost pricing for each product category and providing the most recent Commission-approved TOD factors, given the directives adopted in D.14-11-024, D.19-02-007, and D.19-12-042.[50]

The April 2021 Rulings requested party feedback on the calculation and appropriate application of TOD valuations and locational adders for the ReMAT program. Cal Advocates and the Joint IOUs argue that this issue was recently

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[46] D.19-12-042 at 66, citing D.19-02-007 at 98.

[47] *See* D.19-02-007 at 27 ("In PG&E's review of the TOD factors for this 2018 RPS Procurement Plan, PG&E has determined that it is increasingly difficult to accurately forecast TOD preferences within even the next decade, let alone for the duration of a typical RPS PPA (e.g., 20 years), given California's quickly evolving energy mix, policies, and markets.") *See also* D.19-12-042 at 20-21.

[48] D.14-11-024 at 23-27 and Ordering Paragraph 14).

[49] D.20-10-005 at 26 and 33-34.

[50] D.20-10-005 at 32-33 finds that the Commission is authorized, but not required to, adjust the payment rate to reflect a TOD basis. Further, Ordering Paragraph 5 of D.20-10-005 reiterates that IOUs shall apply the "most recent Commission-approved Time-of-Delivery periods and factors" within their ReMAT tariffs and standard contracts.

litigated and decided in D.19-12-042 and D.20-10-005, and there are no changes of law, fact, or circumstance that warrant reconsideration of this issue at this time.[51]

The Joint IOUs argued that their system's energy mix, the electric market, and state policies all evolve rapidly, so establishing a fixed TOD factor to a long-term contract could result in a PPA that overpays for energy that is not necessary in times of overgeneration or underpays for energy that is needed in peak demand hours. The Joint IOUs also argued that the Commission itself authorized IOUs to opt out of applying TOD factors to adjust RPS contract prices because they do "not reflect the value of renewable energy delivered throughout the duration of a long-term contract."[52]

CESA argued that "the inclusion of TOD factors is a necessity, as it would further the incentives for developers to present projects that maximize… contributions to grid reliability." CESA further stated that while locational granularity should be reflected in TOD factors, where possible, the calculation of TOD factors should be technology neutral.[53]

The Joint ReMAT parties echoed CESA, arguing that "given the interest of this Commission in encouraging generation during the net-peak, it would be a tremendous step backwards to not require utilities to compensate resources based on the generation output profile."[54]

On October 8, 2021, a Petition of the Joint Parties for Modification of Decision 20-10-005 (October 2021 Petition) was filed, which addresses TOD

[51] Cal Advocates opening comments on the April 2021 Rulings at 4-5; Joint IOU opening comments on the April 2021 Rulings at 6-8.

[52] Joint IOU opening comments on the April 2021 Rulings at 8.

[53] CESA opening comments on the April 2021 Rulings at 6-7.

[54] Joint ReMAT parties opening comments on the April 2021 Rulings at 6-7.

factors, among other issues. This decision does not address issues raised in the October 2021 Petition.

This decision confirms our position that each utility should apply its currently-applicable TOD factors to its ReMAT contracts. Given the recent modifications adopted for the ReMAT program and the need to align treatment of TOD across the broader RPS program, as prescribed by D.14-11-024, we decline to modify D.19-02-007, D.19-12-042, and/or D.20-10-005 as they relate to TOD factors at this time. We agree with Cal Advocates that "[c]hanging ReMAT rules regarding TOD factors so soon after a Commission decision on the matter would increase pricing uncertainty for potential applicants which risks reducing demand for the ReMAT program."[55]

In comments on the Proposed Decision, SEIA and Vote Solar suggested that to the extent ReMAT is a PURPA compliant program, the CPUC must require IOUs to adjust the ReMAT contract price based on TOD factors.[56]

It is true that D.20-10-005 cited the TOD adjustments as a mechanism to account for considerations in PURPA regulations (*see* 18 C.F.R. §292.304(e)(2).[57] However, as discussed above, recent Commission decisions have authorized

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[55] Cal Advocates opening comments on the April 2021 Rulings at 6.

[56] *See* SEIA & Vote Solar Comments at 7 ("First, given the no-TOD option in the RPS program it is unclear how the IOUs will provide compensation for the ReMAT program that is consistent with the Public Utilities Regulatory Policy Act. . . which requires pricing that reflects the buyer's time-varying avoided costs (including avoided capacity costs) and the ability of the utility to dispatch qualifying generators."); *See* also Clean Coalition Reply Comments at 2 ("Moreover, they make a relevant point that since the Commission is touting ReMAT as a PURPA-compliant program, there must be some mechanism to account for time-varying avoided costs, which is not currently the case with no-TOD option used in ReMAT pricing that are based on long-term contracts from the RPS program.")

[57] *See* D.20-10-005 at 25-27. Note that these factors were previously codified at 18 CFR 292.302(e)(2) & (3).

IOUs to use TOD factors for informational purposes, instead of using them to adjust RPS contract payments, because providing a fixed incremental TOD valuation for a contract of 10 years or longer is increasingly difficult given California's evolving energy resource mix, policy priorities, and changing load profile. Furthermore, the pricing adopted through Resolution E-5154 reflects different avoided costs for each product category, based on each product category's delivery profile, which accounts for the some of the considerations mentioned in 18 C.F.R. § 292.304(e)(2)(ii) & (iii), and reflects any difference in value. Moreover, Public Resources Code Section § 399.20(d)(3) requires consideration of time of delivery but does not compel adjustment of the base contract price based on time of delivery. Consequently, we find it appropriate to adopt the same approach as applied to all other RPS contracts with respect to TOD price adjustments for ReMAT contracts.

We clarify, however, that an IOU shall apply TOD factors to adjust ReMAT contract prices if it is authorized to do so for other RPS contracts. If an IOU is authorized to use a TOD factor of 1 for other RPS contracts, which does not have any impact on contract prices, then it shall also apply a TOD factor of 1 to its ReMAT contract prices. The provisions adopted here shall replace the requirements set forth in D.12-05-035.[58] In their annual ReMAT advice letter filings, IOUs shall clearly describe which TOD factors are applied, and over what timeline. If any of the IOUs apply TOD price adjustments for other RPS contracts, they should apply the same TOD factors for ReMAT contracts, pursuant to D.19-12-042 and D.20-10-005.

[58] *See* D.12-05-035, Conclusions of Law 24 and 30, and Ordering Paragraph 4.

Section 399.20(b)(3) requires each facility to be strategically located and connected to be eligible for participation in ReMAT, and Section 399.20(e) authorizes, but does not require, a separate valuation for facilities on distribution circuits that offset peak demand on that distribution circuit.

CESA suggested that locational granularity should be reflected in TOD factors, and applied where feasible, particularly for resources that count for resource adequacy.[59] D.20-10-005 modified the ReMAT pricing methodology to ensure the tariffs reflect the utilities' avoided costs, as required by federal law. Determining the appropriate triggers for locational adders and the appropriate valuation factor based on separate locations would add significant complexity to a program that should be focused on providing prices solely based on the utilities' avoided cost.[60] Given the recent adoption and implementation of D.20-10-005, we agree with the utilities and Cal Advocates that no significant modification to the pricing methodology is necessary at this time.

3.4. Inclusion of Storage

The 2012 and 2013 ReMAT implementation decisions did not address facilities with storage as a potential enhancement or part of a specific product category simply because storage was not a prevalent option nearly a decade ago. In D.20-10-005, we considered arguments for and against incorporating facilities with storage in the ReMAT program, but ultimately found those arguments beyond the scope of our limited decision modifying and reopening the program.[61]

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[59] CESA opening comments on the April 2021 Rulings at 7.

[60] 932 F.3d at 862.

[61] *See* D.20-10-005 at 52-53.

Given the difficulty the IOUs have faced in meeting the procurement target for the as-available non-peaking and baseload product categories, and the benefits to the grid that these product categories offer, however, we find it due time to consider parties' thoughts about incorporating facilities paired with storage into the ReMAT program.[62] Therefore, Issue 5 identified in April 2021 Rulings requires our evaluation of parties' responses to the following question:

> *Would D.12-05-035 and/or D.13-05-034 need to be modified in order to allow renewable systems paired with storage to be eligible under ReMAT?*
>
> *a. If so, what modifications would be necessary to enable the eligibility of renewable energy plus storage?*
>
> *b. Would any changes be necessary to each utility's ReMAT tariff and/or PPA to enable renewable energy systems paired with storage to be eligible in their programs?*

In comments on the April 2021 Rulings, the Joint IOUs opposed the inclusion of facilities paired with storage, arguing that there is no provision in the current standard ReMAT tariffs specifically requiring a storage facility to charge only from a connected, approved renewable energy resource. Further, the Joint IOUs claimed that storage facilities are inherently required to be fully separate from the eligible renewable energy resource that could qualify for ReMAT.[63]

Cal Advocates aligned with the Joint IOUs' position, arguing that storage is not approved as an eligible renewable energy generation resource and should therefore be ineligible under ReMAT.[64]

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[62] The issue related to hybrid storage eligibility was raised by several parties in comments on the Proposed Decision for D.20-10-005, including CESA (at 1-4); GPI (at 9-10); Joint Solar Parties (at 6); PG&E/SCE Comments (at 8); and PG&E/SCE Reply Comments (at 13-14).

[63] Joint IOU opening comments on the April 2021 Rulings at 9.

[64] Cal Advocates opening comments on the April 2021 Rulings at 9.

Other parties, including CESA, the Joint ReMAT Parties, and Renewable Properties, suggest that storage charged solely from an eligible renewable energy resource is considered eligible for the RPS under the current Energy Commission (CEC) rules, and should be eligible under ReMAT.[65] SEIA and Vote Solar argued that the standard ReMAT tariff and PPAs do not need modification to accommodate co-located storage facilities.[66] GPI suggested that a modification to the ReMAT contract may be necessary for clarity purposes, but that hybrid storage should be eligible for ReMAT.[67]

The Joint IOUs argue that "to be eligible to participate in ReMAT, a hybrid storage facility must first demonstrate to the IOU's reasonable satisfaction that the storage component cannot charge from the grid." Further, the Joint IOUs contend that any facility paired with storage should be restricted to the product category to which the renewable facility belongs based on the renewable resource's generation profile. According to the Joint IOUs, a facility with storage charged by an as-available peaking ReMAT resource should still be considered an as-available peaking resource, even if its energy could be discharged at different times. The Joint IOUs suggest "[t]his restriction is important to protect against gaming but would still enable generators using hybrid storage to extend their power production in the applicable ReMAT product category and realize benefits from the storage component."[68]

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[65] CESA opening comments on the April 2021 Rulings at 8-9; Joint ReMAT Parties opening comments on the April 2021 Rulings at 8-10; Renewable Properties opening comments on the April 2021 Rulings at 3-4.

[66] SEIA and Vote Solar joint opening comments on the April 2021 Rulings at 10-12.

[67] GPI opening comments on the April 2021 Rulings at 12-13 and reply comments at 3-4.

[68] Joint IOU opening comments on the April 2021 Rulings at 9-10. The IOUs reference an issue that arose prior to the federally-mandated ReMAT suspension in 2017, when a developer

Footnote continued on next page.

Renewable Properties cited the California Energy Commission's (CEC) Renewables Portfolio Standard Eligibility Guidebook (Guidebook), which addresses storage as an "enhancement" to a qualified renewable facility. The Guidebook, at Chapter 3, Section F, states in part that "an energy storage device may be considered an addition or enhancement to an eligible renewable facility… if the device is… integrated into the facility, such that the energy storage device is capable of storing only energy produced by the facility, either as an intermediary form of energy during the generation cycle or after electricity has been generated."[69]

CESA suggested that under the new PURPA standard offer contract , as adopted in D.20-05-006, "storage is eligible for PURPA contracts when the storage is a component of a PURPA-eligible qualifying facilities and so long as they adhere to the prohibition against charging from the California Independent System Operator (CAISO)-controlled grid, with any request to partially charge from the grid needing to be mutually negotiated and submitted for Commission approval via a Tier 2 advice letter." CESA further argued that facilities with storage should be eligible for the product category for which its expected output aligns, which could be as-available peaking, as-available non-peaking, or baseload depending on the co-located storage capacity and the associated renewable resources' production profile.[70]

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sought to combine a ReMAT-eligible solar facility with storage and receive a higher contract price as an AANP facility. We note that the current ReMAT pricing adopted in Resolution E-5154 includes a lower price for AANP contracts than AAP or baseload facilities.

[69] Renewable Properties opening comments on the April 2021 Rulings at 4.

[70] CESA opening comments on the April 2021 Rulings at 9.

We agree with Renewable Properties and CESA that facilities paired with storage comply with the CEC's RPS Guidebook,[71] and note that FERC recognizes eligible renewable generation paired with storage as a "qualifying facility" under PURPA.[72] Therefore, we find that facilities with storage devices integrated into the facilities are RPS-eligible and eligible for ReMAT so long as the storage component of the facility is solely charged from the renewable resource(s) with which it is paired. The Commission in D.20-06-031 defined hybrid storage as "two or more resources (one of which is a storage project) located at a single point of interconnection with a single resource ID," and co-located storage as ""two or more resources (one of which is a storage project) located at a single point of interconnection with two or more resource IDs."[73]

Further, we agree with CESA that the ReMAT program should be leveraged to procure resources that are "best-equipped to contribute to the state's decarbonization goals and reliability objectives."[74] Facilities enhanced with co-located or hybrid storage will be able to serve load at peak and net-peak hours and could support the State's broader effort to increase system reliability while further relying on variable clean energy generation resources.[75]

Therefore, the IOUs are directed to allow facilities with storage capacity that is solely charged from ReMAT-eligible, co-located renewable resources to

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[71] *See* the RPS Eligibility Guidebook, revised and adopted by the CEC in Docket 16-RPS-01 on April 27, 2017, at 40; also *See* Broadview Solar, LLC, 174 FERC ¶ 61,199 (2021), granting an application for certification as a qualifying facility for a facility comprised of solar array paired with battery storage.

[72] *See*, 18 C.F.R. 292.203; Luz Development and Finance Corporation 51 FERC 61078 (1990); Broadview Solar, LLC, 174 FERC ¶ 61,199 (2021).

[73] D.20-06-031 at 28, Finding of Fact 10, and Conclusion of Law 7.

[74] CESA opening comments on the April 2021 Rulings at 5.

[75] *See* R.20-11-003, particularly Attachment 1 of D.21-03-056.

participate in ReMAT. We note that co-located and/or hybrid storage should not result in a facility having an effective capacity that exceeds the megawatt thresholds established in Section 399.20(b)(1). In this context, consistent with the IOUs' existing standard ReMAT PPA, the effective capacity is the maximum continuous capacity that the facility can export to the grid. For the purposes of ReMAT, the effective capacity of an eligible facility must not exceed 3 megawatts of power served to the grid at any time.

The IOUs shall allow facilities enhanced with storage to be eligible for ReMAT product categories based on the availability of a resource to deliver eligible renewable electricity, rather than the facility's renewable energy generation profile, such that facilities that can use their storage capacity to provide as-available non-peaking or a consistent baseload could qualify for those product categories. In comments on the proposed decision, SEIA and Vote Solar, through joint comments, the Joint ReMAT Parties, and CESA note that facilities with hybrid or co-located storage should already be considered eligible for ReMAT without any major modifications necessary to the IOUs' existing tariffs and PPAs.[76] The Joint IOUs disagreed, arguing that significant changes were necessary to incorporate storage into the standard ReMAT contracts, to ensure the storage facilities are not charging from the electric grid.[77]

We agree with CESA that "the appropriate venue to specifically address these considerations is through the generator interconnection process, where generator interconnection agreements will then specify the mechanisms by

[76] *See* SEIA/Vote Solar joint opening comments on the Proposed Decision at 3-4; the Joint ReMAT Parties opening comments at 2-5; and CESA opening comments at 4-5.

[77] Joint IOU (SCE and PG&E) opening comments on the Proposed Decision at 12-14.

which such assurances are provided."[78] We further point to our determination that co-located and hybrid storage can be exclusively charged from an on-site renewable generator.[79] Therefore, we direct the IOUs to allow facilities enhanced with hybrid and/or co-located storage to participate in ReMAT. To accommodate the site- and technology-specific differences for each of those facilities, the IOUs shall seek CPUC approval by filing a Tier 2 Advice Letter for each contract with a facility with hybrid or co-located storage devices. Each Tier 2 Advice Letter should (1) define which product category the facility's output will receive compensation for, based on the most recent pricing adopted pursuant to D.20-10-005 and (2) clearly describe any hardware or software controls installed with the storage devices to ensure it is unable to charge from the grid and the facility provides generation consistent with the ReMAT product categories.

D.20-12-034, however, found that time-of-delivery is not considered in the current IOU ReMAT tariffs' definition of as-available peaking and as-available non-peaking.[80] Therefore, within 45 days following the issuance of this decision, SCE and PG&E shall file a Tier 2 Advice Letter modifying their ReMAT tariffs to specifically consider time-of-delivery for the purposes of determining at which product category pricing a facility enhanced with storage should be compensated. The modified ReMAT tariffs should each state that for facilities enhanced with storage:

a. For the purposes of this Schedule, As-Available Peaking shall have the same meaning as the defined term "As-Available Facility" in Appendix A of the ReMAT PPA

[78] CESA opening comments on the Proposed Decision at 5.

[79] D.20-06-031 at 29-30.

[80] D.20-12-034 at 11-12.

and have a generation profile demonstrating intermittent energy delivery with 95% or more of the expected output delivered between the hours of 6:01 a.m. and 10:00 p.m.; and

b. For the purposes of this tariff, As-Available Non-Peaking shall have the same meaning as the defined term "As-Available Facility" in Appendix A of the PPA and have a generation profile demonstrating intermittent energy delivery with less than 95% of the expected output delivered between the hours of 6:01 a.m. and 10:00 p.m.

SDG&E shall, within the Tier 2 Advice Letter reopening its ReMAT program, ensure the same tariff language is adopted for facilities enhanced with hybrid and/or co-located storage as defined in (a) and (b) above.

3.5. Inclusion of Facilities Interconnected at the Transmission System Level and Projects with Shared Transformers or Interconnection Facilities

On December 2, 2016, CEUTI filed a petition for modification (PFM) of D.12-05-035 and D.13-05-034 requesting the Commission expand ReMAT eligibility to small hydroelectric facilities that are already interconnected to the transmission system, and to explicitly allow for both transmission and distribution level interconnection for eligible ReMAT projects. On December 16, 2016, CalWEA filed a PFM on D.13-05-034 requesting the Commission explicitly direct the utilities to allow facilities that share transformers or other interconnection equipment with other grid-connected resources to be eligible for ReMAT.

CEUTI and CalWEA noted in joint reply comments on the April 2021 Rulings that the Commission's consideration of these two PFMs is especially necessary now. As previously noted, Resolution E-5154 includes a lower price for as-available non-peaking contracts than as-available peaking

and/or baseload facilities based on the utilities' avoided costs reflected in recent contracts. CEUTI and CalWEA stated that "[t]here is no chance that a price reduction, in the wake of a three-year suspension, will result in an historically-undersubscribed product category becoming fully subscribed."[81] CEUTI and CalWEA jointly argued that the rules that prohibit participation of facilities that are transmission-interconnected are inconsistent with the ReMAT implementing legislation. Specifically, Section 399.20(b)(3) aims to encourage electrical generation from eligible renewable energy resources that are "strategically located and interconnected to the electrical transmission and distribution grid in a manner that optimizes the deliverability of electricity generated at the facility to load centers." The two parties suggest that the current rules prohibit projects that have shared transformers and/or shared interconnection facilities, which goes against the Commission's own prior decisions and policy goals related to distribution system upgrade deferral and related cost-reduction efforts.[82]

No parties other than CEUTI and CalWEA directly addressed the outstanding issues raised in their PFMs in response to the April 2021 Rulings.

AB 1923 (Wood, 2016) amended Pub. Util. Code Section 399.20(b)(3) to clarify that facilities that are "strategically located and interconnected to the electrical transmission and distribution grid in a manner that optimizes the deliverability of electricity generated at the facility to load centers" and/or "strategically located and interconnected to the electrical transmission and

[81] CEUTI and CalWEA joint reply comments on the April 2021 Rulings at 2. The ReMAT pricing adopted in Resolution E-5154 reflects a lower avoided cost for as-available non-peaking contracts than as-available peaking or baseload facilities.

[82] *Ibid.*

distribution grid in a manner that optimizes the deliverability of electricity generated at the facility to load centers or is interconnected to an existing transmission line" are eligible renewable energy resources.[83] The modifications to Section 399.20(b)(3) were adopted for the BioMAT program in D.18-11-004, but are not reflected in the ReMAT program.

SCE was the only party to respond to CEUTI's PFM and supported the request to modify D.12-05-035 and D.13-05-034, in an effort to ensure that existing hydroelectric facilities that are already interconnected to the transmission system can participate in ReMAT if they meet the other eligibility requirements. In comments on the Proposed Decision, the Joint IOUs (PG&E and SCE) recommended clarifying that to be considered "already interconnected," facilities should be interconnected to the transmission system as of the date of issuance of this final decision. We find that recommendation to be appropriate.[84] Therefore, we find it reasonable to grant CEUTI's PFM as it relates to facilities that are already interconnected to the transmission system. The IOUs shall ensure that facilities that meet all other ReMAT requirements can participate if they are already interconnected to the transmission system as of the issuance date of this decision.

Hydro Partners, Mega Renewables, Snow Mountain Hydro, and Enel Green Power of North America Response filed a response in support of CalWEA's PFM seeking modification of D.13-05-034 to allow facilities that share transformers or other interconnection equipment with other grid-connected resources to be eligible for ReMAT. SCE opposed CalWEA's PFM, arguing that

[83] California Stats. 2016, chapter 663.

[84] Joint IOUs Opening Comments on the Proposed Decision at 15.

sharing a transformer or other transmission facility will likely result in cost savings that should be shared with the utility customer. According to SCE, these cost savings are not shared under the ReMAT standard tariff, because the preset price does not account for it, whereas in the IOUs' separate RPS solicitations, the cost savings can be accounted for in the bid pricing. Further, SCE argued that the use of shared interconnection facilities could increase liability risks for contracted facilities, and that approving CalWEA's PFM would favor existing renewable generators that are already operating and may not need the higher pricing available through ReMAT. SCE recommended that if the Commission were to grant CalWEA's PFM, it should do so only after developing a mechanism to ensure associated cost savings are returned to utility customers.[85]

We find SCE's arguments unpersuasive, because the cost savings of sharing a transformer or broader facility interconnection infrastructure are irrelevant to the determination of a utility's avoided cost.

Authorizing projects that share existing distribution facilities to participate in ReMAT could result in overall cost savings for a specific project or project site. While those cost savings are likely to accrue largely to the project developer, rather than the utilities' customers as a whole, that is not a violation of Section 399.20 or PURPA's avoided cost framework. Further, to meet the statutory capacity requirements established by Section 399.20, it is reasonable to allow eligible projects to participate in ReMAT, regardless of the facility's production or construction costs.[86] Therefore, we grant CalWEA's PFM of D.13-05-034. No later than 30 days following the issuance of this decision, PG&E,

[85] SCE reply comments to CalWEA PFM of D.13-05-034 dated January 17, 2017, at 2-3.

[86] *See* D.20-10-005 at 33-35.

SCE, and SDG&E shall file a Tier 2 Advice Letter proposing any necessary changes to their ReMAT tariffs and PPAs to ensure projects that share transformers or other interconnection facilities are eligible to participate in ReMAT, so long as they have an interconnection agreement in place as of the issuance date of this decision.

3.6. IOU Notification Requirements and Security Deposits

Beyond the issues SES raised related to ReMAT product category thresholds discussed in Section 3.2 above, its November 2015 PFM also sought additional requirements for the IOUs to provide notification when any ReMAT tariff or PPA changes are proposed. SES suggested that the IOUs have not historically provided notice of ReMAT PPA or tariff changes to developers that are in the ReMAT queue. Further, SES argued that the project development security established in D.13-05-034 should be increased from $20/kilowatt (kW) to $40/kW.

As noted in Section 3.2 above, we have addressed SES' concerns related to product category capacity limits. In this section, we discuss the other two issues SES' PFM raised related to IOU notification requirements and the $/kW security for ReMAT projects.

3.6.1. Notification of Proposed ReMAT Tariff and PPA Modifications

The April 2021 Rulings sought party feedback related to the IOUs' practices of noticing the service list(s) of RPS proceedings when changes to their ReMAT PPAs and/or tariffs are proposed. This was directly related to a PFM filed by SES in November 2015 which sought a requirement for IOUs to provide additional notification to facilities/facility owners in the ReMAT queue when making any modifications to the program tariffs and PPAs. Currently, the IOUs

serve advice letters to the appropriate service lists, including their General Order (GO) 96-B service lists, and parties on those service lists have the opportunity to respond or protest the advice letters.[87]

SES argued that it is unreasonable to require project developers to be either on the current service list(s) related to the IOUs' tariff modifications or the RPS proceedings to receive updates regarding any proposed ReMAT tariff or PPA modifications.[88]

GPI suggested that email notification to alert projects in the ReMAT queue of any potential modification(s) to the IOUs' ReMAT PPAs and tariffs is sufficient. The Joint ReMAT parties agreed that email notification to developers in the queue should be required and also recommended the IOUs be directed to provide clear notice on their ReMAT websites so applicants that are not yet in the queue can see the proposed modifications.

We find these recommendations reasonable and that the IOUs could accommodate them with little, if any, incremental costs. The IOUs should email the entities within their ReMAT queue with the same information they already provide their GO 96-B service list and the service list(s) associated with the RPS proceeding(s) whenever modifications to their ReMAT PPA and/or tariffs are

[87] General Order 96-B, Section 4.3 provides that each utility must maintain at least one advice letter service list that includes any person who requests to join the list, and that on or before the date when the utility files an advice letter, it must provide notice to all persons listed. Further, GO 96-B, Section 4.2 provides that "Unless no notice or a shorter notice period is authorized by statute or Industry Rule or other Commission order, a utility shall give affected customers at least 30 days' notice before the effective date of an advice letter requesting higher rates or charges, or more restrictive terms or conditions, than those currently in effect. This notice requirement may be satisfied by one or a combination of the following: bill inserts; notices printed on bills; separate notices sent by first-class mail; or electronic mail (e-mail) when a customer has affirmatively consented to receive notice in this manner."

[88] SES PFM of D.12-05-035 and D.13-05-034 at 2, 5, and 8-9.

proposed. The same notice should be provided on their ReMAT program websites so that developers not yet in the queue are aware of any forthcoming changes to the tariffs and PPAs. Further, the IOUs' ReMAT program websites should display regularly updated numbers of megawatts currently in their ReMAT program queues. Therefore, the issues raised by SES' PFM of D.13-05-034 as it relates to the transparency of the IOUs' ReMAT queues are resolved by this decision.

3.6.2. Development Security

In its same November 2015 PFM, SES requested the Commission increase the development security projects are required to provide from $20/kW to $40/kW. According to SES, the lower development security results in projects entering the ReMAT queue only to pull out of their contract or fail to complete development. SES assumed that a higher deposit would set a higher project viability standard.

The IOUs responded to SES' PFM but declined to directly address SES' request related to development security. However, SCE noted that "increasing development security would effectively favor larger, better capitalized developers, such as SES, over smaller developers, and further reduce the number of market participants."[89]

SEIA agrees with SES, arguing that more stringent requirements for market participants are necessary to ensure the success of the ReMAT program.[90] Other developers, including NLine Energy, Inc., disagreed with SES' development security proposal, because it argued a higher development security

[89] SCE response to SES PFM dated December 16, 2015 at 12.

[90] SEIA response to SES PFM dated December 16, 2015 at 2-3.

threshold would increase barriers to participation in the ReMAT program and would not directly address the other underlying issues that discourage developers from participating, such as the bi-monthly capacity allocation and pricing methodology.

The April 2021 Rulings sought party feedback on the outstanding PFMs, including SES' request related to development security, but we received no new information about this specific issue. The comments referenced above are almost six years old, and a facility's position in the queue has a different importance than within that the bi-monthly capacity allocation and pricing mechanism that was in place when this PFM was filed and the referenced comments above made. As discussed previously, we find Cal Advocates and the IOUs' arguments that, with the changes adopted in D.20-10-005 implemented less than 12 months ago, we do not have adequate data whether the modified pricing methodology adopted in D.20-10-005 fully addresses those outstanding barriers to meeting ReMAT procurement requirements. Thus, we find SES' proposal to increase development security does not have merit at this time and decline to grant its PFM as it relates to this issue. The IOUs shall continue using the existing $20/kilowatt development security.

3.7. Non-IOU Retail Seller ReMAT Eligibility

Question 1(c) of the April 2021 Rulings asked whether other retail sellers, including community choice aggregators, should be eligible to participate in the ReMAT program. As noted by the Joint IOUs, Section 399.20 requires *electrical corporations* to offer a standard tariff for the ReMAT program, and specifically requires each eligible facility to enroll in that tariff to be within the service

territory of, and sell electricity to, an *electrical corporation*.[91] The current ReMAT statute limits the program to electrical corporations as defined in Section 218.[92] Because it would be contrary to the statute to expand the ReMAT program to community choice aggregators, we decline to expand the ReMAT program beyond the IOUs at this time.

4. Outstanding Petitions to Modify prior ReMAT Decisions

As noted in the April 2021 Rulings, there are multiple outstanding PFMs related to D.12-05-035 and D.13-05-034.[93] This section resolves several of the outstanding issues raised by these PFMs.

4.1. Allco Renewable Energy Limited

Allco Renewable Energy Limited (Allco) filed a PFM to D.13-05-034 requesting the Commission remove (1) the bi-monthly capacity allocation; (2) the product category capacity allocations; and (3) the 'daisy chaining' provision. Allco argued that D.13-05-034 provides that the size of a facility should not be determined by the facility's output itself, but by its size along with the size of "certain other facilities in the same 'general location.'" Further, Allco argued that D.13-05-034 contradicts the first-come, first serve provision of Section 399.20 by imposing capacity allocation thresholds and pricing mechanisms.[94]

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[91] Joint IOU opening comments on the April 2021 Rulings at 3. Section 218 defines an 'electrical corporation.'

[92] Pursuant to Section 218, an "electric corporation" is defined as "every corporation or person owning, controlling, operating, or managing any electric plant for compensation within this state, expect where electricity is generated on or distributed by the producer through private property solely for its own use… and not for sale or transmission to others."

[93] *See* Attachment A of the April 22, 2021 Ruling.

[94] Allco PFM filed on October 22, 2013.

Pursuant to directives from FERC and the Ninth Circuit Court of Appeals, the Commission adopted a revised pricing methodology in D.20-10-005 that recognizes the first-come, first serve provisions of PURPA and Section 399.20 and establishes a market-based avoided cost rate that is administratively calculated annually. Today, we find the reopened ReMAT program's new pricing methodology addresses Allco's complaint regarding D.13-05-034's bi-monthly capacity allocation thresholds and pricing mechanism.

Further, we have already discussed the capacity thresholds set for each of the three product categories and refined our treatment of them in this Decision in Section 3.2 above. We have also modified the IOUs' treatment of facilities enhanced with storage (Section 3.4) and facilities already interconnected to the transmission grid (Section 3.5) and sites with shared transformers or other interconnection facilities to be eligible for ReMAT (Section 3.5).

Regarding the issues Allco raised related to utilities unlawfully denying facilities the ability to participate in ReMAT, we find that the current tariff language does not align with Section 399.20(n). Specifically, PG&E and SCE's tariffs both state that the utility may, "at its sole discretion, determine that the Applicant does not satisfy this Eligibility Criteria if the Project appears to be part of a larger installation in the same general location that has been or is being developed by the Applicant or the Applicant's Affiliates." This provision was authorized by D.12-05-035; however not at the IOUs' sole discretion: the decision expressly notes that generators may contest denial through the Commission's standard complaint procedure.[95] This section of the utilities' tariffs is intended to prevent "daisy chaining" wherein a single developer could install several small

[95] *See* D.12-05-035, Ordering Paragraph 6.

generation facilities at one site and seek ReMAT eligibility for each of them separately. However, Section 399.20(n) specifically describes instances where facilities may not be deemed eligible for ReMAT to be:

1. The electric generation facility does not meet the requirements of [Section 399.20];
2. The transmission and distribution grid that would serve the point of interconnection is inadequate;
3. The electric generation facility does not meet all applicable state and local laws and building standards and utility interconnection requirements; and
4. The aggregate of all electric generating facilities on a distribution circuit would adversely impact utility operation and load restoration efforts of the distribution system.

We find that the "daisy chaining" provision in the utilities' ReMAT tariffs does not specifically align with these legislatively-adopted provisions that would deny a facility eligibility to participate in the ReMAT program. The provision is too vague and too broad, and the complaint process is time-consuming and expensive. Rather, the daisy chaining issue is adequately addressed by the provision authorized in D.12-05-035 to "require[s] the seller to attest that the project represents the only project being developed by the seller on any single or contiguous property."[96] Beyond this, we believe that the reason to deny their participation should align directly with the statute.

In comments on the Proposed Decision, SDG&E noted that Section 399.20(n) does not adequately address the potential for separate facilities to be located on the same parcel and seek ReMAT contracts. SDG&E also noted that FERC has adopted a rule that multiple generators within a radius of one

[96] *See* D.12-05-035, Ordering Paragraph 6.

mile from an affiliated project using the same energy source are irrebuttable and assumed to be a single project.[97]

We agree it makes sense for the ReMAT program to use the same standard for determining "daisy chaining" as that used by FERC for qualifying PURPA facilities, as codified in 18 CFR Section 292.204(a)(2). We therefore direct PG&E and SCE to, within the same Tier 2 advice letter submitted in response to Section 3.5 above, related to storage and shared facilities, modify their existing tariff to reflect the required attestation and the specific provisions defined in Section 399.20(b) and (n) no later than 30 days following the issuance date of this decision. When SDG&E files its tariff reopening its ReMAT program, it shall ensure it aligns with the provisions defined in Section 399.20 (b) and (n).

Turning to Allco's request related to bi-monthly pricing mechanism and product category capacity allocations, this Decision authorizes the IOUs to combine the capacity across different product categories, if necessary, to meet their share of the statewide ReMAT capacity threshold, as discussed in Section 3.2 above. Section 3.2 reenforces the first-come, first serve requirement adopted in Section 399.20, by providing flexibility on the product category thresholds and D.20-10-005 addressed the concerns Allco raised related to the bi-monthly product category caps and pricing mechanisms. These issues raised by Allco and the comments responding to them were filed nearly six years ago. Our consideration of the issues raised by Allco discussed within this Decision and the modifications we adopted prior to the ReMAT program relaunched last year address the outstanding issues raised in Allco's PFM. We therefore find the issues raised by Allco in its 2013 PFM of D.13-05-034 have been fully addressed.

[97] SDG&E opening comments on the Proposed Decision at 12, citing 18 CFR Section 292.204(a)(2)(ii) and FERC Order 872-A, 173 FERC ¶ 61, 158 (November 19, 2020).

4.2. Clean Coalition

Clean Coalition filed a PFM on October 17, 2013, seeking a change to D.13-05-034 that would essentially require the IOUs to continue offering the ReMAT tariff until all megawatts of each product category are filled. Clean Coalition also requested an increase in the bi-monthly allocation established in D.13-05-034 to 6 megawatts every two months. D.20-10-005 eliminated the bi-monthly allocation process, so that portion of Clean Coalition's PFM has been resolved. Further, as noted in Section 3.2 above, we do not find it reasonable to eliminate product categories at this time, but we establish a process for combining categories to enable procurement of more ReMAT MWs. This Decision also requires the IOUs to continue offering the ReMAT tariff and PPAs until each of them have met their capacity target as established in D.12-05-035. Therefore, we find this Decision resolves the outstanding issue in Clean Coalition's PFM by ensuring the IOUs must offer their ReMAT tariffs and PPAs until they have met their share of the statewide statutory procurement target.

Clean Coalition also filed a motion to modify D.13-12-023 related to intervenor compensation for its contribution to R.11-05-005. Specifically, Clean Coalition argued that the Commission reduced the hourly rates for its attorneys without providing accurate rationale for the lower hourly rates. Clean Coalition noted that D.13-12-021 approved Attorney Hunt's rate at $340/hour in 2012, and that Attorney Davis' rate was reduced to $150/hour even though she was a second-year attorney that should have qualified for the requested compensation rate of $205/hour.

As noted in D.13-12-023, "The amount of citation errors in the Request is not reflective of an intervenor with the years of experience that Mr. Hunt has. These errors coupled with Clean Coalition's non-existent argument for why

Mr. Hunt should be awarded a higher hourly rate supports our determination to uphold the $300 per hour 2011 hourly rate set for Mr. Hunt in D.11-10-040." Further, D.13-12-023 noted that Attorney Davis had been practicing for only one year in 2011, and the hourly rate adopted for her is reflective of similarly experienced attorneys appearing before the Commission. No additional comments were filed in response to the April 2021 Rulings related to Clean Coalition's PFM of D.13-12-023. Therefore, upon review of D.13-12-023 and the documentation filed to support Clean Coalition's intervenor compensation request, we find that the Commission's determinations were reasonable, and we deny its PFM.

4.3. Guaranteed Energy Production-Related Motions

On February 9, 2015, SCE requested authorization to remove the Guaranteed Energy production provision in SCE's standard PPA for baseload resources in ReMAT, which would require a modification to D.13-05-034 and D.14-12-081. Community Renewable Solutions, LLC (CRS) requested a separate but similar modification to SCE's ReMAT PPA in a motion filed on August 19, 2016.

As Cal Advocates noted in its response to SCE's PFM, SCE has not provided evidence that including a guaranteed energy production provision in its ReMAT PPA for baseload resources has in fact resulted in a downgrade in its credit rating. Further, Cal Advocates noted that neither PG&E nor SDG&E classify their baseload ReMAT PPAs as capital leases and suggested that SCE's concerns could be addressed by the utility changing its accounting practices, rather than modifying the Commission's decisions. Cal Advocates also

suggested that the issues SCE raised in its PFM could be discussed in a workshop to determine a more standardized accounting practice for all three IOUs.

In response, SCE argued that each of the IOUs have their own separate accounting practices to comply with standard General Accepted Accounting Principles, and that it would be unreasonable to require the IOUs to align their accounting practices. Further, SCE noted that it and its accounting consultant both found "these contracts would likely be classified as capital leases because they are contracts dependent on specified assets, SCE is contracting for most of the assets' output, and the present value of the forecasted minimum lease payments is likely to be greater than 90 percent of the Fair Market Value of the underlying assets," so the classification of its ReMAT PPAs as leases is appropriate.[98]

We agree with SCE that it is unreasonable to require the IOUs to develop identical accounting standards but do not believe the issues raised in its 2015 PFM hold merit. However, we also agree with Cal Advocates that SCE has not illustrated how or whether a guaranteed energy production provision in its ReMAT PPA for baseload resources resulted in a downgrade in its credit rating. Therefore, we deny SCE's PFM of D.13-05-034 and D.14-12-081.

CRS' motion suggests that forecasting energy generation from variable resources, particularly small wind facilities, is inherently difficult and sought relief from such facilities being required to provide hourly generation forecasts when seeking to participate in ReMAT.[99] SCE and PG&E both argued that CRS'

[98] SCE response to comments on its PFM of D.13-05-034 and D.14-12-081 dated March 23, 2015 at 7-9.

[99] CRS Motion at 3.

PFM was procedurally flawed and substantively inaccurate.[100] In comments on the proposed decision, CRS clarified that it filed a motion for party status concurrently with its motion seeking modification of SCE's ReMAT PPA to harmonize its language with PG&E's PPA, which only requires developers to forecast available capacity.[101] CRS noted that it was representing a developer aiming to seek ReMAT participation for a wind and electric vehicle charging facility and found SCE's ReMAT PPA requirement for developers to also offer energy forecasting made its participation in ReMAT unfinanceable.[102] We agree with PG&E that "ReMAT is not intended to be customized for one-of-a-kind pilot projects that are not yet able to comply with California Independent System Operator (CAISO) market requirements."[103] . .

As noted in Section 3.4 above, projects that are enhanced by storage require site-specific consideration and may participate in ReMAT through individually negotiated contracts filed through an advice letter process, not through the standard ReMAT PPA. CRS in reply comments on the proposed decision also correctly notes that its motion and the utilities' response to it were filed five years ago, and that the proposed decision does not adjudicate its specific request for the Commission to eliminate forecasting requirements entirely for excess sales contracts with inherently variable onsite load.[104] We note

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[100] SCE response to CRS' Motion dated September 6, 2016, at 9-10; PG&E response to CRS' Motion dated September 6, 2016 at 2-3.

[101] Pursuant to the Commission's Rules of Practices and Procedure, Rule 11.1 a party may file a motion seeking a specific action related to any open proceeding before the Commission. Further Rule 11.1(b) states that a person that is not a party to a proceeding may concurrently file a motion for party status when filing a motion for Commission action under Rule 11.1.

[102] CRS Motion at 3-4.

[103] *Ibid.*

[104] CRS reply comments on the proposed decision at 6 and 4.

that we did not receive any incremental party feedback on the issues raised by CRS' 2016 motion in parties' responses to the April 2021 rulings to adjudicate them fully today. Therefore, this decision does not address CRS' motion. Further consideration of more complex projects like the one CRS proposed in its 2016 motion may occur later in this proceeding.

4.4. ReMAT Cost Allocation

SCE and PG&E filed a joint PFM of D.13-05-034 on February 11, 2021, requesting the Commission update the cost allocation related to the mandated ReMAT procurement to the utilities' public policy program (PPP) charge. The two utilities argued that D.13-05-034 only allocated ReMAT costs to customers receiving bundled service, and that departing load (to community choice aggregators or other load-serving entities) is resulting in higher ReMAT-associated costs for their remaining bundled customers. SCE and PG&E suggested that modifying D.13-05-034 to require ReMAT procurement cost recovery through the PPP charge would align with the Bioenergy Market Adjusting Tariff (BioMAT) program and the recently modified PURPA SOC. The two utilities argued that this modification would allocate ReMAT program costs to "all benefiting customers per the Commission's direction in D.18-10-019 and consistent with D.18-12-003 and D.20-05-006."

In the PFM, SCE and PG&E noted that they expect their bundled customers to face costs of $149 million and $96 million, respectively, over their existing ReMAT contracts' full terms. Both utilities still have a significant number of megawatts unfilled in their ReMAT allocation. Further, SCE and PG&E noted that D.13-05-034 was adopted when only one community choice aggregator served customers and the current Power Charge Indifference

Adjustment (PCIA) does not account for the ReMAT cost shifts that are occurring due to departing load.

The two utilities requested authority to recover the above-market costs associated with existing and future ReMAT contracts through the equal-cents per kilowatt hour PPP charge that is applied to all distribution customers, including those served by community choice aggregators and other load serving entities.

SDG&E filed a response in support of SCE and PG&E's PFM, stating that similar issues related to ReMAT costs are adversely impacting their bundled customers.[105] Cal Advocates also supported the PFM's request, arguing that the ReMAT program benefits all California bundled and unbundled customers.[106] Both supporting parties argued it is reasonable to authorize the IOUs to develop accounting and cost recovery mechanisms for ReMAT that align with costs related to the BioMAT program, which are recovered through a non-bypassable charge on all customers.

CalCCA opposed SCE and PG&E's PFM, arguing that the PCIA was developed to help offset these specific costs and that the PFM's request lacks clarity related to what costs the utilities seek to recover through the PPP charge or other non-bypassable charge. CalCCA argued that "ReMAT contracts are simply above-market RPS resources and thus are well suited to PCIA recovery."[107]

As discussed in Section 3.7 above, we find that CCAs and other LSEs are not eligible to take on any of the IOUs' ReMAT procurement targets established in Section 399.20, which specifically defines the electric corporations as

[105] SDG&E reply to SCE and PG&E's PFM dated March 15, 2021 at 2-3.

[106] Cal Advocates' reply to SCE and PG&E's PFM dated March 15, 2021 at 1-2.

[107] CalCCA reply to SCE and PG&E's PFM dated March 15, 2021 at 2-3.

compliance entities. Further, we agree that the ReMAT program supports smaller renewable energy facilities to achieve specific policy goals. As noted in the PFM, no open proceeding includes reconsideration of ReMAT cost allocation within scope. The Joint IOUs further noted in their opening comments on the April 2021 Rulings that the issue of re-allocation of ReMAT costs was not specifically addressed in the questions asked of parties. Therefore, we decline to address this PFM in this decision. However, given the ongoing costs associated with continuing the ReMAT program to reach the statewide procurement requirement, and the scale of the load migration each IOU currently faces, we find this issue merits further consideration. R.18-07-003 is expected to end in September 2022 and this issue will be addressed before this proceeding closes or be scoped into the successor RPS proceeding.

5. Conclusion

This decision directs SDG&E to reopen its ReMAT program following the parameters adopted in D.20-10-005, as modified in this decision. SDG&E shall reallocate its remaining ReMAT capacity equally across the three product categories to re-launch its program. This decision further establishes a less-than one megawatt de minimis threshold for each product category, and a process through which the IOUs can combine remaining capacity across the three product categories, if necessary, to meet their individual shares of the ReMAT capacity requirement. This decision reaffirms the IOUs' option to use information-only TOD factors, as adopted in D.19-12-042, and not apply TOD factors to adjust ReMAT contract prices if they are not applying TOD factors to adjust other RPS contract prices. It also directly requires the IOUs to allow facilities enhanced with storage to participate in ReMAT, as well as facilities that are either already connected to the transmission system or share distribution

resources, so long as the individual facility is already otherwise eligible for ReMAT and has an existing transmission or distribution interconnection agreement as of the issuance of this decision. This decision also requires each IOU to modify its ReMAT tariffs and PPAs to be consistent with Section 399.20 (b) and (n) and clearly notify all developers in their ReMAT program queue of any changes to the ReMAT tariff or PPA at the same time the notification is provided to the relevant service list(s) and maintains the $20/kW development security requirement. This decision resolves the outstanding PFMs related to D.12-05-035 and D.13-05-034 filed by Allco, CalWEA, the Clean Coalition, CEUTI, SEIA, SES, and SCE. Finally, this decision defers PG&E and SCE's PFM on D.13-05-034, as filed on February 11, 2021, to a later decision in this or a successor RPS proceeding.

6. Comments on Decision

The proposed decision of ALJs Manisha Lakhanpal and Carolyn Sisto in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on November 29, 2021, by CalCCA, CESA, Clean Coalition, the Joint IOUs (SCE and PG&E), the Joint ReMAT Parties, Cal Advocates, SDG&E, and SEIA/ Vote Solar. Reply comments were filed on December 6, 2021, by CalCCA, CRS, the Joint IOUs, GPI, the Joint ReMAT parties /Vote Solar, Cal Advocates, and SDG&E. Modifications are made throughout this decision to address parties' comments.

7. Assignment of Proceeding

Clifford Rechtschaffen is the assigned Commissioner and Manisha Lakhanpal and Carolyn Sisto are the assigned ALJs in this proceeding.

Findings of Fact

1. Section 399.20(f)(1) requires each IOU to implement the tariff until each IOU's proportional share of the statewide ReMAT procurement requirement is attained.

2. D.20-10-005 modified the ReMAT program and its associated pricing methodology to comply with state and federal law.

3. D.20-10-005 resumed the ReMAT program for PG&E and SCE.

4. SDG&E had 20.9MWof AANP and baseload capacity remaining in its ReMAT allocation when its AAP product category was deemed fully subscribed in 2016.

5. SDG&E closed its program effective December 15, 2016 and made its ReMAT tariff unavailable after meeting only 65% of its share of the statewide target.

6. The legislative intent of Section 399.20 was to direct procurement of a total of 750 MW of ReMAT eligible capacity across California, including the IOUs.

7. D.12-05-035 established the combined IOUs' ReMAT requirement to be 493 MW.

8. The methodology adopted in D.13-05-034 allowed IOUs to close their ReMAT program if only one product category reaches a de minimis capacity level, even when the other two product categories have remaining megawatts of capacity.

9. The closure notice requirement and thresholds adopted in D.13-05-034 were based on an adjusting price mechanism and bimonthly program periods which no longer exist in the newly reopened ReMAT Program, as provided in D.20-10-005.

10. R.20-10-005 did not address issues related to capacity allocation between the three product categories.

11. Since the ReMAT program was only relaunched in November 2020 for SCE and PG&E, there is not adequate data on the record to determine whether substantive changes are necessary to meet the statutory requirements.

12. Closing SCE's program after its as-available peaking product category capacity is exhausted could leave approximately 10% of the total statewide ReMAT procurement requirement unmet.

13. Consolidating the ReMAT program into a single product category at this time would not facilitate the requirement provided in Section 399.20 to create a market that encourages procurement of different products.

14. TOD and locational-specific adders are optional inputs to the FiT and ReMAT pricing methodology prescribed by Section 399.20.

15. D.19-12-042 authorized the IOUs to adopt information-only TOD factors for RPS contracts due to the potential for changes in the electric market over long-term contracts.

16. The incorporation of TOD factors in ReMAT contracts was litigated in this proceeding before D.20-10-005 was issued reopening PG&E and SCE's programs.

17. D.20-10-005 requires the IOUs to provide effective prices that may, but are not required to, incorporate TOD factors.

18. D.19-02-007 granted the IOUs the option of providing informational-only TOD factors.

19. Ordering Paragraph 26 of D.19-12-042 approved the joint IOUs' informational-only TOD proposal and directed the utilities to confirm there is a high correlation between the public informational-only TOD factors and their internal, confidential forecasts.

20. D.12-05-035 and D.13-05-034 did not consider the inclusion of storage at otherwise-eligible renewable generation facilities for ReMAT eligibility due to the nascent state of storage technology at that time.

21. Hybrid and co-located storage are defined in D.20-06-031.

22. A facility enhanced with storage charged solely from a hybrid and/or co-located renewable energy resource is considered eligible for the RPS under the current CEC RPS Eligibility Guidebook.

23. Facilities enhanced with hybrid and/or co-located storage have ability to serve load at peak and net-peak hours and could support the State's broader effort to increase system reliability while further relying on variable clean energy generation resources.

24. Inclusion of facilities that are already connected to the transmission system, or that share distribution system-level facilities, as of the issuance date of this Decision, can assist in meeting the ReMAT procurement targets.

25. D.20-10-005 addressed the price-setting and bi-monthly capacity allocation concerns raised by SES.

26. The IOUs provide information about changes to their ReMAT tariffs and PPAs to the relevant service lists and should post the same information on their ReMAT program websites and share it with their ReMAT project queues.

27. There is not enough data to determine whether the development security cost should be modified since the current ReMAT pricing methodology was only adopted in November 2020.

28. Section 399.20 requires electrical corporations, as defined in Section 218, to offer a standard tariff for the ReMAT program, and specifically requires each eligible facility that enrolls in that tariff to be within the service territory of, and sell electricity to, an electrical corporation.

29. Section 399.20(n) specifically describes instances where facilities may not be deemed eligible for ReMAT.

30. The issues raised in Allco's PFM of D.13-05-034 have been addressed in D.20-10-005 and this decision.

31. The issues raised in Clean Coalition's PFM of D.13-05-034 have been addressed in this decision.

32. D.13-12-023 correctly evaluated Clean Coalition's contribution to R.11-05-005.

33. Each IOU has separate accounting mechanisms to comply with the Generally Accepted Accounting Principles.

34. SCE's concerns related to its baseload ReMAT PPAs were related to the pricing methodology that was wholly modified by D.20-10-005.

35. CRS' motion of D.13-05-034 sought modification of SCE and PG&E's standard ReMAT PPAs that was only necessary to support a specific project that did not align with the standard ReMAT PPA terms.

36. Parties did not provide new information about CRS' 2016 motion in comments on the April 2021 Rulings.

37. D.18-12-003 authorized BioMAT contract costs to be recovered through a non-bypassable charge applicable to both bundled and unbundled customers.

38. The evaluation of ReMAT program cost allocation has not been scoped into any open proceeding.

Conclusions of Law

1. SDG&E should reopen its program to meet its share of the statewide ReMAT capacity procurement requirement.

2. SDG&E should reallocate its remaining 20.9MW of ReMAT capacity equally to the three product categories when relaunching its program.

3. It is reasonable to preserve the existing product categories and capacity allocations as defined in the IOUs' existing ReMAT tariffs and PPAs for the next 12 months.

4. It is reasonable to adopt a de minimis capacity threshold of less than one megawatt (0.99 MW or less) for the IOUs to either reallocate remaining ReMAT capacity or seek approval to close their ReMAT programs.

5. It is reasonable to require the IOUs to seek Energy Division review and approval prior to closing their ReMAT program.

6. The requirements for the IOUs to equally allocate their ReMAT procurement targets across the three different product categories, as adopted in D.13-05-034, are not legislatively mandated.

7. The IOUs' capacity reallocation proposals should reflect the first-come, first serve requirements already included in the IOUs' ReMAT tariffs.

8. It is reasonable to maintain the option for IOUs to use information-only TOD factors as adopted in D.19-12-042 and D.20-10-005.

9. The IOUs should clearly describe how TOD factors are applied to ReMAT contracts if they are authorized to utilize them for other RPS contract pricing.

10. ReMAT-eligible facilities with hybrid and/or co-located storage should be eligible for the IOUs' ReMAT tariffs so long as the storage resource is solely charged from the on-site renewable resource.

11. Facilities enhanced with hybrid and/or co-located storage should be eligible for the ReMAT product category for which their expected output aligns, which could be AAP, AANP, or baseload depending on the storage facility's capacity and the associated renewable resources' production profile.

12. A hybrid and/or co-located storage plus renewable energy facility must not be capable of delivering more than 3MW of power to the grid to be eligible for a contract under the ReMAT program.

13. It is reasonable for the IOUs to file Tier 2 Advice Letters seeking approval of contracts that ensure each facility with hybrid and/or co-located storage device is solely charged from on-site renewable generation.

14. It is reasonable for the IOUs to modify their ReMAT tariffs to ensure that each facility enhanced with hybrid and/or co-located storage can receive compensation at the product category pricing associated with the facility's delivery profile.

15. FERC recognizes eligible renewable generation facilities paired with storage as a "qualifying facility" under PURPA.

16. Facilities that share transformers or other interconnection facilities or are already interconnected at the transmission or distribution level as of the date of the issuance of this decision are eligible to participate in ReMAT.

17. It is reasonable to require the IOUs to update developers in their ReMAT program queue, and update their ReMAT program websites, any time the utilities are requesting modifications to their ReMAT tariffs or PPAs.

18. It is reasonable to maintain the $20/kW development security until or unless the pricing methodology adopted in D.20-10-005 results in a high level of unsuccessful projects.

19. It is reasonable to require the IOUs to align their ReMAT tariffs and PPAs with the provisions of Section 399.20 (b) and (n), and 18 Code of Federal Regulations Section 292.204(a)(2)(ii) which specifically describe instances where facilities may not be deemed eligible for ReMAT.

20. Non-IOU load-serving entities should not be authorized to participate in ReMAT given the lack of statutory authorization for their participation.

O R D E R

IT IS ORDERED that:

1. No later than February 28, 2022, San Diego Gas & Electric Company (SDG&E) shall file a Tier 2 advice letter reopening its Renewable Market Adjusting Tariff (ReMAT) program. The Tier 2 Advice Letter shall include revised tariffs and associated joint standard contracts that implement the pricing methodology adopted in Decision 20-10-005 and reflect the ReMAT product category flexibility, de minimis thresholds, and time-of-delivery application provisions adopted in this decision. SDG&E shall seek to reallocate the 20.9 megawatts of remaining capacity in its ReMAT target equally to the three product categories when filing its Tier 2 advice letter reopening its ReMAT program. SDG&E shall ensure its ReMAT tariff provides compensation to facilities enhanced with co-located and/or hybrid storage based on the facility's delivery generation profile and allow facilities enhanced with storage to participate in ReMAT through power purchase agreements filed through a Tier 2 advice letter process. SDG&E shall also ensure that projects already connected to the transmission system, or that share transformers or other interconnection facilities as of the issuance date of this decision are eligible to participate in ReMAT and that its ReMAT tariff and power purchase agreements reflect the required attestation and specific provisions defined in California Public Utilities Code Section 399.20 (b) and (n) and 18 Code of Federal Regulations Section 292.204(a)(2)(ii).

2. Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company shall maintain their Renewable Market

Adjusting Tariff (ReMAT) programs until their individual shares of the statewide ReMAT procurement requirement are met.

3. Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company shall use less than one megawatt (0.99 megawatts or less) as a de minimis threshold for Renewable Market Adjusting Tariff (ReMAT) product categories and the investor-owned utilities' ReMAT programs.

4. Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company are directed to file a Tier 2 Advice Letter allocating their remaining Renewable Market Adjusting Tariff (ReMAT) capacity to one or more of the three product categories if, after 12 months following the issuance of this decision, they have reached the de minimis threshold established in Ordering Paragraph 3 for one or more of the three ReMAT product categories.

5. Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company may each file a Tier 2 Advice Letter seeking Energy Division authorization to close their respective Renewable Market Adjusting Tariff (ReMAT) program if they have less than one megawatt remaining in their total share of the statewide ReMAT target. The utilities' advice letters seeking to close their ReMAT programs may not be filed less than 12 months following the issuance of this decision. These provisions shall replace the provisions in Decision 13-05-034 at 15, Conclusion of Law 5, and Ordering Paragraph 1.

6. Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company (collectively, the IOUs) shall adjust Renewable Market Adjusting Tariff (ReMAT) contract prices by time of delivery factors in accordance with the adjustments, if any, they apply to other RPS

contracts. Pursuant to Ordering Paragraph 5 of Decision 20-10-005, Pacific Gas and Electric Company and Southern California Edison Company shall each provide a Tier 1 Advice Letter to the service list of this or any successor proceeding within 30 days if/when the Commission approves new time-of-delivery factors. San Diego Gas & Electric Company is herein directed to file a Tier 1 Advice Letter to the service list of this or any successor proceeding within 30 days of the Commission approving new time-of-delivery factors. If any of the IOUs utilize informational-only time of delivery factors and does not adjust other RPS contract prices based on time of delivery, no adjustment of ReMAT contract prices is required. These provisions shall replace the requirements in Ordering Paragraph 4 of Decision 12-05-035.

7. Pacific Gas and Electric Company, Southern California Edison Company shall each file a Tier 2 advice letter seeking authorization for each Renewable Market Adjusting Tariff (ReMAT) contract with a facility with hybrid and/or co-located storage that (1) describes the hardware or software controls in place to ensure the facility's storage is solely charged from onsite renewable generation and restricts the facility's effective capacity to 3 megawatts. Each Tier 2 Advice Letter shall also define which product category for which the facility's output will receive compensation.

8. No later than 45 days following the issuance of this decision, Pacific Gas and Electric Company (PG&E) and Southern California Edison Company (SCE) shall propose modifications to their Renewable Market Adjusting Tariff (ReMAT) to provide compensation for facilities enhanced with hybrid and/or co-located storage at the product category pricing that aligns with the facility's generation profile. Within the same Tier 2 Advice Letter, PG&E and SCE shall also propose any modifications necessary for their ReMAT tariffs and Power

Purchase Agreements necessary to ensure ReMAT projects that are already connected to the transmission system, or that share transformers or other interconnection facilities, as of the issuance date of this decision, are eligible to participate in ReMAT; and reflect the required attestation and specific provisions defined in California Public Utilities Code Section 399.20 (b) and (n) and 18 Code of Federal Regulations Section 292.204(a)(2)(ii).

9. The last provision of Ordering Paragraph 8 above supersedes provisions in Decision 12-05-035 related to 'daisy chaining.' Thus, within Decision 12-03-035, the second sentence of Conclusion of Law 24 and Ordering Paragraph 6 are rescinded.

10. The Petition for Modification of Decision 13-05-034 filed by the Coalition for the Efficient Use of Transmission Infrastructure is granted. Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company shall ensure that facilities that meet all other requirements set forth in the utilities' Renewable Market Adjusting Tariff can participate in the program if they are already interconnected to the transmission system as of the issuance date of this decision.

11. The Petition for Modification of Decision 13-05-034 filed by the California Wind Energy Association is granted. Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company shall allow facilities that share transformers or other distribution-system level interconnection equipment with other grid-connected resources to be eligible for their Renewable Market Adjusting Tariff programs so long as they have an interconnection agreement in place as of the issuance date of this decision.

12. The Petitions for Modification of Decisions 12-05-035 and 13-05-034 filed by Solar Electric Solutions, as it relates to notification of changes to the utilities'

Renewable Market Adjusting Tariffs (ReMAT) queues, are granted. Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company shall notify their ReMAT project queues with the same information provided to the relevant service lists any time they propose to modify their standard ReMAT tariff or power purchase agreement. The same information shall also be posted to the utilities' individual ReMAT program websites.

13. Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company shall continue using a $20 per kilowatt development security for projects to apply to their Renewable Market Adjusting Tariff programs.

14. The issues raised by Allco Renewable Energy Limited's Petition for Modification (PFM) of Decision (D.) 13-05-034 are resolved because they are addressed in D.20-10-005 and this decision.

15. Clean Coalition's Petition for Modification (PFM) of Decision 13-05-034 is denied as moot because the issues raised in its PFM have been addressed in this decision.

16. Clean Coalition's Petition for Modification of Decision (D.) 13-12-023 is denied. The Commission adopted an appropriate hourly rate for the parties' attorneys and clearly described the rationale for the reductions that were adopted in D.13-12-023.

17. Southern California Edison's Petition for Modification (PFM) of Decision (D.) 13-05-034 and D.14-12-081 is denied.

18. Once an investor-owned utility has reached the de minimis threshold of less than one megawatt (0.99 megawatts or less) in its Renewable Market Adjusting Tariff (ReMAT) capacity allocation in ***total***, it may file a Tier 2

Advice Letter seeking Energy Division review and approval of its request to close its ReMAT program.

19. Rulemaking 11-05-005 remains open.
20. Rulemaking 15-02-020 remains open.
21. Rulemaking 18-07-003 remains open.

This order is effective today.

Dated December 16, 2021, at San Francisco, California.

MARYBEL BATJER
President
MARTHA GUZMAN ACEVES
CLIFFORD RECHTSCHAFFEN
GENEVIEVE SHIROMA
DARCIE HOUCK
Commissioners

Attachment A

Acronym List

Acronym	Definition
AANP	As-Available Non-Peaking
AAP	As-Available Peaking
ALJ	Administrative Law Judge
Allco	Allco Renewable Energy Limited
AReM	Alliance for Retail Energy Markets
BioMAT	Bioenergy Market Adjusting Tariff
CAISO	California Independent System Operator
Cal Advocates	Public Advocates Office of the California Public Utilities Commission
CalCCA	California Community Choice Association
CalWEA	California Wind Energy Association
CEC	California Energy Commission
CESA	California Energy Storage Alliance
CEUTI	Coalition for the Efficient Use of Transmission Infrastructure
FERC	Federal Energy Regulatory Commission
FiT	Feed In Tariff
GPI	Green Power Institute
Guidebook	California Energy Commission's Renewables Portfolio Standard Eligibility Guidebook
IOU	Investor-Owned Utility
Joint ReMAT Parties	JTN Energy LLC, Solar Electric Solutions LLC, Burning Daylight, LLC, and Reido Farms LLC
MW	Megawatt
PCIA	Power Charge Indifference Adjustment
PFM	Petition to Modify
PG&E	Pacific Gas and Electric Company
PPA	Power Purchase Agreement

PPP	Public Policy Program
PURPA	Public Utility Regulatory Policies Act of 1978
ReMAT	Renewable Market Adjusting Tariff
RPS	Renewables Portfolio Standard
SCE	Southern California Edison Company
SDG&E	San Diego Gas & Electric Company
SEIA	Solar Energy Industries Association
SES	Solar Electric Solutions
Shell Energy	Shell Energy North America (US) L.P.
SOC	Standard Offer Contract
TOD	Time of Delivery
Winding Creek	Winding Creek Solar LLC

(END OF APPENDIX A)