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STATE OF CALIFORNIA

Energy Resources Conservation and Development Commission

In the Matter of:

DOCKET NO. 15-AFC-01

APPLICATION FOR CERTIFICATION
OF THE PUENTE POWER PROJECT

**CENTER FOR BIOLOGICAL DIVERSITY'S RESPONSE TO APPLICANT'S MOTION TO
STRIKE SUPPLEMENTAL TESTIMONY OF DR. DOUG KARPA**

September 11, 2017

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Response to Applicant's Motion to Strike Testimony of Dr. Doug Karpa

The Applicant's Motion to Strike Supplemental Testimony of Dr. Doug Karpa re CAISO Study (TN # 221107) is meritless and should be denied.¹

The Karpa testimony responds directly to, and is entirely within the scope of, the Moorpark Sub-Area Local Capacity Alternative Study (TN # 220813) (hereafter "CAISO Study"). The Committee directed the parties to file testimony "responding to" the CAISO Study by August 30, 2017.² The CAISO Study concluded that although the need for the Puente facility could be satisfied with preferred resources, the capital costs of those resources under each of the three scenarios studied would exceed the capital costs of the Puente project.³

The entirety of Dr. Karpa's testimony "responds to" the CAISO study. One of the primary errors in the CAISO study, according to Dr. Karpa, was its consideration of battery-only scenarios that unnecessarily drove up capital costs, resulting in misleading conclusions regarding the relative costs and feasibility of alternatives to Puente.⁴ To illustrate this error, Dr. Karpa demonstrated that a variation on two of the scenarios considered in the CAISO study could meet local reliability needs at a far lower cost.⁵ Dr. Karpa's testimony clearly states that this analysis was based entirely on the CAISO study: "[O]ur study *merely replicated Scenarios 1 and 3*, but did so using PV solar and Storage as incremental resources instead of the IFOM batteries modeled in the Appendix of the CAISO

¹ The Center submits this response pursuant to Title 20 of the Code of California Regulations, section 1211.5(a), which provides parties with the opportunity to respond to motions in writing according to a schedule set by the presiding member. The Committee's August 25, 2017 Order directed parties to file motions regarding testimony and evidence responding to the CAISO study by September 8, 2017, but the Order did not address written responses to motions. Accordingly, Section 1211.5(a) should govern, at least to the extent that written responses to motions should be considered within the schedule set by the presiding member. Moreover, in considering motions to exclude evidence, the Committee must consider not only "hearing efficiency," but also "fairness to the parties" and "adequacy of the record." (Cal. Code Regs., tit. 20, § 1212(b)(2).) Disallowing responses to motions might seem efficient, but it would be manifestly unfair to the parties and would undermine the Committee's ability to make evidentiary decisions that result in an adequate record.

² June 20, 2017 Committee Orders (TN # 219815) at 3.

³ See Moorpark Sub-Area Local Capacity Alternative Study (TN # 220813) at 2-3.

⁴ See Supplemental Testimony of Dr. Doug Karpa (TN # 220959) at 3, 6-9.

⁵ *Id.* at 6-9.

study.”⁶ Dr. Karpa’s testimony does not create an entirely new alternative to Puente out of whole cloth, the Applicant’s mischaracterizations notwithstanding.⁷

Nothing in the Committee’s order stated that testimony “responding to” the CAISO study could not address the specific scenarios or cost assumptions to be considered in the study. Indeed, the Committee could not have done so; at the time the Committee directed the parties to file responsive testimony on June 20, the specific scenarios that would be considered in the CAISO study were unknown. The Applicant appears to contend that any testimony that does not simply repeat the conclusions of the CAISO study should be excluded as “outside the scope” of the CAISO study. The contention is absurd because it would confine this Committee to consideration of only duplicative testimony—which itself should be excluded under the Commission’s rules. (Cal. Code Regs., tit. 20, § 1212(b)(2).)

Second, even if Dr. Karpa’s discussion of variations on scenarios considered in the CAISO study were somehow deemed “outside the scope” of responses to the CAISO study, there would be no basis for striking his testimony in its entirety. Dr. Karpa’s testimony responds to numerous errors and omissions in the CAISO study’s consideration of costs associated with the three scenarios studied (including the study’s unrealistic assumptions about solar dispatch, component costs, and demand response costs, as well as its omission of published industry-standard information about battery costs, available tax credits, and operating and maintenance costs).⁸ The Applicant does not address any of this testimony in its motion and identifies no basis for excluding it. Therefore, any objection to these aspects of Dr. Karpa’s testimony should be deemed waived.

As the CAISO study notes, “[t]he study was not initially intended to assess the cost, timing or feasibility of procurement of the alternative resources. The study scope was amended to include a discussion of capital costs based on publicly available information.”⁹ Given this midstream

⁶ *Id.* at 6 (emphasis added).

⁷ See Applicant’s Motion to Strike (TN # 221107) at 2 (“The Committee did not extend an invitation to the Parties to develop and present their own proposed alternatives to the Puente Power Project, as the Karpa Testimony attempts to do.”)

⁸ See Supplemental Testimony of Dr. Doug Karpa (TN # 220959) at 3-5.

⁹ Moorpark Sub-Area Local Capacity Study (TN # 220813) at 4.

“amendment” of the study’s scope, and its obvious importance to this Commission’s findings related to alternatives and LORS overrides, the parties must be free to respond to the CAISO Study’s discussion of capital costs in light of other “publicly available information.” That is exactly what Dr. Karpa’s testimony does. Excluding testimony relevant to the CAISO study’s discussion of costs not only would be unfair to the parties, but also would seriously undermine the Commission’s ability to create an adequate record. (See Cal. Code Regs., tit. 20, § 1212(b)(2) [standards for admitting or excluding evidence].) The Applicant’s motion to strike Dr. Karpa’s testimony should be denied.

Dated: September 11, 2017

Respectfully submitted,

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