

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

In the Matter of the Application of Southern California Edison Company (U338E) for a Permit to Construct Electrical Substation Facilities with Voltage over 50 kV: Mesa 500 kV Substation Project

Application 15-03-003
(Filed March 13, 2015)

MOTION TO STRIKE AND ORDER TO SHORTEN TIME

Pursuant to Commission Rules of Practice and Procedure 11.1 and 13.11, the California Independent System Operator Corporation (CAISO) hereby moves to strike portions of the Bay Area Municipal Transmission (BAMx) group’s opening brief. The CAISO concurrently moves for an order shortening the time to respond to this motion to strike.

I. Motion to Strike

A. Introduction

In this proceeding, Southern California Edison Company (SCE) requested a permit to construct (PTC) improvements to Mesa 500 kilovolt (kV) substation (Mesa Loop-In Project) based on the CAISO’s identification of need in its 2013-2014 transmission planning process. During the environmental review conducted in accordance with the California Environmental Quality Act (CEQA), Commission staff produced a draft environmental impact report (DEIR) that identified several project alternatives. The DEIR stated that these project alternatives are feasible and capable of meeting most of the Mesa Loop-In Project’s objectives. In response to the DEIR, the CAISO conducted detailed power flow analysis showing that the identified project alternatives are infeasible because they do not meet electrical system needs.¹ The final environmental impact report (FEIR) recognized the CAISO’s concerns, but deferred consideration of the CAISO-identified reliability issues to the Commission.²

The Commission held a prehearing conference on November 4, 2016, at which the CAISO, SCE, and the Office of Ratepayer Advocates participated. Based on the discussion at the prehearing conference, the November 14, 2016 Scoping Memo and Ruling of Assigned Commissioner (Scoping Memo) established a procedural schedule for testimony and hearings.

¹ Exhibit EIR-01, p. 283-292.

² Exhibit EIR-01, p. 291.

Pursuant to the Scoping Memo’s procedural schedule, parties had the opportunity to provide direct testimony on the feasibility of project alternatives on November 18, 2016 and rebuttal testimony on November 20, 2016. Consistent with the Scoping Memo, the FEIR’s direction, and the Rules of Practice and Procedure, the CAISO presented its detailed power flow analysis regarding the infeasibility of project alternatives in prepared direct testimony.³

BAMx did not file comments on the DEIR, did not participate in the pre-hearing conference, and did not file direct or rebuttal testimony. BAMx’s participation in this proceeding consisted of cross-examining the CAISO’s witness and presenting two cross-examination exhibits at the hearing that were admitted into the record. BAMx’s opening brief makes factual statements that are not based on evidence in the record and, as a result, should be stricken.

B. Rules of Practice and Procedure

Rule 13.11 of the Commission’s Rules of Practice and Procedure provides that “[f]actual statements must be supported by identified evidence of record.” It is consistent with past practice to strike portions of briefs that are not supported by evidence in the record.⁴ At hearing, Administrative Law Judge Kelly confirmed that discovery was closed and received evidence into the record.⁵

C. BAMx’s Opening Brief is not Based on Record Evidence.

A significant portion of BAMx’s Opening Brief either lacks an evidentiary basis or cites sources that are not part of the record in this proceeding. In Table 1 below the CAISO briefly summarizes those statements that are unsupported by the record:

Table 1

BAMx Statement	Record Citation	Basis to Strike
“When the ELCC value of wind and solar resources are correctly modeled for the outputs of the renewables, the 2000	None.	BAMx provides no evidentiary support for its assertion that “correctly modeled” resources “will apparently not overload

³ Exhibit CAISO-01.

⁴ *Order Instituting Rulemaking to Integrate & Refine Procurement Policies & Consider Long-Term Procurement Plans*, D. 14-03-004, p. 11; *Application of the City of Davis to Construct One New at-Grade Pedestrian & Bicycle Crossing at the Main Train Station Platform Access in the Vicinity of Mile Post No. 76.0, & an Emergency-Access Only Private Crossing in the Vicinity of Mile Post 76.3 of the Union Pac. R.R. Co. in the City of Davis, Cty. of Yolo, State of California.*, D.13-02-003 p. 2, fn. 4.

⁵ Tr. at 36-37.

BAMx Statement	Record Citation	Basis to Strike
<p>MW of solar and wind generation north and east of the LA Basin LCR area that CAISO assumes will impact the region by 2025, will apparently not overload the Mesa Substation under any of the alternative scenarios.” (Opening Brief, p. 5)</p>		<p>the Mesa Substation.” BAMx presented no actual evidence purporting to show such results. If it had, the CAISO would have tested the assumptions and analysis underlying the assertion. Allowing this assertion to remain with no underlying basis in the record and with no opportunity to verify its authenticity or reliability would be highly prejudicial.</p>
<p>“the use of power flow modeling with Commission mandated ELCC should result in no overloading conditions for the environmentally superior alternative.” (Opening Brief, p. 7)</p>	<p>None.</p>	<p>BAMx provides no evidentiary support for this assertion. Indeed, BAMx provided no evidentiary support for any specific ELCC values, much less a power flow modeling that uses such undefined ELCC values. Again, BAMx had the opportunity to put forth and defend specific ELCC values and resulting power flow analysis. BAMx chose not to do so. The Commission should not allow BAMX to rely on these non-record values introduced for the first time at the briefing stage. That would be highly prejudicial.</p>
<p>“As the CAISO NQC modeling is based upon expected production at the time of system peak loads, the NQC value of solar generation will incrementally decline...Although the pattern is yet to be defined, it is known to result in decreased NQC of solar and wind resources as incremental levels increase. ... As the growth in BTM generation causes the peak load hour to shift, the CAISO methodology would call for modeling generation at the time of this new system peak load.” (Opening Brief, p. 11)</p>	<p>None.</p>	<p>BAMx provides no evidentiary support for these assertions. BAMX’s final sentence, regarding how the CAISO will model resources as behind-the-meter resources grow, is particularly egregious because it is baseless speculation. BAMx had to ask the CAISO how it would model resources in this scenario, but it failed to do so.</p>
<p>“Based on the CPUC’s Energy Division staff analysis, ELCC have already been incorporated in the RPS Calculator. Large-scale (utility-scale) solar PV resource would have its QC value reduced from the existing approximately</p>	<p>RPS Calculator website.</p>	<p>BAMx cites to the Commission’s RPS Calculator website to support its statements regarding what qualifying capacity (QC) values should be used for resources modeled in this proceeding. The RPS Calculator website is not in the</p>

BAMx Statement	Record Citation	Basis to Strike
74% to about 20% of its nameplate capacity in 2024. This means that a solar PV resource will have its QC counted as less than 1/3rd of its current QC towards system RA in the future.” (Opening Brief, p. 11)		record of this proceeding, nor is it subject to official notice under Rule 13.9. ⁶ Because BAMx did not introduce the RPS Calculator during the course of this proceeding, the CAISO was unable to test the validity of those values in the context of the Mesa Loop-In Project. Introducing the RPS Calculator and associated non-record QC values at this point in the proceeding is prejudicial to the CAISO.
“On July 8, 2015, staff issued a proposal describing the inputs and assumptions for use in probabilistic reliability modeling titled Probabilistic Reliability Modeling Inputs and Assumptions. Staff also issued a paper which provided the results of the modeling in the form of 2016 ELCC averages for solar and wind generators in the CAISO. The average 2016 ELCC value for solar resources was approximately 63% and 12.6% for wind resources. On January 15, 2016, an Administrative Law Judge Ruling circulated an Energy Division Staff proposal for the 2016 RA Decision. Staff proposed that the average 2017 ELCC value for solar resources be 57.8% and 12.6% for wind. These RA ELCC values are not specific to generator location or specific wind and solar technologies.” (Opening Brief, p. 12)	None.	BAMx provides no evidentiary support for its assertions, although it references two separate “staff issued” ELCC proposals. Staff issued proposals are not evidence unless they are admitted into the record, which BAMx failed to do. If BAMx had introduced them as exhibits, the CAISO would have had the opportunity to explain its understanding of the staff proposals and test the authenticity and reliability of the results in those proposals in the context of this project. Allowing BAMx to rely on mere non-record proposals – that the Commission has not even adopted – as proof of ELCC values would be highly prejudicial.

The statements referenced above are based on evidence that is either non-existent or outside the record of this proceeding. These statements clearly do not constitute “substantial

⁶ Rule 13.9 provides that the Commission may take official notice of facts consistent with California Evidence Code Section 450 et seq. California Evidence Code Section 450 provides that a court may take judicial notice of “The decisional, constitutional, and public statutory law of this state and of the United States and the provisions of any charter described in Section 3, 4, or 5 of Article XI of the California Constitution.” The RPS Calculator website is not a decision of the commission and does not constitute law. As a result, it cannot be officially noticed under Rule 13.9.

evidence” on which the Commission can adopt findings of fact,⁷ and they violate the Commission’s rule that factual statements must be supported by record evidence. The CAISO therefore respectfully requests that the Commission strike the portions of BAMx’s Opening Brief identified in Table 1 based on lack of record evidence.

II. Request to Shorten Time

The CAISO concurrently moves that the Commission adopt a shortened period for a response to the motion to strike. This proceeding is on an accelerated schedule to ensure that the necessary facilities can be energized in time to ensure the December 2020 retirement of once-through-cooled generation based on the State Water Resource Control Board’s current regulations. At the prehearing conference, Administrative Law Judge Kelly indicated a target date for a Proposed Decision by January 20, 2017.⁸ The Motion to Strike should in no way delay the target date of the Proposed Decision because the CAISO’s reply brief responds to all of BAMX’s substantive arguments regardless of their evidentiary support. To preserve the current schedule, the CAISO believes that the time for response to this Motion to Strike should be shortened from 15 days (January 12, 2017) to 9 days (January 6, 2017). This modification should allow a fair time for response and sufficient time to incorporate a ruling on the Motion to Strike in the Proposed Decision.

Respectfully submitted,
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⁷ Public Utilities Code Section 1757(a)(4); In much the same way that the Commission cannot rely on disputed hearsay evidence for findings of fact, the Commission cannot rely on hearsay statements made in a brief to support findings of fact. *See Util. Reform Network v. Pub. Utilities Comm’n*, 223 Cal. App. 4th 945, 964, 167 Cal. Rptr. 3d 747, 764 (2014).

⁸ Tr. at 12:20-21.