



**California Energy Commission
July 26, 2023, Business Meeting
Backup Materials for Agenda Item No 05:
Demand Side Grid Support (DSGS) Program – 22-RENEW-01**

The following backup materials for the above-referenced agenda item are available as described below:

1. Proposed Resolution, attached below.
2. Revised Draft Commission Guidelines, available at <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=22-RENEW-01>
3. CEQA documents, attached below.

For the complete record, please visit: [California Energy Commission: Docket Log: 22-RENEW-01](#).

To stay informed about this project and receive documents as they are filed, please subscribe to the proceeding Demand Side Grid Support (DSGS) Topic, which can be accessed here: <https://www.energy.ca.gov/subscriptions>. The Demand Side Grid Support (DSGS) Topic sends out email notifications and direct links when documents are filed in the proceeding docket.

STATE OF CALIFORNIA
STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

**[PROPOSED] RESOLUTION ADOPTING THE DEMAND SIDE GRID SUPPORT
PROGRAM GUIDELINES, SECOND EDITION (22-RENEW-01)**

WHEREAS, Assembly Bill (AB) 205 (Ting, Statutes of 2022, Chapter 61), added, among other statutes, Public Resources Code section 25792, which directs the California Energy Commission (CEC) to implement and administer the Demand Side Grid Support (DSGS) program to incentivize dispatchable customer load reduction and backup generation operation as on-call emergency supply and load reduction for the state's electrical grid during extreme events using moneys appropriated therefor; and

WHEREAS, AB 205 appropriated an overall program budget of \$200 million for the DSGS program to provide incentives and to be used for associated mitigation costs; and

WHEREAS, Public Resources Code section 25792 and section 18 of AB 205 provide that the CEC shall develop and adopt regulations, guidelines, or other standards for the program in consultation with California balancing authorities and the California Air Resource Board (CARB) and that the Administrative Procedure Act (commencing with Government Code section 11340) does not apply to regulations, guidelines, or other standards for the program adopted at a CEC business meeting; and

WHEREAS, the CEC has consulted with, the Public Utilities Commission, California balancing authorities, and CARB in developing these guidelines; and

WHEREAS, Public Resources Code section 25792 directs the CEC to "allocate moneys to develop a new statewide program that provides incentives to reduce customer net load during extreme events with upfront capacity commitments and for per-unit reductions in net load"; and

WHEREAS, section 18 of AB 205 provides that the CEC may "[u]se any type of third-party block grant or contract with incentive program implementers for the purposes of implementing the program"; and

WHEREAS, section 18 of AB 205 provides that "[c]ontracts, grants, or loans entered into with these funds shall not require the review, consent, or approval of the Department of General Services or any other state department or agency and do not need to comply with requirements under the State Contracting Manual, the Public Contract Code, or the contracting requirements of Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code;" and

WHEREAS, section 18 of AB 205 provides that “[t]hese funds shall be available for encumbrance or expenditure by the [CEC] until June 30, 2026, and shall be available for liquidation until June 30, 2030;” and

WHEREAS, the CEC, at its August 10, 2022, business meeting adopted the DSGS Program Guidelines, First Edition; and

WHEREAS, AB 209 (Ting, Statutes of 2022, Chapter 251) amended Public Resources Code section 25792 to expand DSGS program eligibility to include “all energy customers in the state, except those enrolled in demand response or emergency load reduction programs offered by entities under the jurisdiction of the Public Utilities Commission;” and

WHEREAS, Public Resources Code section 25792, as amended by AB 209, provides that the CEC, in consultation with the Public Utilities Commission, may adopt additional participation requirements or limitations; and

WHEREAS, CEC staff conducted a public workshop on January 27, 2023, to solicit stakeholder feedback on the initial implementation of the DSGS Program Guidelines, First Edition; and

WHEREAS, CEC staff propose a Second Edition of the DSGS Program Guidelines to expand program eligibility consistent with the requirements of AB 209 and address lessons learned from the initial program implementation; and

WHEREAS, the DSGS Program Guidelines, Second Edition, were informed by these requirements and stakeholder feedback and were published in draft form to the DSGS program docket (22-RENEW-01) and emailed to the email subscription list, Demand Side Grid Support, on April 20, 2023; and

WHEREAS, CEC staff conducted a public workshop on April 26, 2023, to solicit further stakeholder feedback on the DSGS Program Guidelines, Second Edition, and accepted written comments from April 20, 2023, through May 11, 2023; and

WHEREAS, having considered public comments on the initial draft of the DSGS Program Guidelines, Second Edition, on June 30, 2023, CEC staff published a revised draft of the DSGS Program Guidelines, Second Edition, to the DSGS program docket (21-RENEW-01) and to the email subscription list Demand Side Grid Support; and

WHEREAS, CEC staff accepted written comments on the revised draft of the DSGS Program Guidelines, Second Edition, from June 30, 2023, through July 10, 2023; and

WHEREAS, having considered public comments on the revised draft of the DSGS Program Guidelines, Second Edition, on July 21, 2023, CEC staff published a second revised draft of the DSGS Program Guidelines, Second Edition, to the DSGS program docket (21-RENEW-01) and to the email subscription list Demand Side Grid Support; and

WHEREAS, the CEC’s staff has considered the application of the California Environmental Quality Act (CEQA) to the CEC’s adoption of the DSGS Program Guidelines, Second Edition, and concludes that these Guidelines are exempt from CEQA under California Code of Regulations, title 14, sections 15061(b)(3).

THEREFORE, BE IT RESOLVED, the CEC has considered the application of the California Environmental Quality Act (CEQA) to the proposed DSGS Program Guidelines, Second Edition, and finds that its adoption is exempt from CEQA requirements pursuant to the “common sense” exemption (CEQA Guidelines, § 15061, subd. (b)(3)) because there is no possibility that the proposed regulations may have a significant effect on the environment, and nothing in the record suggests otherwise; and

FURTHER BE IT RESOLVED, that, after considering all comments received, and based on the entire record of this proceeding, the CEC hereby adopts the DSGS Program Guidelines, Second Edition, as published on July 21, 2023, and incorporating any changes presented and adopted today along with any non-substantive changes such as correction of typographical errors. We take this action under the authority of sections 25213 and 25218(e) of the Public Resources Code and Section 18 of AB 205; and

FURTHER BE IT RESOLVED, that the CEC delegates the authority and directs CEC staff to take, on behalf of the CEC, all actions reasonably necessary to implement the DSGS program as specified in the DSGS Program Guidelines, Second Edition, including entering into contracts for the disbursement of money in accordance with the Guidelines and verifying compliance with program and contract requirements and, if necessary, making grammatical or other non-substantive changes to the DSGS Program Guidelines, Second Edition.

CERTIFICATION

The undersigned Secretariat to the CEC does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the CEC held on July 26, 2023.

AYE:
NAY:
ABSENT:
ABSTAIN:

Dated:

Kristine Banaag
Secretariat

Memorandum

To: Docket 22-RENEW-01

From: Ashley Emery, Branch Manager
Reliability Reserve Incentive Branch
California Energy Commission
715 P Street
Sacramento, California 95814

Date: July 20, 2023

Subject: CEQA Compliance for Revisions to Demand Side Grid Support Program Guidelines

I. Introduction.

This memo addresses the application of the California Environmental Quality Act (CEQA) (Pub. Resources Code, §21000 et seq.; see also CEQA Guidelines, Cal. Code Regs., tit. 14, §15000 et seq.) to the California Energy Commission’s (CEC) proposed adoption of revisions to program guidelines for the Demand Side Grid Support (DSGS) Program. For the reasons discussed herein, the proposed guideline revisions are exempt from CEQA under the common sense exemption (Cal. Code Regs., tit. 14, §15061(b)(3)).

II. The CEC’s Demand Side Grid Support Program Guidelines.

The Warren-Alquist Act establishes the California Energy Commission (CEC) as California’s primary energy policy and planning agency. Most, if not all, actions taken by the CEC are taken to protect the environment and natural resources, either in the near term with, for example, specific regulatory actions or the long term with, for example, long-term planning and investments in research. The Legislature over the years has made specific findings concluding that the CEC’s work in regulating the electricity sector is imperative for environmental protection. Notably, the Legislature has found the following: “it is the responsibility of state government to ensure that a reliable supply of electrical energy is maintained at a level consistent with the need for such energy for protection of public health and safety, for promotion of general welfare, and for environmental quality protection” (Pub. Resource Code, §25001).

Additionally, on June 30, 2022, Governor Newsom signed AB 205 (Ting, Stats. 2022, Ch.61) which requires the CEC to implement and administer the DSGS Program to incentivize dispatchable customer load reduction and back-up generation as on-call emergency supply and load reduction for the state’s electrical grid during extreme events. (Public Resources Code Section 25792 et seq.) Thereunder, the CEC is required to adopt guidelines to implement and administer the program. The CEC developed the Demand Side Grid Support Guidelines, First Edition, (First Edition Guidelines) to carry out this requirement.

In AB 205, the Legislature finds that “California must ensure electricity reliability during this period of heightened risk, which includes extraordinary near-term measures and substantive changes to mid-term energy policy, while also ensuring the multifaceted California electrical grid is best positioned to sustainably and equitably achieve California’s clean energy future, climate targets, and air quality requirements” and provides a fund for the CEC to administer the DSGS program. As discussed below, the main provisions of the program are established by statute.

The CEC, at its August 10, 2022, business meeting adopted the First Edition Guidelines. The CEC considered the application of CEQA and made findings when it approved the First Edition Guidelines. Specifically, the main provisions of the program are established by statute. The First Edition Guidelines adopted procedures for carrying out these provisions, including enrolling participants, as defined in statute, and for coordinating communication among grid participants to deploy legislatively designated resources upon the occurrence of a defined triggering event. The legislation also includes the general types of resources that are eligible to participate and the order in which these resources should be dispatched. No discretion is conferred upon the CEC to define the main program components. Instead, the CEC is directed to adopt guidelines to effectuate voluntary participation of energy customers into the program, and to establish procedures for incentive payments. Under AB 205, the Guidelines need not comply with the Administrative Procedure Act regarding the adoption of regulations.

On September 6, 2022, Governor Newsom signed AB 209 (Ting, Stats. 2022, Ch.251) expanding DSGS Program eligibility to more entities than were contemplated in the first edition of the DSGS Guidelines.

III. The Proposed Action

Following public workshops held on January 20, 2023, and April 26, 2023, to solicit feedback on lessons learned during early program implementation, as well as upon evaluation of the additional eligible participants under AB 209, CEC staff now propose a Second Edition of the DSGS Program Guidelines (Second Edition Guidelines) for adoption at the July 26, 2023, business meeting. CEC staff seek to adjust program enrollment and other requirements in response to the expanded program eligibility, consistent with AB 209, and streamline and simplify participation to address lessons learned from summer 2022 program implementation.

The Second Edition Guidelines do not add any substantive requirements above those adopted by the legislature and will not result in any impact to the environment beyond those already considered.

IV. Common Sense Exemption

The development and adoption of these Second Edition Guidelines are exempt from CEQA under the common sense exemption. CEQA only applies to discretionary projects that have the potential for causing a significant effect on the environment. (Cal. Code Regs., tit. 14, §15002(i) and §15061(b)(3).) A significant effect on the environment is defined as a substantial, or a potentially substantial, adverse change in the environment, and does not include an economic change by itself. (Pub. Resources Code, §21068; Cal. Code Regs., tit. 14, §15382.)

The goal of the proposed Second Edition Guidelines is to implement, through efficient procedures and auditing requirements, the programmatic use of existing resources, including reduction in use as feasible, directed by the Legislature. These Second Edition Guidelines do not add to the use of energy generating resources established by AB 205 and AB 209, and therefore have no impact on the environment that is additional to the legislative impact or otherwise discretionary and, thus, subject to CEQA. No significant adverse impacts to the environment have been identified as resulting from this action. For these reasons, adoption of the amendments to the DSGS Program guidelines would not be subject to CEQA under the common sense exemption of section 15061(b)(3).

V. Conclusion.

As shown above, the proposed adoption of the Demand Side Grid Support Guidelines, Second Edition, is a regulatory action that would implement the payment for identified demand reduction and emergency response activities as directed in AB 205 and AB 209. As such, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment and, therefore, this project is exempt pursuant to the common sense exemption under section 15061(b)(3) of the CEQA Guidelines.