



**California Energy Commission
October 18, 2023, Business Meeting
Backup Materials for Agenda Item No 11:
Distributed Electricity Backup Assets (DEBA) 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. Proposed 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:

<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=22-RENEW-01>.

To stay informed about this project and receive documents as they are filed, please subscribe to the proceeding Distributed Electricity Backup Assets Topic, which can be accessed here: <https://www.energy.ca.gov/subscriptions>. The Distributed Electricity Backup Assets 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 DISTRIBUTED ELECTRICITY
BACKUP ASSETS PROGRAM GUIDELINES, FIRST 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 Distributed Electricity Backup Assets (DEBA) program to incentivize the construction of cleaner and more efficient distributed energy assets that would serve as on-call emergency supply or load reduction for the state's electrical grid during extreme events using moneys appropriated therefor; and

WHEREAS, AB 180 (Ting, Statutes of 2022, Chapter 44) appropriated an overall program budget of \$545 million for the DEBA program to support distributed electricity backup assets and utility scale assets including incentives for clean backup generation; and

WHEREAS, Public Resources Code section 25791 and section 18 and section 19 of AB 180 provide that the CEC shall develop and adopt guidelines or other standards for the program in consultation with the California Air Resource Board (CARB) and that the Administrative Procedure Act (commencing with Government Code section 11340) does not apply to guidelines or other standards for the program adopted at a CEC business meeting; and

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

WHEREAS, Public Resources Code section 25791 directs the CEC to "allocate moneys for either of the following: (1) Efficiency upgrades, maintenance, and capacity additions to existing power generators, consistent with subdivision (e). (2) Deployment of new zero- or low-emission technologies, including, but not limited to, fuel cells or energy storage, at existing or new facilities"; and

WHEREAS, section 18 and section 19 of AB 180 provide 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 and section 19 of AB 180 provide that "[f]inancial incentives provided 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 and section 19 of AB 180 provide 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, CEC staff released a request for information on November 7, 2022, to solicit stakeholder feedback on the potential design of the DEBA program; and

WHEREAS, CEC staff conducted a public workshop on January 27, 2023, to solicit stakeholder feedback on the potential design of the DEBA program; and

WHEREAS, the DEBA Program Guidelines, First Edition, were informed by these requirements and stakeholder feedback and were published in draft form to the DEBA program docket (22-RENEW-01) and emailed to the email subscription list, Distributed Electricity Backup Assets, on August 11, 2023; and

WHEREAS, CEC staff conducted a public workshop on August 15, 2023, to solicit further stakeholder feedback on the draft DEBA Program Guidelines, First Edition, and accepted written comments from August 11, 2023, through August 31, 2023; and

WHEREAS, having considered public comments on the draft of the DEBA Program Guidelines, First Edition, on October 5, 2023, CEC staff published a revised draft of the DEBA Program Guidelines, First Edition, to the DEBA program docket (21-RENEW-01) and to the email subscription list Distributed Electricity Backup Assets; and

WHEREAS, the CEC’s staff has considered the application of the California Environmental Quality Act (CEQA) to the CEC’s adoption of the DEBA Program Guidelines, First 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 DEBA Program Guidelines, First 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 DEBA Program Guidelines, First Edition, as published on October 5, 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, 25218(e), and 25791 of the Public Resources Code and Section 18 and Section 19 of AB 180; 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 DEBA program as specified in the DEBA Program Guidelines, First 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 DEBA Program Guidelines, First 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 October 18, 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: October 5, 2023

Subject: CEQA Compliance for Distributed Electricity Backup Assets 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 program guidelines for the Distributed Electricity Backup Assets (DEBA) Program. For the reasons discussed herein, the proposed guidelines are exempt from CEQA under the common sense exemption (Cal. Code Regs., tit. 14, §15061(b)(3)).

II. The CEC's Distributed Electricity Backup Assets 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 DEBA Program to incentivize the construction of cleaner and more efficient distributed energy assets that will serve as on-call emergency supply or load reduction for the state's electrical grid during extreme events. (Public Resources Code Section 25791 et seq.) Thereunder, the CEC is required to adopt guidelines to implement and administer the program. The CEC has developed the Distributed Electricity Backup Assets Program Guidelines, 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 DEBA program. As discussed below, the main provisions of the program are established by statute.

The Guidelines adopt procedures for carrying out these provisions, including how funds will be made available for eligible projects, as defined in statute, and how on-call emergency performance requirements and reporting will be communicated. The legislation also includes a loading order for prioritizing eligible resources. No discretion is conferred upon the CEC to define the main program components. Instead, the CEC is directed to adopt guidelines to implement and administer the program to provide incentives for eligible resources that must serve as on-call emergency supply or load reduction for the state’s electrical grid during extreme events. Under AB 205, the Guidelines need not comply with the Administrative Procedure Act regarding the adoption of regulations.

III. The Proposed Action

The goal of this action is to implement procedures to provide funding so that legislatively identified resources are available for use when the need, as defined in the legislation, arises. The legislation directed the CEC to allocate funding in two categories: efficiency upgrades, maintenance, and capacity additions to existing power generators; and deployment of new zero- or low-emission technologies including, but not limited to, fuel cells or energy storage, at existing facilities. The Guidelines describe the scope of the legislation, how entities can apply for funding, how applications for funding will be evaluated, how funding will be disbursed, and how on-call emergency performance requirements will be communicated to the applicant. These Guidelines establish procedures amenable to audit and provide necessary information to enable the CEC to participate in reporting requirements set forth in AB 205.

The Guidelines implement the legislation and do not add any substantive requirements above those adopted by the legislature; the Guidelines do not alter the types of projects that will receive funding or the activities necessary to implement the projects identified in the legislation. Nor do the Guidelines supplant existing permit requirements on the operation of existing facilities or act as a permit for the construction of new facilities. All existing permit requirements apply to the operation of any facility that chooses to take part in the program. Additionally, if there is any impact to the environment by either demand reduction activities or supplemental energy generation activities, they are a result of the decisions by the legislature to incentivize these energy customers to take these actions.

IV. Common Sense Exemption

The development and adoption of these 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 Guidelines is to implement, through efficient procedures and auditing requirements, the incentivization of cleaner and more efficient distributed energy resources that shall serve as on-call emergency load reduction or energy supply, as directed by the Legislature. These Guidelines do not add to the construction or use of energy generating resources established by AB 205, 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 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 Distributed Electricity Backup Assets Program Guidelines, First Edition, is a regulatory action that would implement the payment for identified energy supply or load reduction resources as directed in AB 205. 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.