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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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Order Instituting Rulemaking to Develop a Successor to Existing Net Energy Metering Tariffs Pursuant to Public Utilities Code Section 2827.1, and to Address Other Issues Related to Net Energy Metering.

Rulemaking 14-07-002
(Filed July 10, 2014)

SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER

Summary

This ruling sets out the scope of the issues, adopts a procedural schedule, determines the categorization and need for hearing, and designates the presiding officer in the above-referenced rulemaking, pursuant to Rule 7.3 of the Commission's Rules of Practice and Procedure.¹ This ruling is appealable only as to categorization, pursuant to Rule 7.6.

1. Procedural Background

This rulemaking is one part of the Commission's implementation of Assembly Bill (AB) 327 (Perea), Stats. 2013, ch. 611. The proceeding addresses the legislative direction given in Pub. Util. Code § 2827.1 to develop a successor to the net energy metering (NEM) program authorized in Section 2827.²

¹ All subsequent citations to rules refer to the Rules of Practice and Procedure, which are codified at Chapter 1, Division 1 of Title 20 of the California Code of Regulations.

² All further references to sections are to the Public Utilities Code, unless otherwise specified. Section 2827.1 is reproduced in Attachment A.

The Order Instituting Rulemaking (OIR) for this proceeding was adopted by the Commission on July 10, 2014. Comments on the preliminary scoping memo in the OIR were filed and served on August 18, 2014, by 13 parties.³ Reply comments were filed and served by 11 parties on August 26, 2014.⁴

A prehearing conference (PHC) was held on October 30, 2014. Nine PHC statements were filed by a total of 17 parties.⁵

2. Scope of Issues

The issues for this proceeding are structured around the statutory directive to develop a successor tariff/standard contract to the NEM tariff by December 31, 2015. There are numerous issues related to that overarching requirement, as set out below. In addition, there are issues related to the current NEM tariffs that should be considered in the context of the successor tariff/standard contract that will be established in this proceeding, but that are not confined simply to administration of the tariff. Drawing on the preliminary scoping memo in the OIR, the comments of the parties on the OIR, the parties'

³ They are: California Energy Storage Alliance (CESA); California Farm Bureau Federation; Californians for Renewable Energy (CARE); Clean Coalition; Local Government Sustainable Energy Coalition; Community Alliance with Family Farmers; Interstate Renewable Energy Council, Inc. (IREC); Marin Clean Energy; Pacific Gas and Electric Company (PG&E); San Diego Gas & Electric Company (SDG&E); Southern California Edison Company (SCE); The Alliance for Solar Choice (TASC); and The Utility Reform Network (TURN).

⁴ They are: California Environmental Justice Alliance (CEJA); California Solar Energy Industries Association (CalSEIA); IREC; Office of Ratepayer Advocates (ORA); PG&E; SCE; SDG&E; Solar Energy Industries Association (SEIA); TASC; and Wal-Mart Stores, Inc. and Sam's West, Inc. (jointly).

⁵ CARE; CESA and Sierra Club (jointly); Inland Empire Utilities Agency; Padre Dam Municipal Water District, Valley Center Municipal Water District, Rancho California Water District, Terraverde Renewable Partners (jointly); IREC; PG&E; ORA; SCE; SDG&E; and The Vote Solar Initiative, CalSEIA, SEIA, TASC (jointly).

PHC statements, and the discussion at the PHC, I determine that the scope of issues for this proceeding is as follows.

1. Developing one or more tariffs/standard contracts that will be the successor to the NEM program, taking into account the areas the Commission is directed to consider, as set out in Section 2827.1(b)(1)-(5), including specific alternatives designed for growth among residential customers in disadvantaged communities.⁶
 - a. Developing, through an open process, a common methodology for parties to use in evaluating proposals for the successor tariff/standard contract(s). This methodology is generally referred to as the Public Tool.⁷
 - b. Ensuring that the application of the successor tariff/standard contract(s) to community choice aggregation and direct access customers is investigated and determined in this proceeding.
 - c. Ensuring that the application of the successor tariff/standard contract to projects greater than one megawatt (MW) in size is investigated and determined in this proceeding.
2. Determining whether various program elements related to the existing constellation of NEM programs that are variations within the NEM tariffs themselves (e.g., virtual net metering; NEM aggregation) should be continued, clarified, modified, or ended in the development of the successor tariff/standard contract(s).

⁶ The direction in Section 2827.1(b)(6) to establish a transition period for current NEM customers was implemented in Decision (D.) 14-03-041.

⁷ Energy Division staff is developing the Public Tool with the aid of consultants, and with the input and comments of parties. The schedule of this proceeding set out below includes work on the development of the Public Tool that was done prior to the date of this Scoping Memo and Ruling.

3. Determining whether various secondary customer benefits associated with the current NEM program (e.g., exemptions from interconnection fees, standby charges, and departing load charges; faster interconnection processing; and net surplus compensation⁸) should be continued, clarified, modified, or ended in the development of the successor tariff/standard contract(s).
4. Considering the development of measurement and evaluation plans, program evaluation budgets, and similar tools for the program under the successor tariff/standard contract(s), to align with the administration of other Commission programs on customer-sited distributed energy resources (DER).
5. Considering consumer protection issues associated with customer-sited renewable electrical generation facilities as structured under the successor tariff/standard contract(s), including whether any new provisions would apply to customers transitioning under the current NEM tariff.
6. Identifying and addressing any safety issues related to the program of customer-sited renewable electrical generation facilities under the successor tariff/standard contract(s).
Examples include but are not limited to:
 - a. Issues associated with allowing “projects greater than one megawatt that do not have significant impacts on the distribution grid,” in accordance with the terms of Section 2827.1(b)(5);
 - b. Compliance with the requirements of the Rule 21 interconnection process.
7. Considering the integration of energy storage devices and other distributed energy resources into one or more of the NEM successor tariff/standard contract(s).

⁸ The net surplus compensation process was created by AB 920 (Huffman), Stats. 2009, ch. 376. The Commission set the net surplus compensation rate in D.11-06-016.

3. Coordination with Other Proceedings

Several other Commission proceedings address issues that are relevant to this proceeding. These include Rulemaking (R.) 12-11-005 (the ongoing proceeding on the California Solar Initiative and customer-owned distributed generation (DG) in general); R.12-06-013 (residential rate redesign); R.11-09-011 (Rule 21 interconnection); R.14-08-013 (distribution resources plans); and R.14-10-003 (integrated demand-side management). Although no formal coordination of scheduling or issues with these other proceedings is required, parties are requested to note any relevant information about issues in other proceedings in their submissions in this proceeding.

Because the Commission has adopted a number of programs and provisions related to customer-sited DER and the NEM program over the course of several years, it is possible that any decisions issued in this proceeding may revise, modify, supersede, or replace one or more prior Commission decisions or resolutions, including but not limited to: D.00-12-037; D.02-03-057; D.03-04-030; D.11-06-016; D.11-07-031; D.14-03-041; Resolution (Res.) E-4610; and Res. E-4665.

4. Categorization, Designation of Presiding Officer, and Need for Hearings

In the OIR for this proceeding, the Commission preliminarily categorized this matter as ratesetting and preliminarily determined that hearing is not needed. The categorization of this proceeding is confirmed as ratesetting in accordance with Rule 7.1, and is appealable pursuant to Rule 7.6.

Rule 8.2 and Rule 8.3 (c) apply with respect to *ex parte* communications. In addition, PG&E is subject to the *ex parte* restrictions adopted in D.14-11-041.

After reviewing the written comments of the parties and considering the comments of parties at the PHC, I determine that hearings may be necessary.

The preliminary determination that there is no need for hearing is therefore changed to “hearing needed.”

Commissioner Michael Picker is the assigned Commissioner for this proceeding. Administrative Law Judge (ALJ) Anne E. Simon is the presiding officer for this proceeding.

5. Service List

The most current service list for this proceeding is maintained by the Commission's Process Office and posted on the Commission's web page, www.cpuc.ca.gov. Parties are responsible for ensuring that the correct information is contained on the service list, including limiting the persons listed in the “Parties” category to one per organization. Additional persons may be listed as “Information Only.” Parties are required to notify the Process Office and other parties of corrections or changes, in accordance with Rule 1.9(f).

Requests for party status must be made by motion, in accordance with Rule 1.4.

6. Documents

All documents in this proceeding must be filed and served in accordance with the Commission's Rules of Practice and Procedure.

Documents for Commissioner Picker should be e-mailed to his advisors, Scott Murtishaw (at scott.murtishaw@cpuc.ca.gov) and Nick Chaset (at nicolas.chaset@cpuc.ca.gov). Paper copies are not requested.

Paper copies of documents, in addition to electronic service, must be promptly provided to ALJ Simon. In order to conserve paper, the following practices should be observed for paper copies provided to ALJ Simon:

- Paper copies should be printed on two sides of the page.
- Documents do not need to show proof of filing.

- A copy of the certificate of service should be included, but the actual service list should not be.

7. Final Oral Argument

A party in a ratesetting proceeding in which an evidentiary hearing was held has the right to make a Final Oral Argument (FOA) before the Commission, if the FOA is requested within the time and manner specified in the Scoping Memo or later ruling. (Rule 13.13.) If a hearing has been held, parties should use the following procedure for requesting FOA, unless a later ruling provides different instructions. If a hearing has not been held, these procedures do not apply.

Any party seeking to present FOA may file and serve a motion at any time that is reasonable, but no later than the last date that reply briefs are due. The motion must state the request, the subject(s) to be addressed, the amount of time requested, recommended procedure and order of presentations, and anything else relevant to the motion. The motion must contain all the information necessary for the Commission to make an informed ruling on the motion, providing for an efficient, fair, equitable, and reasonable FOA. If more than one party plans to move for FOA, parties must use their best efforts to present a joint motion, including a joint recommendation on procedure, order of presentations, and anything else relevant to the motion. A response to the motion may be filed within five days of the date of the motion.

If a final determination is made that no hearing is required, Rule 13.13 will cease to apply, along with a party's right to make an FOA.

8. Intervenor Compensation

Any party that expects to request intervenor compensation for its participation in this rulemaking must file its notice of intent to claim intervenor compensation in accordance with Rule 17.1 and Sections 1801-1812.

9. Schedule

The schedule below reflects a basic consensus among the parties on the steps necessary to develop the record and conclude this proceeding. Workshops led by Energy Division staff may be held as part of the consideration of some or all of these issues.

I anticipate that, in accordance with Section 1701.5, this proceeding will be concluded within 18 months of the date of this ruling. The following schedule is adopted. It may be adjusted by the presiding officer as necessary to promote the fair and efficient adjudication of this proceeding, so long as the proceeding is concluded within the timeframe provided by Section 1701.5.

For ease of reference, dates of events that have already occurred are shown in italics.

Event	Date
Workshop led by Energy Div. staff [prior to opening the current proceeding]	<i>April 23, 2014</i>
Informal comments from parties provided to staff after workshop on Public Tool	<i>May 2014</i>
Energy Division staff workshop to discuss design of Public Tool	<i>August 11, 2014</i>
ALJ ruling seeking post-workshop comments on Public Tool design	<i>September 5, 2014</i>
Post-workshop comments and reply comments on Public Tool design	<i>October 2014</i>
Webinar on Public Tool facilitated by consultants to Energy Division staff	<i>December 2, 2014</i>

Event	Date
ALJ ruling adopting specifications for further development of Public Tool	<i>December 12, 2014</i>
Energy Division staff workshop to discuss final proposed approach, functionality, and user interface of Public Tool	<i>December 16, 2014</i>
ALJ Ruling seeking comments on policy issues	First quarter 2015
Energy Division staff workshop on alternatives for disadvantaged communities, if needed	First quarter 2015
Draft version of Public Tool released	First quarter 2015
Energy Division staff workshop on use of Public Tool	First quarter 2015
Ruling seeking party comment on draft Public Tool	First quarter 2015
Final version of Public Tool released	Second quarter 2015
ALJ ruling seeking party proposals for successor tariff/contract(s) and comments and reply comments on proposals	Second quarter 2015
Evidentiary hearings, if needed	Third quarter 2015
Final proposals for successor tariff/contract(s) and briefs, if needed	To be set by ALJ
Submission, if hearings held	On filing of reply briefs
Proposed decision on successor tariff/contract(s)	Fourth quarter 2015
Consideration of additional issues identified in scoping memo but not critical to development of successor tariff/contract(s)	To be set by ALJ

IT IS RULED that:

1. The scope of issues and schedule set forth above are hereby adopted for this proceeding, with the understanding that additional scheduling may be necessary to address any issues in this proceeding that are not currently scheduled.

ATTACHMENT A
Public Utilities Code Section 2827.1

(a) For purposes of this section, “eligible customer-generator,” “large electrical corporation,” and “renewable electrical generation facility” have the same meanings as defined in Section 2827.

(b) Notwithstanding any other law, the commission shall develop a standard contract or tariff, which may include net energy metering, for eligible customer-generators with a renewable electrical generation facility that is a customer of a large electrical corporation no later than December 31, 2015. The commission may develop the standard contract or tariff prior to December 31, 2015, and may require a large electrical corporation that has reached the net energy metering program limit of subparagraph (B) of paragraph (4) of subdivision (c) of Section 2827 to offer the standard contract or tariff to eligible customer-generators. A large electrical corporation shall offer the standard contract or tariff to an eligible customer-generator beginning July 1, 2017, or prior to that date if ordered to do so by the commission because it has reached the net energy metering program limit of subparagraph (B) of paragraph (4) of subdivision (c) of Section 2827. The commission may revise the standard contract or tariff as appropriate to achieve the objectives of this section. In developing the standard contract or tariff, the commission shall do all of the following:

(1) Ensure that the standard contract or tariff made available to eligible customer-generators ensures that customer-sited renewable distributed generation continues to grow sustainably and include specific alternatives designed for growth among residential customers in disadvantaged communities.

(2) Establish terms of service and billing rules for eligible customer-generators.

(3) Ensure that the standard contract or tariff made available to eligible customer-generators is based on the costs and benefits of the renewable electrical generation facility.

(4) Ensure that the total benefits of the standard contract or tariff to all customers and the electrical system are approximately equal to the total costs.

(5) Allow projects greater than one megawatt that do not have significant impact on the distribution grid to be built to the size of the onsite load if the projects with a capacity of more than one megawatt are subject to reasonable interconnection charges established pursuant to the commission’s Electric Rule 21 and applicable state and federal requirements.

(6) Establish a transition period during which eligible customer-generators taking service under a net energy metering tariff or contract prior to July 1, 2017, or until the electrical corporation reaches its net energy metering program limit pursuant to subparagraph (B) of paragraph (4) of subdivision (c) of Section 2827, whichever is earlier, shall be eligible to continue service under the previously applicable net energy

metering tariff for a length of time to be determined by the commission by March 31, 2014. Any rules adopted by the commission shall consider a reasonable expected payback period based on the year the customer initially took service under the tariff or contract authorized by Section 2827.

(7) The commission shall determine which rates and tariffs are applicable to customer generators only during a rulemaking proceeding. Any fixed charges for residential customer generators that differ from the fixed charges allowed pursuant to subdivision (f) of Section 739.9 shall be authorized only in a rulemaking proceeding involving every large electrical corporation. The commission shall ensure customer generators are provided electric service at rates that are just and reasonable.

(c) Beginning July 1, 2017, or when ordered to do so by the commission because the large electrical corporation has reached its capacity limitation of subparagraph (B) of paragraph (4) of subdivision (c) of Section 2827, all new eligible customer-generators shall be subject to the standard contract or tariff developed by the commission and any rules, terms, and rates developed pursuant to subdivision (b). There shall be no limitation on the amount of generating capacity or number of new eligible customer-generators entitled to receive service pursuant to the standard contract or tariff after July 1, 2017. An eligible customer-generator that has received service under a net energy metering standard contract or tariff pursuant to Section 2827 that is no longer eligible to receive service shall be eligible to receive service pursuant to the standard contract or tariff developed by the commission pursuant to this section.

(END OF ATTACHMENT A)