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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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)

SECOND AMENDED SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER

Summary

This second amended scoping ruling identifies the issues for consideration in the second phase of this proceeding, both those identified in Decision (D.) 16-01-044 and those carried over from the December 11, 2015 Amended Scoping Memo and Ruling of Assigned Commissioner (Amended Scoping Memo)¹. This ruling also adopts a procedural schedule; designates the presiding officer; affirms the categorization and need for hearing in this rulemaking; and sets the time of 18 months from the date of this ruling for the conclusion of this proceeding, pursuant to Rule 7.3 of the Commission's Rules of Practice and Procedure.²

¹ The Amended Scoping Memo may be found at <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M156/K258/156258607.PDF>.

² 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.

1. Procedural Background

This proceeding addresses the legislative direction given in Pub. Util. Code § 2827.1³ to develop a successor to the net energy metering (NEM) program authorized in Section 2827. The Order Instituting Rulemaking for this proceeding was adopted by the Commission on July 10, 2014. A prehearing conference was held on October 30, 2014. The Scoping Memo and Ruling of Assigned Commissioner was issued on January 23, 2015; the Amended Scoping Memo was issued on December 11, 2015.

2. Scope of Issues

The issues for this proceeding that were identified in the Amended Scoping Memo require some adjustment, in light of D.16-01-044. The issues identified in the Amended Scoping Memo should now be revised, to remove those resolved by D.16-01-044 and add the issues identified by that decision, while including previously identified issues that remain to be resolved in this phase of the proceeding.

In D.16-01-044, the Commission decided that,

in order to allow for full and fair consideration of all issues related to the development of alternatives designed for the growth of renewable [distributed generation] DG among residential customers in disadvantaged communities, the consideration of alternatives for disadvantaged communities should be undertaken in a second phase of this proceeding.

(Conclusion of Law 26.)

³ This section was added by Assembly Bill (AB) 327 (Perea), Stats. 2013, ch. 611. All further references to sections are to the Public Utilities Code, unless otherwise specified. Section 2827.1 is reproduced in Attachment A.

Therefore, identifying, designing, implementing, and administering programs that will meet the requirements of alternatives for disadvantaged communities is one task for the balance of this proceeding.⁴

In October 2015, AB 693 (Eggman), Stats. 2015, ch. 582 was signed by the Governor. AB 693 establishes the Multifamily Affordable Housing Solar Roofs program, which will provide monetary incentives for solar energy systems that are installed on qualified multifamily affordable housing properties, as defined by the statute. The statute also provides that the Commission may, but is not required to, count the new program toward the satisfaction of the Commission's obligation to provide alternatives designed for growth of renewable DG among residential customers in disadvantaged communities. (Section 2870(b)(1).)

In view of the relationship between the new AB 693 program and the Commission's consideration of alternatives for disadvantaged communities, as well as the potential availability to AB 693 projects of the updated virtual net metering tariff mandated by D.16-01-044, it is reasonable for the development and administration of the AB 693 program to be undertaken in the second phase of this proceeding.

D.16-01-044 also identified as part of the second phase of the proceeding the development of:

any additional measures that may be required for consumer protection, including but not limited to the development of budgets to implement consumer protection, measurement and

⁴ For purposes of intervenor compensation, parties' contributions on alternatives for disadvantaged communities made in the first phase of the proceeding will be considered together with their contributions in the second phase, after the Commission renders a decision on such alternatives.

evaluation, marketing and outreach, and other necessary elements. . . (at 103.)

In D.16-01-044, the Commission further determined that Energy Division staff should develop a method to evaluate whether customer-sited renewable DG is continuing to grow sustainably under the successor tariff. (At 53; Conclusion of Law 29.) D.16-01-044 also authorized Energy Division staff to undertake research and analysis to support the Commission's review of the successor tariff in 2019. While much of the work on these latter two charges from the Commission will be accomplished by Energy Division staff outside the framework of this formal proceeding, this second phase should provide a venue for any work by staff and/or parties on these topics that is appropriately undertaken in a proceeding (e.g., rulings requesting formal comment from parties on particular issues).

Two tasks previously identified in the Amended Scoping Memo remain to be completed. These broad tasks may include a number of separate tasks or processes, which will be specified as this second phase develops:

- a. Identifying and addressing any safety issues related to the program of customer-sited DG under the successor tariff and any alternatives for disadvantaged communities that may be adopted.
- b. Identifying and addressing any practical issues related to the change from the current NEM tariff to the successor tariff, including but not limited to the timing of the closure of participation in the existing NEM tariff and the beginning of participation in the successor tariff.⁵

⁵ This issue is separate from and not intended to overlap with the determinations in the NEM transition decision, D. 14-03-041.

Finally, the balance of this proceeding will include oversight and administration of the NEM successor tariff and any alternatives for disadvantaged communities that may be adopted, as well as the AB 693 program and any remaining administration and oversight issues related to the existing NEM tariff (*i.e.*, the tariff authorized under Section 2827).⁶

In summary, the second phase of this proceeding will consider:

- Alternatives for disadvantaged communities;
- Implementation of AB 693;
- Consumer protection under the successor tariff and any alternatives for disadvantaged communities that may be adopted;
- Measurement and evaluation, marketing and outreach, and related program elements, including budgets, for customer-sited renewable DG;
- Any safety issues that may be identified;
- Issues arising from the transition from the existing, Section 2827 tariff to the successor tariff under Section 2827.1;
- Oversight and administration of the successor tariff; alternatives for disadvantaged communities; the AB 693 program; and any remaining issues in the Section 2827 tariff;
- As needed and appropriate in this proceeding, development of metrics for reviewing whether customer-sited renewable DG is continuing to grow sustainably; and

⁶ Because the Commission has adopted a number of programs and provisions related to customer-sited DG and the NEM program over the course of several years, it is possible that any decisions issued going forward 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; D.16-01-044; Resolution (Res.) E-4610; and Res. E-4665.

- As needed and appropriate in this proceeding, development of support for the Commission's planned review of the successor tariff in 2019.

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 customer-owned DG in general; R.12-06-013 (residential rate redesign); R.11-09-011 (Rule 21 interconnection); R.14-08-013 (distribution resources plans); R.14-10-003 (integration of distributed energy resources); R.15-12-012 (groundwork for time of use rates); and R.16-02-007 (integrated resource plans). 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.

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

The categorization of this proceeding as ratesetting was confirmed in the Scoping Memo in accordance with Rule 7.1, and was not appealed. The determination made in the Scoping Memo that hearings are needed is maintained in this Second Amended Scoping Memo.

Rules 8.2 (c) and Rule 8.3 apply with respect to *ex parte* communications. 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 and Documents

a. 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.

b. Documents

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

Commissioner Picker should receive documents by e-mail only.

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.

6. 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.

7. 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.

8. Schedule

The schedule below reflects the current status and projected 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. If there are any workshops in this proceeding, notices of such workshops will be posted on the Commission's Daily

Calendar to inform the public that a decision-maker or an advisor may be present at those meetings or workshops. Parties shall check the Daily Calendar regularly for such notices.

In accordance with Section 1701.5(b), this proceeding should 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 18-month timeframe.

For ease of reference, only dates related to the second phase of this proceeding are shown. Dates of events that have already occurred are shown in italics.

EVENT	DATE
Amended Scoping Memo	<i>December 11, 2015</i>
ALJ Ruling Accepting Staff Proposal to Create a Reservation System under the Current Net Energy Metering Tariff	<i>December 23, 2015</i>
Party comments on Staff Proposal	<i>January 19, 2016</i>
Party reply comments on Staff Proposal	<i>January 25, 2016</i>
Commission decision on successor tariff (D.16-01-044)	<i>January 28, 2016</i>
PD on reservation system under Section 2827 NEM tariff	First quarter 2016
Assigned Commissioner Ruling on accounting treatment of AB 693 funds	First quarter 2016
ALJ Ruling seeking revised proposals on alternatives for disadvantaged communities	Second quarter 2016
ALJ Ruling seeking party proposals on implementation of AB 693	Second quarter 2016

EVENT	DATE
Staff proposal on consumer protection, measurement and evaluation, marketing and outreach, and safety issues	Second quarter 2016
ALJ Ruling seeking party proposals and comment on consumer protection and safety issues	Second quarter 2016
PD on alternatives for disadvantaged communities	Third quarter 2016
PD on implementation framework for AB 693	Fourth quarter 2016
PD on consumer protection, measurement and evaluation, marketing and outreach, and safety issues	Fourth quarter 2016
Consideration of additional issues, as needed	To be set by ALJ

IT IS RULED that:

1. The amended 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.
2. The duration of this proceeding is 18 months from the date of this second amended scoping memo and ruling.
3. Rulemaking 14-07-002 is categorized as ratesetting.
4. Rule 8.2 (c) and Rule 8.3 apply with respect to ex parte communications.
5. Hearing is determined to be needed.

6. Commissioner Michael Picker is the assigned Commissioner. Administrative Law Judge Anne E. Simon is the Presiding Officer for this proceeding.

Dated March 4, 2016 at San Francisco, California.

/s/ MICHAEL PICKER

Michael Picker
Commissioner

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)