

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298**FILED**09/07/18
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September 7, 2018

Agenda ID #16819
Ratesetting**TO PARTIES OF RECORD IN RULEMAKING 14-07-002:**

This is the proposed decision of Administrative Law Judge (ALJ) Valerie U. Kao and ALJ Mary McKenzie. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's October 11, 2018 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, *ex parte* communications are prohibited pursuant to Rule 8.3(c)(4)(B).

/s/ ANNE E. SIMON

Anne E. Simon

Chief Administrative Law Judge

AES:avs

Attachment

Decision PROPOSED DECISION OF ALJ KAO (Mailed 9/7/2018)

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

**PROPOSED DECISION CORRECTING
AND CLARIFYING DECISION 18-06-027**

Summary

This decision makes corrections and clarifications to Decision 18-06-027, the Commission's decision adopting alternatives to promote solar distributed generation in disadvantaged communities and requires utilities to file an advice letter to propose a marketing, education and outreach budget.

This proceeding remains open.

1. Background

Decision 18-06-027 (D.) 18-06-027 adopted three new programs to promote the installation of renewable generation among residential customers in disadvantaged communities (DACs), as directed by the California Legislature in Assembly Bill (AB) 327 (Perea), Stats. 2013, Ch. 611. AB 327 directed the Commission to develop a standard contract or tariff applicable to customer-generators with renewable electrical generation, as a successor to then-existing Net Energy Metering tariffs, and, as a part of this mandate,

required the Commission to develop specific alternatives designed to increase adoption of renewable generation in DACs:

- The DAC-Single-Family Solar Homes (DAC-SASH) program;
- The DAC-Green Tariff program (DAC-GT); and
- The Community Solar Green Tariff program (CSGT).

2. Clarifications and Corrections

2.1. Bill Discount

Conclusion of Law 13 of D.18-06-027 states:

It is reasonable to adopt Green Tariffs (DAC-Green Tariff and Community Solar Green Tariff) that provides a 20 percent discount from a participant's otherwise applicable rate.

At 74 of D.18-06-027, the decision states:

We clarify that the Community Solar Green Tariff discount is off of the otherwise applicable residential tariff. Because the Community Solar Green Tariff becomes the applicable tariff for such customers, any CARE/FERA discount would be applied to the Community Solar Green Tariff. Utilities should use the same methodology to calculate the 20% discount as they use to calculate the CARE/FERA discount.

We clarify our intent regarding application of the 20 percent bill discount for residential customers participating in DAC-GT and CSGT. The decision could be read to mean that a Green Tariff Shared Renewables (GTSR) tariff would be an otherwise applicable tariff for purposes of this program since a GTSR tariff is also associated with residential service through the utility. However, a GTSR tariff is a premium service. GTSR tariffs are also optional rates, not default rates. Therefore, GTSR tariffs should not be considered the otherwise applicable rate. Customers currently on a GTSR tariff would have the 20 percent DAC-GT or CSGT discount applied to their otherwise applicable rate, which is their default residential rate.

For low-income qualified customers, the otherwise applicable tariff also can be a CARE or FERA tariff. The language above from page 74 of D.18-06-027 could be read to indicate that the 20 percent CGST discount should be applied before the CARE or FERA discount. However, as Conclusion of Law 13 of D.18-06-027 indicates, the DAC-GT and CSGT programs provide “a 20 percent discount from a participant’s otherwise applicable rate.” The paragraph on page 74 also states: “We clarify that the Community Solar Green Tariff discount is off of the otherwise applicable residential tariff.” Therefore, we resolve any conflicting language to clarify that since a CARE or FERA tariff is an otherwise applicable rate, CARE or FERA customers participating in the DAC-GT/CSGT program would receive a 20 percent bill discount after their applicable CARE or FERA-discounted rate.

Thus, the above-cited paragraph on p. 74 is modified to state:

We clarify that the Community Solar Green Tariff discount is off of the otherwise applicable residential tariff. Because the Community Solar Green Tariff becomes the applicable tariff for such customers, any Community Solar Green Tariff discount would be applied to a CARE/FERA discount. Utilities should use the same methodology to calculate the 20% discount as they use to calculate the CARE/FERA discount.

2.2. Permission to Operate

D.18-06-027 at 80 states:

Before a Community Solar Green Tariff project can operate, it must receive what is known as Permission to Operate (PTO) from the utility consistent with the GTSR program. In order to ensure sufficient participation from low-income residents, we will require that 25% of project capacity must be subscribed by eligible low-income residents prior to PTO.

We clarify our intent regarding withholding of “Permission to Operate” until 25 percent of project capacity is subscribed by low-income customers. We recognize the term “Permission to Operate” is not well-defined with respect to the CSGT program but may be more generally understood as a stage in the utilities’ distribution system interconnection process. However, it is not our intent to delay or otherwise impede the interconnection process or any other steps in the project development process. The most straightforward and least disruptive manner to “pause” a project while the 25 percent low-income threshold is met and/or verified would be to withhold scheduling of energy delivery from the project. Therefore, we direct the IOUs to include in their implementation advice letters a mechanism to withhold the Initial Energy Delivery Date (or other equivalent milestone) until subscriber requirements have been met.

2.3. Manager of a Request for Proposals for Program Administrator

Ordering Paragraph 2 of D.18-06-027 states:

A single, statewide Program Administrator (PA) for the Disadvantaged Communities – Single-family Solar Homes program shall be chosen through a Request for Proposal (RFP) process, as outlined in Section 5.5.1. of this decision. Specifically, the Commission’s Energy Division will select the PA through an RFP process managed by Southern California Edison Company (SCE) on behalf of the Commission. The RFP process shall be led by staff from the Commission’s Energy Division, and Energy Division will make the final decision on the winning bidder. The RFP process will be concluded, and SCE will enter into a contract with the chosen PA by October 31, 2018. The Energy Division Director may modify the October 31, 2018, deadline by letter for good cause.

There is conflicting language in D.18-06-027 on this point. At page 36, the Decision states, consistent with Ordering Paragraph 2:

We direct SCE to support the selection of a statewide administrator through an RFP process selection and manage the RFP process on the Commission's behalf to assist in expediting the process. Commission staff will play a central role in developing the RFP and will make the final decision on the winning bidder. The RFP process will be concluded, and SCE will sign a contract with the chosen PA by October 31, 2018, unless a different date is determined through a letter from the Director of the Commission's Energy Division. Energy Division will serve notice of the release of the RFP and of the winning bidder on the service list for this proceeding. (Emphasis added.)

However, at 35, D.18-06-027 states, inconsistent with Ordering Paragraph 2:

Based on our determination that DAC-SASH should have a single state-wide PA, we find that selection of a PA should be made through a competitive bidding process. Specifically, the Commission's Energy Division will select the Program Administrator through an RFP process managed by PG&E on behalf of the Commission. (Emphasis added.)

Further, at 38, the Decision states:

Every three years beginning in 2021, Energy Division shall select an independent evaluator through an RFP process similar to that used to select the Program Administrator. The consultant hired through this process will evaluate the effectiveness and efficiency of both the PA and the DAC-SASH program overall. Specifically, the Commission's Energy Division will select the PA through an RFP process managed by SDG&E on behalf of the Commission. The RFP process shall be led by staff from the Commission's Energy Division, and Energy Division staff will make the final decision on the winning bidder. (Emphasis added.)

We clarify two points here. First, while there is conflicting language in the body of D.18-06-027 as well as a conflict between the language in the body and the language in Ordering Paragraph 2 of the decision regarding which utility

should manage the RFP process for the selection of a Program Administrator, we can trace the evolution of this language. In the Proposed Decision (issued February 20, 2018), the Alternate Proposed Decision of Commissioner Guzman Aceves (issued February 20, 2018) and the Revised Alternate of Commissioner Guzman Aceves (issued May 22, 2018), Pacific Gas and Electric Company (PG&E) is selected to manage this RFP process and all references in the discussion and Ordering Paragraph 2 are to PG&E. In comments filed by PG&E on the Revised Alternate, PG&E requests the Commission to select a different IOU for this task, because PG&E wished to reserve its right to bid for DAC-SASH program administration.

In Revision 1 of the Revised Alternate, Ordering Paragraph 2 and associated language at page 36 was changed to name Southern California Edison Company (SCE) to manage the RFP process. While SCE in its reply comments also requests that it not be selected for this task (for the same reason as PG&E), we declined to designate a different IOU for this task in the final decision. We rely on the revised Ordering Paragraph 2 and the supporting revised language at page 36 to conclude that the residual language at 35, naming PG&E to manage the RFP process, stemmed from an inadvertent oversight or drafting error. We therefore revise the language at page 35 as follows:

Based on our determination that DAC-SASH should have a single state-wide PA, we find that selection of a PA should be made through a competitive bidding process. Specifically, the Commission's Energy Division will select the Program Administrator through an RFP process managed by SCE on behalf of the Commission.

Second, the language at page 38 referring to San Diego Gas & Electric Company's (SDG&E) management of the RFP process appears to be incongruous. In this paragraph, the context is the selection of an independent

evaluator, not the Program Administrator. Supporting this interpretation, the Proposed Decision (at 37) has a nearly identical paragraph, which states:

Every three years beginning in 2021, Energy Division shall select an independent evaluator through an RFP process similar to that used to select the Program Administrator. The consultant hired through this process will evaluate the effectiveness and efficiency of both the PA and the DAC-SASH program overall. Specifically, the Commission's Energy Division will select the PA through an RFP process managed by SDG&E on behalf of the Commission. The RFP process shall be led by staff from the Commission's Energy Division, and Energy Division staff will make the final decision on the winning bidder. (emphasis added)

There is no rationale or support in the record for the change from "independent evaluator" to "PA." We conclude that D.18-06-027 included a drafting error on this point. We therefore modify the paragraph at 38 of D.18-06-027 to state:

Every three years beginning in 2021, Energy Division shall select an independent evaluator through an RFP process similar to that used to select the Program Administrator. The consultant hired through this process will evaluate the effectiveness and efficiency of both the PA and the DAC-SASH program overall. Specifically, the Commission's Energy Division will select the independent evaluator through an RFP process managed by SDG&E on behalf of the Commission. The RFP process shall be led by staff from the Commission's Energy Division, and Energy Division staff will make the final decision on the winning bidder.

2.4. "Obvious Errors"

On July 13, 2018, SDG&E, on behalf of itself, PG&E and SCE (jointly, the IOUs), sent a letter to the Executive Director of the Commission, per Rules 16.5 and 1.8(d) of the Rules of Practice and Procedure. We will consider this letter

here. The letter requested correction of two “obvious errors.” The first request is as follows:

First, the Decision notes throughout that all three programs will be funded through greenhouse gas funds and then, when those funds are exhausted, by public purpose program funds. *See*, Decision, pp. 4, 30, 54, 56, 83, 85, 87, 95, 97, 102, and 104 and Ordering Paragraphs 8 and 14. The sole exception is the second-to-last sentence of ordering paragraph 8 (at 102), which states “the utilities shall propose a mechanism to recover the costs through distribution rates.” This exception is inconsistent with all other references in the Decision, because the greenhouse gas and public purpose program funds are not part of distribution rates under Commission ratemaking. Indeed, the middle of ordering paragraph 8 identifies public purpose program funds as the appropriate source, meaning that ordering paragraph 8 contradicts itself. The IOUs submit that the sole reference to distribution rates in ordering paragraph 8 is an obvious error that should be corrected, given that it is inconsistent with all other references in the Decision.

The IOUs are correct on this point. The penultimate sentence of Ordering Paragraph 8 is superfluous language that is inconsistent with all other references and discussion in the Decision, including the remainder of Ordering Paragraph 8. The superfluous language appears to stem from the Revised Alternate and was effectively superseded (but inadvertently not deleted) in a later revision to the Revised Alternate. Ordering Paragraph 8 should be modified to read as follows:

1. The Disadvantaged Communities – Single-family Solar Homes (DAC-SASH) program shall have an annual budget of \$10 million per year beginning on January 1, 2019, and continuing through the end of 2030. Each participating utility will contribute its proportionate share of this budget based on its relative percentage of retail electric revenue. Within 60 days of the effective date of this decision, PG&E,

SCE, and SDG&E shall each file a Tier 2 advice letter establishing a balancing account to collect its proportionate share of the \$10 million per year DAC-SASH budget starting in 2019, and will collect those costs first through available GHG allowance proceeds. If such funds are exhausted, the DAC-SASH program will be funded through public purpose program funds through the conclusion of the program in 2030. DAC-SASH program funds will be reviewed in the annual Energy Resource Recovery Account proceedings. ~~The utilities shall propose a mechanism to recover the costs through distribution rates.~~ Money not allocated to specific projects or program expenses by the program end date of December 31, 2030, will be returned to ratepayers at the conclusion of the program.

The IOUs' second request is as follows:

Second, the Decision, at 54, states that a Tier 2 advice letter to establish the DAC-Green Tariff Balancing Account shall be filed within 30 days of issuance of the final decision. But ordering paragraph 15 (at 104) states that such Tier 2 AL will be filed 45 days after the issuance of the Final decision (along with the Tier 2 advice letter establishing the Balancing Account for the Community Solar-Green Tariff program). Given that an ordering paragraph normally takes precedence over the text, and the logic of filing the two advice letters simultaneously, the IOUs submit that the text reference on at 54 should be corrected to 45 days.

The IOUs are correct that the language at page 54 is incorrect. The subject advice letters are due 45 days after the issuance of the final decision.

2.5. Definition of “5 miles” for Community Solar Green Tariff Disadvantaged Communities

There is some ambiguity in D.18-06-027 regarding whether potential customers for the Community Solar Green Tariff program must be in a qualified disadvantaged community and within five miles of the project, or whether such

potential customers must be in a qualified disadvantaged community that is located (in whole or in part) within five miles of the project.

Finding of Fact 28 of D.18-06-027 states:

There are benefits to disadvantaged communities in California if a Community Solar Green Tariff solar generating system is located in the territory of one of the three large electric IOUs, and located either within the same disadvantaged community as the customers it serves or within a top 25% CalEnviroScreen 3.0-designated disadvantaged community located no more than 5 miles away from the disadvantaged communities it serves.

Conclusion of Law 22 of D.18-06-027 states:

It is consistent with the intent of AB 327 to provide for renewable energy growth among residential customers in disadvantaged communities if a Community Solar Green Tariff program requires the solar generating system to be located in the territory of one of the three large electric IOUs, and either located either within the same disadvantaged communities as the customers it serves or within a top 25% CalEnviroScreen-designated disadvantaged community located no more than 5 miles away from the disadvantaged communities it serves.

D.18-06-027, at 17, states: "...we target the new Community Solar Green Tariff program to the top 25% of communities per CalEnviroScreen, while allowing the projects themselves to be located in either the same communities or top 25% communities within 5 miles of the benefitting customers' community." At 66, the decision states: "Therefore, we will require that a Community Solar Green Tariff project must be sited in a top 25% DAC, and the subscribers to the project must be within 5 miles of the project and also within a top 25% DAC (not necessarily the same DAC)." At 68, the decision states: "As discussed above, projects would also be located not more than 5 miles from the top 25% DACs where the customers are located. This requirement meets the need for projects to

be community-based while making it more likely that there will be enough potential subscribers to the project. Customers in a San Joaquin Valley pilot program community identified in Rulemaking (R.) 15-03-010 would also be eligible to participate in the Community Solar Green Tariff program, even if not in a top 25% DAC (as long as such communities are located in whole or in part within 5 miles of the project)."

Finding of Fact 28 and Conclusion of Law 22 are consistent and indicate that the proper reading of the decision on this point is that the disadvantaged community (as opposed to the potential customer) must be within five miles of the project. The language at 68 supports this reading and clarifies that such disadvantaged communities must be "located in whole or in part" within five miles of the project. We determine here that the proper interpretation of D.18-06-027 is that potential customers must be in a CalEnviroScreen 3.0-designated disadvantaged community that is, in whole or in part, within five miles of the location of the project.

2.6. Marketing, Education and Outreach (ME&O) Budget

At 83 of D.18-06-027 states:

Utilities will establish ME&O program and select a third-party (or utilize existing CBO partners) to execute outreach. Utilities should establish a statewide website with information on the program. Outreach could indirectly assist community sponsors with recruitment for projects, *e.g.*, by conducting CBO informational sessions and providing materials for distribution by CBOs. The ME&O budget will be set in the consumer protection phase of this proceeding and utilities will file an annual ME&O plan through an Advice Letter.

In lieu of establishing funding in the consumer protection phase of this proceeding, we will require the IOUs to submit a joint Tier 3 advice letter within 45 days of the effective date of this decision to propose ME&O budgets.

3. Conclusion

For purposes of clarification and correction, D.18-06-027 should be modified as discussed in this decision.

4. Comments on Proposed Decision

The proposed decision of the assigned ALJs in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on _____ and reply comments were filed on _____.

5. Assignment of Proceeding

Martha Guzman Aceves is the assigned Commissioner and Mary McKenzie and Valerie U. Kao are the assigned Administrative Law Judges in this proceeding.

Findings of Fact

1. The Commission issued D.18-06-027 on June 22, 2018.
2. Decision 18-06-027 contained certain obvious errors which were brought to the Commission's attention on July 13, 2018 in a letter from SDG&E, on behalf of itself, PG&E, and SCE, to the Executive Director of the Commission, on the topics of funding for the DAC-SASH program and the timing of advice letters to establish the DAC-Green Tariff Balancing Account.
3. Decision 18-06-027 contained ambiguous or conflicting language on the topics of a 20 percent bill discount, permission to operate, manager of an RFP for the DAC-SASH Program Administrator, and the definition of "5 miles" for Community Solar Green Tariff disadvantaged communities.

Conclusions of Law

1. Rules 16.5 and 1.8(d) of the Rules of Practice and Procedure permit parties to bring obvious errors to the attention of the Commission. These obvious errors in Ordering Paragraph 8 should be corrected.

2. It is appropriate to clarify the intent of D.18-06-027 so that it is understood that a GTSR tariff is not the default otherwise applicable rate for residential customers.

3. It is appropriate to clarify the intent of D.18-06-027 to make clear that current CARE or FERA customers participating in the DAC-GT/CSGT programs would receive a 20 percent bill discount after their otherwise applicable rate, which is a CARE or FERA-discounted rate.

4. It is appropriate to clarify the intent of D.18-06-027 to clarify that utilities should withhold scheduling of energy delivery from a project, while the 25 percent low-income threshold is met and/or verified, rather than withholding Permission to Operate.

5. It is necessary to revise language in D.18-06-027 to correct conflicting language regarding which utility should manage an RFP process to select a DAC-SASH program administrator.

6. It is necessary to clarify that the proper interpretation of D.18-06-027 regarding the CSGT program is that potential customers must be in a CalEnviroScreen 3.0-designated disadvantaged community that is, in whole or in part, within five miles of the location of the project.

O R D E R

IT IS ORDERED that:

1. Language on page 74 of Decision 18-06-027 is modified to state:

We clarify that the Community Solar Green Tariff discount is off of the otherwise applicable residential tariff. Because the Community Solar Green Tariff becomes the applicable tariff for such customers, any ~~CARE/FERA discount~~ Community Solar Green Tariff discount would be applied to ~~the Community Solar Green Tariff~~ a CARE/FERA discount. Utilities should use the same methodology to calculate the 20% discount as they use to calculate the CARE/FERA discount.

2. Language at 35 of Decision 18-06-027 is modified to state:

Based on our determination that DAC-SASH should have a single state-wide PA, we find that selection of a PA should be made through a competitive bidding process. Specifically, the Commission's Energy Division will select the Program Administrator through an RFP process managed by ~~PG&E~~ SCE on behalf of the Commission.

3. Language on page 38 of Decision 18-06-027 is modified to state:

Every three years beginning in 2021, Energy Division shall select an independent evaluator through an RFP process similar to that used to select the Program Administrator. The consultant hired through this process will evaluate the effectiveness and efficiency of both the PA and the DAC-SASH program overall. Specifically, the Commission's Energy Division will select the ~~PA~~ independent evaluator through an RFP process managed by SDG&E on behalf of the Commission. The RFP process shall be led by staff from the Commission's Energy Division, and Energy Division staff will make the final decision on the winning bidder.

4. Ordering Paragraph 8 of Decision 18-06-027 is corrected to state:

The Disadvantaged Communities – Single-family Solar Homes (DAC-SASH) program shall have an annual budget of \$10 million per year beginning on January 1, 2019, and continuing through the end of 2030. Each participating utility will contribute its proportionate share of this budget based on its relative percentage of retail electric revenue. Within 60 days of the effective date of this decision, Pacific Gas and

Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company shall each file a Tier 2 advice letter establishing a balancing account to collect its proportionate share of the \$10 million per year DAC-SASH budget starting in 2019, and will collect those costs first through available GHG allowance proceeds. If such funds are exhausted, the DAC-SASH program will be funded through public purpose program funds through the conclusion of the program in 2030. DAC-SASH program funds will be reviewed in the annual Energy Resource Recovery Account proceedings. ~~The utilities shall propose a mechanism to recover the costs through distribution rates.~~ Money not allocated to specific projects or program expenses by the program end date of December 31, 2030, will be returned to ratepayers at the conclusion of the program.

5. Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas & Electric Company shall submit a joint Tier 3 advice letter within 45 days of the effective date of this decision to propose marketing, education and outreach budgets consistent with the programs approved in Decision 18-06-027.

6. Rulemaking 14-07-002 remains open.

This order is effective today.

Dated _____, at San Francisco, California.