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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Revisit Net Energy Metering Tariffs Pursuant to Decision 16-01-044, and to Address Other Issues Related to Net Metering.

Rulemaking 20-08-020

JOINT ASSIGNED COMMISSIONER'S SCOPING MEMO AND ADMINISTRATIVE LAW JUDGE RULING DIRECTING COMMENTS ON PROPOSED GUIDING PRINCIPLES

This Scoping Memo and Ruling sets forth the issues, need for hearing, schedule, category, and other matters necessary to scope this proceeding pursuant to Public Utilities (Pub. Util.) Code Section 1701.1. and Article 7 of the Commission's Rules of Practice and Procedure (Rules).

Additionally, this ruling proposes guiding principles for the development and evaluation of a successor to the current net energy metering tariff. Parties are directed to file comments on the proposed principles on December 4, 2020 and reply comments on December 11, 2020.

1. Procedural Background

On August 27, 2020, the Commission initiated Rulemaking (R.) 20-08-020 to develop a successor to the existing net energy metering tariff as part of its commitment in Decision (D.) 16-01-044 to review the current net energy metering tariff. The Order Instituting Rulemaking (Order) stated that "[p]ursuant to the requirements of Assembly Bill (AB) 327, this successor will be a mechanism for providing customer-generators with credit or compensation for electricity generated by the renewable facilities that a) balances the costs and benefits of the

renewable electrical generation facility and b) allows customer-sited renewable generation to grow sustainably among different types of customers and throughout California's diverse communities.¹ As also noted in the Order, an examination of the current net energy metering tariff is being conducted by a consultant under contract with the Commission, and the results of the Net Energy Metering 2.0 Lookback Study will be considered in this proceeding.

A prehearing conference was held on November 2, 2020 to address the issues of law and fact, determine the need for hearing, set the schedule for resolving the matter, and address other matters as necessary. After considering the comments on the Order, replies to the comments, and discussion at the prehearing conference, we have determined the issues and initial schedule of the proceeding to be set forth in this scoping memo.

2. Issues

The issues to be determined or otherwise considered are:

1. What guiding principles (including those related to Assembly Bill 327 (2013, Perea), equity, environmental goals, and social justice) should the Commission adopt to assist in the development and evaluation of a successor to the current net energy metering tariff?
2. What information from the Net Energy Metering 2.0 Lookback Study should inform the successor and how should the Commission apply those findings in its consideration?
3. What method should the Commission use to analyze the program elements identified in Issue 4 and the resulting proposals, while ensuring the proposals comply with the guiding principles?

¹ Order Instituting Rulemaking 20-08-020, August 27, 2020 at 6-7.

4. What program elements or specific features should the Commission include in a successor to the current net energy metering tariff?
5. Which of the analyzed proposals should the Commission adopt as a successor to the current net energy metering tariff and why? What should the timeline be for implementation?
6. Other issues that may arise related to current net energy metering tariffs and subtariffs, which include but are not limited to the virtual net energy metering tariffs, net energy metering aggregation tariff, the Renewable Energy Self-Generation Bill Credit Transfer program, and the net energy metering fuel cell tariff.
7. What additional or enhanced consumer protections for customers taking service under net energy metering and/or the successor to the current net energy metering tariff should be adopted by the Commission?

3. Need for Evidentiary Hearing

Resolution of Issue numbers 3, 4, and 5 require the Commission to resolve contested material issues of fact. Portions of Issue 6 may also require the Commission to resolve contested material issues of fact. Accordingly, we change the preliminary determination in the Order and find that evidentiary hearing is needed on these issues.

4. Schedule

Given the complexity of this proceeding, we plan to first address Issues 1 through 5, as well as parts of Issue 6, including the net energy metering fuel cell tariff. We then plan to address any remaining elements of Issues 6 and 7.

The following schedule for the initial issues is adopted here and may be modified by the Administrative Law Judge as required to promote the efficient and fair resolution of the Rulemaking:

Event	Date
Comments on Guiding Principles	December 4, 2020
Reply Comments on Guiding Principles	December 11, 2020
Issuance of Net Energy Metering 2.0 Lookback	December 2020
Development of E3 White Paper on Successor to Current Net Energy Metering Tariff	December 2020-January 2021
Proposed Decision on Guiding Principles Issued	January 2021
Workshop on White Paper and Program Elements	January 2021
Party Proposals Served	March 15, 2021
Workshop Presenting Party Proposals	March 23-24, 2021
Opening Testimony on Issues 2-6	April 23, 2021
Rebuttal Testimony	May 21, 2021
Evidentiary Hearing on Issues 3 - 6	June 7-18, 2021
Completion of Settlement Talks	July 9, 2021
Opening Briefs on Issues 2-6	July 9, 2021
Reply briefs <i>[matter submitted]</i>	July 19, 2021
Proposed decision on successor to current main net energy metering tariff and net energy metering tariff for fuel cells	<i>[no later than 90 days after submission]</i>
Commission decision	<i>[at least 30 days after PD]</i>

Issues 1-5 and parts of Issue 6 of the proceeding will stand submitted upon the filing of reply briefs unless the Administrative Law Judge requires further evidence or argument. Following deliberation of the Commission decision on the main net energy metering tariff and net energy metering tariff for fuel cells, a

ruling will be issued establishing the schedule for remaining issues. Based on this schedule, and due to the complexity of the issues to be resolved, the proceeding will be resolved within 24 months as allowed by Pub. Util. Code Section 1701.5(b).

5. Guiding Principles for Successor to Current Net Energy Metering Tariff

In comments on the Order, several parties provided recommended guiding principles for the net energy metering tariff successor. We have reviewed these comments and have developed a proposed set of guiding principles, as listed below. These proposed principles are based on the requirements of AB 327, and also take into consideration the principles proposed by parties in comments to the Order.

Parties had requested the assigned Commissioner to adopt guiding principles in the Scoping Memo.² Other parties objected, arguing this would be a due process violation.³ To ensure due process, parties are directed to file comments on this proposed set of Guiding Principles, detailing why these principles should or should not be adopted. If parties propose alternative principles, parties should defend the inclusion of the alternatives. Parties should also comment on whether certain principles should be prioritized over others. At this time, we do not prioritize any one proposed principle over another.

Proposed Guiding Principles for a Successor to the Current Net Energy Metering Tariff

² See Opening Comments on the Order from Natural Resources Defense Fund, Public Advocates Office of the Public Utilities Commission, and The Utility Reform Network.

³ See Reply Comments on the Order from California Solar and Storage Association, Solar Energy Industries Association, and Vote Solar.

- A successor shall ensure that customer-sited renewable generation continues to grow sustainably among different types of customers and throughout California's diverse and disadvantaged communities.
- A successor shall be chosen based on the costs and benefits of the renewable electrical generation facility.
- A successor shall ensure equity among customers and enhance consumer protections measures.
- A successor shall ensure that the total benefits to all customers and the electrical system are approximately equal to or greater than the total costs.
- A successor shall be technology neutral.
- A successor shall be aligned with the Commission and California's energy policies, including but not limited to Senate Bill 100 (2018, De Leon), the Integrated Resource Planning process, and the Title 24 Building Energy Efficiency Standards.
- A successor shall provide regulatory certainty.
- A successor shall maximize the value of customer-sited renewable generation.

6. Alternative Dispute Resolution Program and Settlements

The Commission's Alternative Dispute Resolution (ADR) program offers mediation, early neutral evaluation, and facilitation services, and uses Administrative Law Judges who have been trained as neutrals. At the parties' request, the assigned Administrative Law Judge can refer this proceeding to the Commission's ADR Coordinator. Additional ADR information is available on the Commission's website.⁴

⁴ See D.07-05-062, Appendix A, § IV.O.

Any settlement between parties, whether regarding all or some of the issues, shall comply with Article 12 of the Rules of shall be served in writing. Such settlements shall include a complete explanation of the settlement and a complete explanation of why it is reasonable in light of the whole record, consistent with the law and in the public interest. The proposing parties bear the burden of proof as to whether the settlement should be adopted by the Commission.

The schedule set forth in this Scoping Memo includes a date for the completion of settlement talks. No later than this date, the parties will submit to the assigned Administrative Law Judge a status report of their efforts, identifying agreements reached and unresolved issues requiring hearing. Any settlements between parties, whether regarding all or some of the issues, shall comply with Article 12 of the Rules and shall be served in writing. Such settlements shall include a complete explanation of the settlement and a complete explanation of why it is reasonable in light of the whole record, consistent with the law, and in the public interest. The proposing parties bear the burden of proof as to whether the settlement should be adopted by the Commission.

7. Category of Proceeding and *Ex-Parte* Restrictions

This ruling confirms the Commission's preliminary determination⁵ that this is a ratesetting proceeding. Most parties agreed with the preliminary determination. However, Dimension Renewable Energy requested the Commission follow two parallel tracks in this proceeding: one ratesetting and one quasi-legislative, contending issues of principles, goals and tariff structure

⁵ Order at 9.

are best facilitated with quasi-legislative categorization. During the prehearing conference, Pacific Gas and Electric Company noted that pursuant to Rule 7.1(e)(2), when a proceeding does not clearly fit into either ratesetting or quasi-legislative, the proceeding will be conducted under the rules applicable to the ratesetting category. We find that the ratesetting category is best suited to this proceeding. Accordingly, *ex-parte* communications are restricted and must be reported pursuant to Article 8 of the Rules.

8. Public Outreach

Pursuant to Pub. Util. Code Section 1711(a), I hereby report that the Commission sought the participation of those likely to be affected by this matter by noticing it in the Commission's monthly newsletter that is served on communities and businesses that subscribe to it and posted on the Commission's website.

In addition, the Commission served the Order Instituting Rulemaking on the official service lists for R.12-11-005 and R.20-05-012 on renewable distributed generation programs, R.19-09-009 on Microgrids, R.14-08-013 on Distribution Resources Planning, R.17-07-007 on Rule 21 and the interconnection of distributed generation resources, R.14-10-003 on the integration of distributed energy resources, R.14-07-002 on the development of a successor tariff to the original net energy metering tariff, and Application 10-03-001 et al., the former net surplus compensation proceeding.

9. Intervenor Compensation

Pursuant to Pub. Util. Code Section 1804(a)(1), a customer who intends to seek an award of compensation must file and serve a notice of intent to claim compensation by December 2, 2020, 30 days after the prehearing conference.

10. Response to Public Comments

Parties may, but are not required to, respond to written comments received from the public. Parties may do so by posting such response using the “Add Public Comment” button on the “Public Comment” tab of the online docket card for the proceeding.

11. Public Advisor

Any person interested in participating in this proceeding who is unfamiliar with the Commission’s procedures or has questions about the electronic filing procedures is encouraged to obtain more information at <http://consumers.cpuc.ca.gov/pao/> or contact the Commission’s Public Advisor at 866-849-8390 or 866-836-7825 (TTY), or send an e-mail to public.advisor@cpuc.ca.gov.

12. Filing, Service, and Service List

The official service list has been created and is on the Commission’s website. Parties should confirm that their information on the service list is correct and serve notice of any errors on the Commission’s Process office, the service list, and the Administrative Law Judge. Persons may become a party pursuant to Rule 1.4.

When serving any document, each party must ensure that it is using the current official service list on the Commission’s website.

This proceeding will follow the electronic service protocol set forth in Rule 1.10. All parties to this proceeding shall serve documents and pleadings using electronic mail, whenever possible, transmitted no later than 5:00 p.m., on the date scheduled for service to occur. When serving documents on Commissioners or their personal advisors, whether or not they are on the official service list, parties must only provide electronic service. Parties must not send

hard copies of documents to Commissioners or their personal advisors unless specifically instructed to do so.

Persons who are not parties but wish to receive electronic service of documents filed in the proceeding may contact the Process Office at process_office@cpuc.ca.gov to request addition to the "Information Only" category of the official service list pursuant to Rule 1.9(f).

13. Service of Documents on Commissioners and Their Personal Advisors

Rule 1.10 requires only electronic service on any person on the official service list. When serving documents on Commissioners or their personal advisors, whether or not they are on the official service list, parties must only provide electronic service. Parties must not send hard copies of documents to Commissioners or their personal advisors unless specifically instructed to do so.

14. Assignment of Proceeding

Martha Guzman Aceves is the assigned Commissioner and Kelly A. Hymes is the assigned Administrative Law Judge and presiding officer for the proceeding.

IT IS RULED that:

1. The scope of this proceeding is described above and is adopted.
2. The schedule of this proceeding is set forth above and is adopted.
3. No later than December 4, 2020, parties shall file comments on the proposed Guiding Principles provided in this Ruling. Reply comments shall be filed no later than December 11, 2020.
4. Evidentiary hearing is needed.
5. The presiding officer is Administrative Law Judge Kelly A. Hymes.
6. The category of the proceeding is Ratesetting.

This order is effective today.

Dated November 19, 2020 at San Francisco, California.

/s/ MARTHA GUZMAN ACEVES

Martha Guzman Aceves
Assigned Commissioner

/s/ KELLY A. HYMES

Kelly A. Hymes
Administrative Law Judge