STATE OF CALIFORNIA GAVIN NEWSOM, *Governor*

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE

SAN FRANCISCO, CA 94102-3298

FILED

08/05/22

04:29 PM

R1407002

August 5, 2022

Agenda ID #20851
Ratesetting

TO PARTIES OF RECORD IN RULEMAKING 14-07-002 ET AL.,:

This is the proposed decision of Administrative Law Judge Valerie U. Kao. 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 September 15, 2022 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 8.2(c)(4).

_/s/ ANNE E SIMON__
Anne E. Simon
Chief Administrative Law Judge

AES:smt

Attachment

Decision **PROPOSED DECISION OF ALJ KAO (Mailed 8/5/2022)**

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
And Related Matter.	Application 16-07-015

DECISION MODIFYING DECISION (D.) 17-12-022 AND D.20-04-012 REGARDING PROCESS FOR SOLAR ON MULTIFAMILY AFFORDABLE HOUSING PROGRAM FUNDING

Summary

This decision modifies Decision (D.) 17-12-022 and D.20-04-012 to simplify the process for forecasting and setting aside funding for the Solar on Multifamily Affordable Housing program. As a result of this decision, annual funding contributions will more closely align with the intent of the underlying statute for the Solar on Multifamily Affordable Housing program and will reduce any possible volatility in annual Climate Credit amounts. Neither funding amounts nor any other programmatic activities are affected by this decision.

This proceeding is closed.

1. Background

Pursuant to Assembly Bill (AB) 693 (Stats. 2015, Ch. 582), the California Public Utilities Commission (Commission) in Decision (D.)17-12-022 established the Solar on Multifamily Affordable Housing (SOMAH) program, which provides financial incentives for installation of solar energy systems on multifamily affordable housing properties.[1] Both AB 693 and subsequently the Commission specified the SOMAH program's funding source, which is the revenues stemming from the sale of greenhouse gas (GHG) allowances directly allocated to the electric utilities on behalf of ratepayers. Public Utilities (Pub. Util.) Code Section 2870(c) provides:

> The Commission shall annually authorize the allocation of one hundred million dollars ($100,000,000) or ten percent of available funds, whichever is less, from the revenues described in subdivision (c) of Section 748.5 for the Multifamily Affordable Housing Solar Roofs Program, beginning with the fiscal year commencing July 1, 2016, and ending with the fiscal year ending June 30, 2020. The commission shall continue authorizing the allocation of these funds through June 30, 2026, if the commission determines that revenues are available after 2020 and that there is adequate interest and participation in the program.

The statute provides for a maximum annual budget of $100 million, and also creates a structure wherein each electric investor-owned utility's (IOU) annual contribution amount is potentially based on the total revenues of all the other IOUs.

[1] While AB 693 and Pub. Util. Code Section 748.5 use the name "Multifamily Affordable Housing Solar Roofs Program," D.17-12-022 determined that the program implementing the statute would be named the Solar on Multifamily Affordable Housing, or SOMAH, program.

Funding for the SOMAH program is set aside annually by the electric IOUs' Energy Resource Recovery Account (ERRA) forecast application and Energy Cost Adjustment Clause (ECAC) applications.

Pursuant to D.17-12-022, the Commission in D.20-04-012 continued authorizing the allocation of SOMAH funds through June 30, 2026.

On May 13, 2022, Southern California Edison Company (SCE) filed a petition for modification of D.17-12-022 and D.20-04-012, requesting to modify the process by which the electric IOUs initially set aside SOMAH funds, asserting that the IOUs were likely setting aside SOMAH funding in excess of $100 million. SCE states that this situation results from the electric IOUs' combined revenues exceeding $1 billion and anticipates this will likely be the case on an annual basis going forward. Specifically, the petition states "SCE determined that the forecast [greenhouse gas, or GHG] allowance revenue for 2021 was significantly higher than originally forecast at the beginning of the year" while preparing its 2022 ERRA Forecast November update, after which SCE coordinated sharing of year-to-date recorded and remaining 2021 GHG funding among the IOUs.[2] The IOUs identify their annual set-aside budget amounts for SOMAH before the year's greenhouse gas auction has occurred. According to the petition, setting aside 10 percent of forecast GHG allowance revenues would result in excess funding of approximately $32 million for the SOMAH program; each IOU would have to transfer its excess amount from its SOMAH balancing account back to its GHG revenue balancing account, and ultimately to customers via the IOU's California Climate Credit mechanism.

[2] *SCE's (U338E) Petition for Modification of Decisions D.17-12-022 and D.20-04-012*, filed May 13, 2022 (Petition), at 3.

To effectuate a process that more closely aligns with the funding authorization provided by AB 693, and thereby avoids large transfers of excess funds from each IOU's SOMAH balancing account back to its GHG revenue balancing account, the petition proposes to clarify that the IOUs may submit a SOMAH funding set-aside in their respective ERRA and ECAC proceedings by applying the $100 million cap on a forecast basis. This would be achieved by the IOUs sharing forecast GHG allowance revenue prior to submitting their respective ERRA and ECAC applications, such that each IOU would set aside their forecast proportionate share of no more than $100 million. In short, under the proposed change, each IOU would set aside its share of the total rather than ten percent of its own forecasted GHG revenue. The existing process for truing-up forecasts to actual amounts would remain unchanged.

On June 13, 2022, the Center for Sustainable Energy (CSE) filed a response in support of the petition and recommending revisions "to further streamline the funding methodology and ensure greater transparency for SOMAH participants."[3]

On June 23, 2022, SCE filed a reply to CSE's response, indicating support for CSE's proposed approach.

2. Standard of Review

Rule 16.4 of the Commission's Rules of Practice and Procedure (Rules) governs petitions for modification. Rule 16.4 derives its authority from Pub. Util. Code Section 1708 that allows the Commission to rescind, alter, or amend any decision made by it.

[3] *Response of Center for Sustainable Energy to SCE's (U338E) Petition for Modification of Decisions D.17-12-022 and D.20-04-012*, filed June 13, 2022 (Response), at 2.

In addressing the petition, we consider whether SCE met its substantial burden, pursuant to Rule 16.4(b) of the Commission's Rules of Practice and Procedure, to demonstrate that the Commission should exercise its discretion to modify D.17-12-022 and D.20-04-012.[4] We also consider whether the petition justifies its late submission in accordance with Rule 16.4(d).

The petition states SCE, following its coordination effort with the other IOUs and an October 25, 2021 meeting with Energy Division staff and "other stakeholders to discuss whether to reduce 2022 set asides from 10 percent of total GHG allowance revenues to a forecast of the IOUs' proportionate share of $100 million," requested to modify the SOMAH funding methodology through its 2022 ERRA Forecast November update.[5] In addressing SCE's request, the Commission in D.22-01-003 acknowledged establishment of SOMAH program funding details occurred in this proceeding (Rulemaking 14-07-002), and therefore directed SCE to host a workshop "to discuss whether the current rules require the IOUs to wait for recorded revenues from the previous four quarters before applying the $100 million amount allocation methodology to the SOMAH set-aside," and then to file the instant petition for modification.[6]

---

[4] Rules of Practice and Procedure, Rule 16.4; *See* also PG&E Corp. v. Public Utilities Com. (2004) 118 Cal.App.4th 1174, 1215 [California Pub. Util. Code Section 1708, which authorizes the Commission to "rescind, alter, or amend any order or decision made by it," is permissive]. *See* also 2017 Cal. PUC LEXIS 514, at 7; 1998 Cal. PUC LEXIS 658, at 2: The Commission's exercise of authority under Pub. Util. Code Section 1708 is an "'extraordinary remedy' that must be 'sparingly and carefully applied.'"

[5] Petition, at 3-4.

[6] *D.22-01-033 Decision Approving SCE's 2022 Energy Resource Recovery Account-Related Forecast Revenue Requirement and 2021 Trigger Mechanism Balance*, issued January 14, 2022, at 51-52.

The petition was not filed within one year of the effective date of either D.17-12-022 or D.20-04-012 and does not explicitly address why it could not have been presented within one year of either decision.

The Commission sees no reason why the scenario described in the petition could not have been anticipated within one year after the effective date of D.17-12-022, indeed even in the rulemaking process through which the Commission adopted D.17-12-022.

Although this decision does not find the petition satisfies Rule 16.4, the Commission finds value in simplifying the process of allocating funds to the SOMAH program and therefore elects to consider the reasonableness of modifying D.17-12-022 and D.20-04-012 as requested by the petition, with modifications recommended by CSE.

3. Modifications to D.17-12-022 and D.20-04-012 will simplify and provide greater predictability and transparency to the SOMAH fund allocation process

CSE, the only party to respond to the petition and a member of the SOMAH program administration team, supports revising the SOMAH funding methodology "to simplify the forecasting process and ensure transparency for program participants regarding the specific percentage of the annual SOMAH allocation for which each IOU is responsible and thus available as funding within the respective service territories."[7],[8] Noting that each IOU files its respective

[7] Response, at 1.

[8] The SOMAH Program Administrator role is currently shared by a team of four non-profit organizations: CSE, GRID, California Housing Partnership Corporation, and Association for Energy Affordability. Energy Division and Southern California Edison, per D.17-12-022 Ordering Paragraph 6, hired a statewide program administrator through an open solicitation process.

ERRA/ECAC application at varying times throughout the year, and therefore the IOUs may not be able to accurately determine their percentage splits for the coming year, CSE recommends one modification to the petition's proposed approach, which is to determine a set percentage for each IOU based on the average IOU splits in years 2018, 2019, 2020 and 2021.

SCE's reply expresses agreement with CSE's recommendation to set a fixed percentage for each IOU based on recorded GHG allowance auction revenue, and suggests setting this percentage only once, in this decision, and maintaining this same percentage share in future years "to avoid unnecessary administrative tasks."[9] SCE further recommends that the IOUs coordinate to submit a joint true-up advice letter, rather than each IOU submitting its own advice letter as currently directed by D.20-04-012.

We consider the parties' recommended changes to the SOMAH funding set-aside process in light of the program's overall goals and requirements. First, we note that the SOMAH program does not have annual spending or budgeting constraints – the annual funding set-asides do not need to be expended until the program sunset date in 2030. For this reason, we aim to ensure the annual set-aside processes and amounts are efficient and in line with the annual maximum contribution set by statute. We also acknowledge the inherent complexity that results from needing to annually forecast, then true up, amounts so that they comply with statute (and that this process happens in five individual forecast proceedings each year).

Additionally, we acknowledge the situation that prompted SCE to file the petition could very well occur again, and multiple times, such that each year the

[9] *Reply of SCE (U338E) to Response of Center for Sustainable Energy to SCE's Petition for Modification of Decisions D.17-12-022 and D.20-04-012*, filed June 23, 2022, at 3.

IOUs may be setting aside their share of the maximum $100 million amount, rather than ten percent of forecasted revenues (in the event they can demonstrate that the forecasted total exceeds $1 billion). All the foregoing considerations are relevant in terms of the potential volatility impacts upon the Climate Credit that could result from the IOUs' continually setting aside too much money for SOMAH, then continually having large true ups.

Thus, the Commission finds that SCE's recommended approach for forecasting SOMAH funds, as modified by CSE's response, adds efficiency and transparency to the SOMAH budgeting process, and is therefore reasonable to adopt. With respect to the specific changes to D.17-12-022 and D.20-04-012 proposed in the petition, we do not find the proposed revisions to page 36 of D.17-12-022 necessary and they may in fact add complexity, since there can be times when the combined forecast of GHG allowance revenues is less than $1 billion but the actual combined amount is greater than $1 billion, which is what occurred in 2021. Additionally, even when the collective forecast budget and collective actual budget are both over $1 billion, the IOUs will only apply the fixed percentages adopted here to the forecast budget and the actual budget will still follow the process described in D.17-12-022 (at 36). In other words, the set-aside process will change, but the true-up process has not; nor does this change affect program funding.

We otherwise find the proposed modifications reasonable and add a new order, superseding D.17-12-022's direction regarding the calculation of each IOU's forecasted proportionate share (when combined forecasted GHG revenues are greater than or equal to $1 billion), to instead specify a fixed percentage amount as recommended by CSE. This decision determines the following percentages, which differ slightly from those shown in CSE's reply, based on the electric IOUs' most current and accurate information on recorded SOMAH revenues.[10]

[10] PacifiCorp's Advice Letter 679-E-A, submitted May 17, 2022, corrected their amount for its 2021 GHG revenues. The correct amount and resulting IOU percentages are reflected in Table 1.

Table 1: 2018 – 2021 SOMAH Recorded Revenues and Percentages

Year		PG&E	SCE	SDG&E	PacifiCorp	Liberty	Total
2018	Dollars	$34,809,876	$38,931,611	$9,372,756	$1,121,680	$340,189	$84,576,111
	Percent of Total	41.16%	46.03%	11.08%	1.33%	0.40%	100.00%
2019	Dollars	$38,904,100	$42,117,020	$10,415,691	$1,278,364	$381,962	$93,097,137
	Percent of Total	41.79%	45.24%	11.19%	1.37%	0.41%	100.00%
2020	Dollars	$38,589,400	$42,096,536	$10,469,192	$1,308,215	$379,450	$92,842,794
	Percent of Total	41.56%	45.34%	11.28%	1.41%	0.41%	100.00%
2021[11]	Dollars	$34,518,517	$49,498,366	$14,517,611	$1,086,835	$378,671	$100,000,000
	Percent of Total	34.52%	49.50%	14.52%	1.09%	0.38%	100.00%
Average Percent of Total by IOU		**39.76%**	**46.53%**	**12.02%**	**1.30%**	**0.40%**	**100.00%**

[11] PacifiCorp Advice Letter 679-E-A.

4. Comments on Proposed Decision

The proposed decision of Administrative Law Judge (ALJ) Valerie U. Kao 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 __________ by __________, and reply comments were filed on ___________ by _____________.

5. Assignment of Proceeding

John Reynolds is the assigned Commissioner and Valerie U. Kao is the assigned ALJ in this proceeding.

Finding of Fact

1. SCE's and CSE's proposed modifications to D.17-12-022 and D.20-04-012 will add efficiency and transparency to the SOMAH fund allocation process of forecasted proceeds.

Conclusion of Law

1. It is reasonable to modify D.17-12-022 and D.20-04-012 as requested by the petition, except as discussed in Section 3 of this decision.

O R D E R

IT IS ORDERED that:

1. To improve efficiency of the funding forecast and set-aside process for the Solar on Multifamily Affordable Housing Program, Decision 17-12-022 is modified as follows (deletions in strikeout and additions underlined):

> **Modifications to Finding of Fact 11:**
>
> It is reasonable and consistent with Section 2870(c) to require PG&E, SDG&E, SCE, Liberty, and PacifiCorp each to contribute its proportionate share of $100,000,000 each year for the SOMAH Program, calculated based on <u>the forecast of GHG allowance revenue proceeds, and on</u> the total <u>recorded</u>

proceeds of the last four quarterly auctions for true up the following year.

Modifications to Ordering Paragraph 4:

Pacific Gas and Electric Company, San Diego Gas & Electric Company, ~~and~~ Southern California Edison Company, Liberty Utilities Company, and PacifiCorp Company each shall reserve 10% or their proportionate share of $100 million, whichever is less, of the proceeds from the sale of greenhouse gas allowances defined in Public Utilities Code Section 748.5 through ~~its~~ their respective annual Energy Resource Recovery Account (ERRA) or Energy Cost Adjustment Clause (ECAC) proceedings for use in the Solar on Multifamily Affordable Housing Program, starting with its ongoing 2018 ERRA forecast proceeding.

Modifications to Ordering Paragraph 7:

Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, Liberty Utilities Company, and PacifiCorp Company shall each contribute its proportionate share of $100,000,000 on an annual basis for management of the Solar on Multifamily Affordable Housing Program. Each company's share of the annual true-up will be calculated based on its share of allowance sale proceeds over the previous four quarters.

2. Decision 17-12-022 is modified to delete Ordering Paragraph (OP) 5 in its entirety, and to renumber OPs 6 through 15 accordingly. Pursuant to this order, modified OP 7 of Decision 17-12-022 will be renumbered as OP 6 of Decision 17-12-022.

3. As of the issue date of this decision, Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, Liberty Utilities Company, and PacifiCorp Company must use the percentages shown in the final line of Table 1 of this decision as their proportionate share of $100 million, in their respective annual Energy Resource Recovery Account

(ERRA) or Energy Cost Adjustment Clause (ECAC) proceedings, for use in forecasting the Solar on Multifamily Affordable Housing Program budget. The use of Table 1 must be substantiated by each company within their ERRA and ECAC applications to show that the combined budget of all the companies is likely equal to or more than $1 billion.

4. Decision 20-04-012 is modified as follows (deletions in strikeout and additions underlined):

Modifications to page 9:

Pursuant to Ordering Paragraph ~~7~~ 6 of D.17-12-022, each electric IOU shall contribute 10 percent, or its proportionate share of $100 million (in years when the sum of the IOUs' available funds equal or exceed $100 million), whichever is less, to be calculated based on its share of allowance sale proceeds over the previous four quarters.

Modifications to page 11:

The true-up for the final three months of each year shall occur via a joint (*i.e.*, jointly submitted by all five electric IOUs) Tier 1 advice letter, and submitted by one of the three large electric IOUs (PGE, SCE, or SDGE) on behalf of all five electric IOUs, as soon as this information becomes available, and no later than March 1 of the following year.

5. Rulemaking 14-07-002 and Application 16-07-015 are closed

This order is effective today.

Dated ___________, at Fresno, California