BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

FILED
10/20/22
04:59 PM
A2209002

Application of Sunnova Community Microgrids California, LLC for a Certificate of Public Convenience and Necessity to Construct and Operate Public Utility Microgrids and to Establish Rates for Service	Application No. 22-09-002

REPLY OF SUNNOVA COMMUNITY MICROGRIDS CALIFORNIA, LLC TO RESPONSES AND PROTESTS

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Filed on October 20, 2022

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Pursuant to Rule 2.6(e) of the Rules of Practice and Procedure ("Rules") of the California Public Utilities Commission ("Commission" or "CPUC"), Sunnova Community Microgrids California, LLC ("SCMC") respectfully submits this reply ("Reply") to responses and protests filed on October 10, 2022 to SCMC's application for a Certificate of Public Convenience and Necessity ("CPCN") authorizing the construction and operation of public utility microgrids by SCMC and to establish rates for service ("Application").

I. Introduction

First and foremost, SCMC very much appreciates the broad support for a hearing on the Application from over a dozen organizations spanning many diverse interests in California, including 350 Bay Area, California Energy Justice Alliance, California Energy Storage Association, California Solar & Storage Association, Center for Biological Diversity, Clean Coalition, Local Government Sustainable Energy Coalition, Microgrid Resources Coalition, Peninsula Clean Energy Authority, Reclaim Our Power: Utility Justice Campaign, Solar Energy Industries Association, Sonoma Clean Power Authority, The Climate Center, Vote Solar, World Business Academy, and Zero Net Energy Alliance. Many of the supportive comments validate the wide range of benefits that can be realized from SCMC's microutility proposal, including

microgrid commercialization, reliability and resilience, environmental, decarbonization, equity and environmental justice, grid modernization, community empowerment, reduction of costs through the deployment of distributed generation and storage, investment, and increased employment and tax revenues. Moreover, even parties which have raised questions regarding SCMC's Application, such as Peninsula Clean Energy Authority and Sonoma Clean Power Authority, still recognize that a hearing is necessary to duly consider SCMC's proposal. These comments demonstrate, and SCMC agrees, that it is in the public interest to fully consider the Application through a hearing, which will give all interested parties an opportunity to weigh in on the merits of the Application and provide the Commission with the ability to resolve the issues of law and fact raised by the Application. And as discussed in more detail in the Conclusion, there also is good reason to promptly grant a hearing because there is limited time for community microgrids such as those proposed by SCMC to participate in certain of the new benefits from the federal Inflation Reduction Act ("IRA") that sunset in 2025.

Several parties oppose the Application and call for its outright rejection, including Cal Advocates, Coalition of California Utility Employees, Pacific Gas and Electric Company ("PG&E"), San Diego Gas and Electric Company ("SDG&E"), Southern California Edison Company ("SCE"), and The Utility Reform Network (collectively, the "Protestors," and the three investor owned utilities PG&E, SDG&E, and SCE together, the "large IOUs"). Each of these parties has a vested interest in the status quo, whereby large IOUs control a monopoly over electric service in the areas that they serve. The large IOUs would face competition from SCMC over who would serve new planned residential communities. Similarly, Cal Advocates and The Utility Reform Network are firmly ensconced in the large utility ecosystem, and the bulk of their resources are dedicated to regulatory proceedings involving the large utilities. Each in their own way appears

to prefer the status quo of large IOU monopolies and the unchallenged captivity of ratepayers to those utilities. The adverse impact of this on Californians is acute: without any competitive alternatives for ratepayers and without any empowerment to fully make their own energy choices, consumers in California continue to be victim to ever increasing costs, lack of timely access to new technologies, and the inability to make fundamental choices about which electric services and capabilities best suit their needs.

The Protestors raise a variety of claims as to why SCMC's Application should be rejected, many of which are not supported by any precedent, rest wholly on "the sky is falling" conjecture, and are self-serving. Without waiving any objection to those claims, SCMC reserves the right to respond to all of the Protestors' claims if its Application is set for hearing. In that regard, the arguments raised by the Protestors reinforce the need for a hearing so their asserted issues of fact and law can be fully aired and examined through an evidentiary record. To focus on the threshold questions before the Commission at this stage, SCMC's Reply addresses the following claims raised by the Protestors: (1) the Application should be examined in the microgrids and resiliency rulemaking, R.19-09-009,[1] or in a separate rulemaking, (2) SCMC's Application does not meet the requirements set forth in the statutory provisions and CPUC rules concerning certificate applications,[2] and (3) the requested findings and conclusions regarding rates, environmental review, Affiliate Transaction Rules ("ATRs"), and microutility status are not permitted.[3] SCMC also responds below to a few additional discrete issues raised by the Protestors and in other

[1] PG&E Protest at 2; SCE Protest at 5; SDG&E Protest at 13; The Utility Reform Network Protest at 3; Cal Advocates Protest at 2.
[2] PG&E Protest at 3; SCE Protest at 3; SDG&E Protest at 13; The Utility Reform Network Protest at 3; Cal Advocates Protest at 2-4; Coalition of California Utility Employees at 4-6.
[3] PG&E Protest at 9-14; SCE Protest at 10-11; SDG&E Protest at 6-17; The Utility Reform Network Protest at 5; Cal Advocates Protest at 4; Coalition of California Utility Employees at 2-3, 6.

comments. Finally, SCMC reviews the supportive comments filed the parties identified above, and addresses the proposed schedule.

II. The Commission Should Address the Issues Raised by SCMC's Application in This Proceeding

Each of the Protestors claims that the issues raised by SCMC's Application should be addressed in a separate rulemaking or the R.19-09-009, pointing out that Track 4 Phase 2 concerns the adoption of a Microgrid Multi-Property Tariff.[4] This claim is based on a misunderstanding of the fundamental difference between the Microgrid Multi-Property Tariff (or a separate rulemaking) and what SCMC proposes. SCMC is not proposing that the large IOUs own and operate the microgrid infrastructure and allow third parties within a microgrid to receive service from them under a tariff, which is the focus of Track 4 Phase 2 of the R.19-09-009 proceeding. Instead, SCMC is proposing to become an "electrical corporation" under Section 1001 of the Public Utilities Code that will own and operate the microgrid infrastructure (including the community distribution system) independent of the large IOUs, save the microgrid's connection to the larger grid, similar to the way utilities interconnect with other utilities.

This fundamental difference justifies, and in fact requires, examining the issues raised by SCMC's Application in this proceeding, not in a rulemaking proceeding. The proposal in the Application is premised on SCMC having full control and ownership of the microgrid to make decisions regarding generation, load, islanding, and purchasing and selling energy and other attributes in the market. This will allow SCMC to provide the full range of benefits to

[4] In December 2021, Assigned Commissioner Shiroma released an amended scoping memo and ruling resetting Track 4 and adding Track 5 to R.19-09-009. The ruling scoped three main issues to be addressed throughout the course of 2022: the finalization and eventual approval of the Microgrid Incentive Program (MIP), the addition of a concurrent Track 5 to deliberate the value of resiliency, and the creation of a "microgrid multi-property tariff" as part of Track 4 Phase 2.

homeowners, as outlined in SCMC's Application, including maintaining reliability when the larger grid is down or stressed. These benefits could not be realized if the microgrid infrastructure is utility-owned and operated because the utility's focus is on its system-wide operations, of which a microgrid would just be a small part. A large IOU cannot provide the level and range of services proposed in SCMC's application that are community-centric.

Moreover, setting SCMC's Application for hearing in this proceeding is also fully consistent with the Commission's Rules. Under Rule 1.3(f), quasi-legislative proceedings "are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry, even if those proceedings have an incidental effect on ratepayer costs." In contrast, under Rule 1.3(g), ratesetting proceedings "are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). Ratesetting proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future. Other proceedings may be categorized as ratesetting, as described in Rule 7.1(e)(2)." Certificate applications by a utility are treated as ratesetting.[5] Moreover, under Rule 7.1(e)(2), when there is uncertainty regarding which category a proceeding should fall under, the default rule is to use the rules applicable to ratesetting.[6]

[5] *See, e.g.,* D.14-04-024, *In Re Application of San Francisco Deluxe Sightseeing, LLC for Passenger Stage Authority under Pub. Util. Code Section 1031, et seq.*, issued Apr. 10, 2014, at 15 ("[O]ur certificate proceedings fall under the category of "ratesetting" and are conducted according to a different set of procedures from an investigation.").

[6] Rule 7.1(e)(2) (noting that unless the Commission has determined that the proceeding fits into another category (adjudicatory, catastrophic wildfire, or quasi-legislative), it should be "conducted under the rules applicable to the ratesetting category").

Here, SCMC's Application clearly falls into the ratesetting category because it requests certificate and rate authority "for a specifically named utility." The Application, which is over 50 pages plus supporting documents, makes a proposal specific to SCMC, using a model microgrid community that is specific to SCMC. While the Protestors claim the Application raises issues concerning "a class of regulated entities" that justifies rulemaking treatment,[7] that claim is unsubstantiated. The Application puts forth a very specific plan as to how SCMC would own and operate electric facilities (*i.e.,* electric plant) as a regulated "electrical corporation," for which the framework has already been established under Section 1001 of the Public Utilities Code, Rule 3.1, and the Commission's orders thereunder. While a microgrid involves unique technology and capabilities, it still consists of electric plant, just on a smaller scale than the large IOUs' "macrogrids." In contrast, rulemaking proceedings like the R.19-09-009 proceeding concern establishing uniform rules that apply to each of the three large IOUs systems.[8]

Further, there is enormous benefit in considering the issues raised by SCMC's Application in the context of its concrete proposal in a rate setting proceeding, and not by considering hypotheticals or policy in the abstract in a rulemaking proceeding.[9] For these reasons, the Application is properly considered "ratesetting" and not "quasi-legislative." In this regard, the

[7] *See, e.g.,* PG&E Protest at 3.

[8] SCMC notes that the R.19-09-009 proceeding is a "ratesetting" proceeding, although it is styled as a rulemaking proceeding. Nevertheless, this reinforces the point that the R.19-09-009 proceeding is not the appropriate forum to consider SCMC's proposal because it is limited to adopting uniform rules for the three large IOUs (the "specifically named utilities" for "ratesetting"), not considering other ways of deploying microgrids that are not IOU-centric.

[9] Furthermore, one potential benefit of considering a concrete proposal like SCMC's is that consideration of the Application in a ratesetting proceeding with a schedule focused on SCMC's proposal may allow SCMC to receive the requested approvals in time to then secure IRA benefits for the microgrid community. SCMC discusses the IRA benefits in more detail in the Conclusion of this Reply.

Commission determined on a preliminary basis on October 6, 2022, in Resolution ALJ 176-3515, that the proper category is "ratesetting" based on its review of the Application.

III. The Application Complies with the Commission's Requirements

A. The Application Provides Sufficient Information for the Commission to Order Further Consideration through a Hearing

The Protestors claim that the Application suffers from various infirmities in comparison to the certificate applications that the large IOUs are required to file for large, complex infrastructure (*i.e.*, projects that exceed 50 MW in generation, 50 kV in line voltage, or $50 million in costs). The Protestors' constrained interpretation of the Rules concerning applications, which may be appropriate for large, complex infrastructure projects, should be rejected by the Commission in this proceeding.

Foremost, the Protestors gloss over the full extent of information that SCMC provided, which consisted of a substantial and detailed application plus supporting information, much of which was based on months of engineering, technical work, and modelling substantiated by Black and Veatch.[10] Thus, the Application does not merely propose a "business model," as many of the Protestors contend, but instead presents a comprehensive proposal and a framework for consideration of each specific microgrid community.[11]

Further, the Commission is not limited to considering SCMC's Application in the exact same manner as it considers applications by the large IOUs. Instead, the Commission has broad discretion and flexibility under Sections 1001 and 1003 of the Public Utilities Code and Rule 3.1 to consider SCMC's proposal. The Supreme Court of California clearly established the broad scope of the Commission's discretion in *San Diego & Coronado Ferry Co. v. Railroad Committee*

[10] *See* SCMC Application, at Section IV.
[11] *Id.* at Section X.

of California by noting that "[t]he commission has never foreclosed itself, even if it could, from acting favorably on an application for a certificate, the consideration of which is so peculiarly within its own jurisdiction."[12] In that same case, the Supreme Court of California explained:

> The discretion of the commission in such matters is very broad . . . The discretionary power of the commission to grant or withhold certificates of convenience to public utility companies is broader than its power to govern rates and services of such companies.'[13]

The court also specifically recognized that the Commission:

> [H]as a right to, and should, look to the future as well as to the present situation. Public utilities are expected to provide for the public necessities not only today, but to anticipate for all future developments reasonably to be foreseen. The necessity to be provided for is not only the existing urgent need, but the need to be expected in the future, so far as it may be anticipated from the development of the community, the growth of industry, the increase in wealth and population, and all the elements to be expected in the progress of a community.[14]

This aspect of the Commission's authority is particularly apt to SCMC's innovative proposal, which proposes an advanced solution that will provide the capabilities to meet future challenges facing California's electric consumers concerning reliability, resiliency, the environment, safety, and community building. Moreover, as indicated by the quote just above, *San Diego & Coronado Ferry* stands for a clear recommendation from the Supreme Court of California that the Commission use its discretion to proactively address future public necessities. Given the enormous benefits that SCMC's proposal offers for the future of California, the Application presents the Commission with the opportunity to do just that.

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[12] 210 Cal. 504, 513 (1930).
[13] *Id.* (internal quotation marks and citation omitted) (refusing to overturn a grant of a certificate of public convenience and necessity). *See also* D.91-12-007, *In Re E Z Way Out Shuttle Serv. of Hayward,* issued Dec. 4, 1991, at 4 ("The Commission's power and discretion in acting upon an application for a certificate is very broad. (*California Motor Transportation Company v. Railroad Commission* (1947) 30 C 2d 184).").
[14] 210 Cal. at 512.

Thus, the Commission has broad latitude to set SCMC's Application for hearing and find that the information submitted is adequate to meet the Commission's requirements. The exercise of this latitude is further supported by the fact that the level of complexity and the potential for significant impacts from a proposal like SCMC's is vastly different from a long-distance, high-voltage transmission line for example. As explained further below, while the microgrid community will have advanced, cutting-edge capabilities, SCMC will use standardized equipment being installed every day in California.

Further, the Commission has also recognized that applicants submitting a certificate to become a utility for the first time may not be able to provide the same kind of information that an existing utility with a longer operational record can provide and has been willing to accept information tailored to the specific proposal as meeting the requirements of Rule 3.1 or grant waivers in certain instances.[15] If the Commission identifies any deficiencies with SCMC's Application, SCMC respectfully requests the opportunity to provide additional information or meet the requirements in a manner commensurate with the type of utility that SCMC proposes. In this regard, assessment of the sufficiency of each and every aspect of the Application based on the initial protests and comments of the parties is not appropriate.

More importantly, if an aspect of an application is found insufficient after the appropriate level of review, then the applicant is afforded the opportunity to amend or supplement its application.[16] The appropriate remedy is not summary dismissal. Further, a chief purpose of

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[15] *See, e.g.,* D.12-05-009, *Ponderosa Cablevision for a Certificate of Public Convenience and Necessity in order to Provide Limited Facilities-Based and Resold Competitive Local Exchange Services,* issued May 10, 2012.

[16] See D.18-06-028, *In Re Application of San Diego Gas & Elec. Co. and S. Cal. Gas Co. for a Certificate of Convenience and Necessity for the Pipe-line Safety & Reliability Project,* issued June 21, 2018 (subsequently modified with respect to other issues) (recounting in the procedural history

holding a hearing, which entails discovery and submission of testimony is to further develop an evidentiary record upon which the Commission can find facts and reach conclusions of law, particularly as here where parties have raised legal and factual issues that are demonstrably in dispute.[17] Thus, "[c]ommon sense and practicality would dictate that when, as here, an application is filed showing an entity would act to fulfill the statutory criteria if the desired approval is granted, it is only reasonable to consider the facts presented" through further proceedings in this docket.[18]

B. The Framework for Review of Specific Microgrid Communities is Permissible

Most of the Protestors' claims that the Application is insufficient rely upon the fact that SCMC did not propose a specific location for a microgrid community. As discussed above, the Commission has very broad latitude with respect to certificate applications, and there is no prohibition on the Commission granting a certificate that is conditioned upon subsequent microgrid-community specific filings. As discussed in Section X of the Application, for each community, SCMC would make such a filing, which will address rates, terms and conditions of service, environmental impacts and alternatives, construction and operations, and other matters concerning that community. In support of its proposed framework, SCMC provided precedent from the telecommunications sector that demonstrates that the Commission can authorize the

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that the utility was permitted to amend its application after the Commission and the assigned Administrative Law Judge ("ALJ") determined that there were deficiencies and only later dismissing the application when it was determined on the record after additional proceedings that the deficiencies were not corrected).

[17] *See, e.g.,* D.18-11-027, *In Re Application of S. Cal. Edison Co. to Establish Marginal Costs, Allocate Revenues, and Design Rates,* issued Nov. 29, 2018, at 7 ("The purpose of evidentiary hearings was to develop the record of this proceeding . . . .").

[18] D.11-12-056, *In Re Application of The Nevada Hydro Co. for a Certificate of Public Convenience and Necessity for the Talega-Escondito/Valley-Serrano 500 kV Interconnect Project*, issued Dec. 15, 2011, at 6 (order denying rehearing on objection to resolution of threshold legal issues through a two-phase proceeding).

approach to granting a certificate and then review individual projects. No Protestor acknowledged this precedent, let alone provided any grounds for refuting it.

While this approach may not be appropriate for a complex, large-scale infrastructure project proposed by a large IOU, SCMC submits that it is reasonable and more appropriately suited to SCMC's Application given the scope of its proposal and the limited electric plant involved. In that respect, SCMC's proposal has much more in common with the full facilities-based authority sought by telecommunications providers than complex, large-scale electric plant. The electric plant in an SCMC-proposed microgrid community is made up of five general categories: (1) solar generation and battery storage equipment installed at each residential home, (2) distribution wires and related facilities interconnecting each home together as part of the microgrid, (3) community-scale solar generation, battery storage facilities, and backup generation, (4) a substation interconnecting the community distribution system, the community-scale assets, and the larger grid, and (5) a microgrid controller.[19] Individually, each category of facilities is constructed and installed every day in California with limited Commission oversight and, where applicable, local

[19] As further technical background, the hardware proposed in SCMC's distribution solution is proven and deployed all over the world. The nature of the distributed generation solution is such that the individual equipment is small and less complex than the traditional central generating stations. Due to the equipment configuration of the distributed generation, the multiple identical generation sources lower the severity of any single equipment failure. The proposed microgrid solution is effectively a community microgrid of individual home microgrids. This layered redundancy both simplifies the operation of the system as well as mitigates the risks of electrical outages inside the system. While the proposed system has more extensive communications than the typical distribution system, the communication networks proposed are in wide use throughout the industry and do not present an unusual level of complexity. Due to the system multi-directional power flow design, the resulting distribution protection scheme also provides more robust protection within the entire distribution system. These protection schemes are in wide use throughout the electrical system, but are just not traditionally deployed in residential distribution systems. Due to the system's extensive status information, fault location, isolation, and restoration are significantly improved.

and county oversight. The proposed structure is worlds away from the complexity of large-scale electric plant.

With respect to the first category, solar and battery storage systems are installed at the homes of Californians every day by licensed contractors under agreements negotiated with customers. Except with respect to interconnection and consumer disclosures, the Commission does not regulate these facilities or the customer relationship. With respect to the second category, minor ground disturbing activities are also routinely undertaken every day. Impacts are minimal, particularly since this equipment will be installed underground and during the construction of the new homes, where water, sewer, telephone, internet, roads, and other construction activities are taking place at the site and where there will already be trenching and ground clearing activities taking place for these purposes. Similar to telecommunications, the distribution line installation will involve "relatively minor ground-disturbing activities, including: placement of [] facilities in aerial and underground conduit configurations; installation or replacement of utility poles or conduit; installation of underground vaults; trenching, boring and grading."[20] With respect to the third category, companies routinely build utility-scale solar generation facilities and battery storage facilities without Commission oversight, with review taking place at the local or county-level due to ground clearing permitting and other authorizations (the same is true of back-up generation installed at commercial or industrial premises).[21] With respect to the fourth category, the construction of small distribution substations are not subject to Commission review if proposed

[20] *See*, *e.g.*, D.22-01-024, *In re Application of Fiber Unity, Inc. for a Certificate of Public Convenience and Necessity to Provide Full Facilities-Based and Resold Competitive Local Exchange and Non-Dominant Interexchange Services*, issued on Jan. 27, 2022, at 5.

[21] *See, e.g.,* Butte County, Cal., *Butte Utility-Scale Solar Guide*, at 38 (Sept. 26, 2017), available at https://www.buttecounty.net/Portals/33/SolarZone/Utility_Solar_Guide_Book_100417.pdf.

by a large IOU.[22] Instead, review chiefly takes place at the local or county-level due to ground clearing permitting and other authorizations. With respect to the fifth category, a microgrid controller consists of discrete electronic equipment that is not anticipated to have any construction impacts as such.[23]

This overview of the regulation of the construction of the individual components is not to suggest that the Commission has no regulatory oversight over the electric plant proposed by SCMC. Instead, it demonstrates that: (1) the impacts from the construction and operation are far less significant than large, complex utility infrastructure, and (2) consequently, a different framework for certification is appropriate because, despite the protestations to the contrary, SCMC's electric plant is small-scale, mainly off-the-shelf, and – to put it plainly – pretty ordinary. The advanced capabilities of the proposed electric plant come from the microgrid controller and the interconnection of the on-site resources (home-based and community-based) together to optimize their utilization, not from the construction and installation of invasive, high-disturbance, high-impact infrastructure. Thus, while the electric plant is not quite "plug and play" (although solar and storage modules are certainly standardized and off-the-shelf today), the impacts of the five categories of electric plant can be sufficiently reviewed through the framework proposed.

[22] *See, e.g.,* General Order No. 131-D, at Section III.

[23] As detailed in Section IV of the Application, the protection system and system operations status will be provided to the interconnecting utility and CAISO through the SCADA system at the substation, and during grid and/or communications outages, the local microgrid controller will be able to dispatch the generation assets.

IV. SCMC's Requests regarding Rates and Terms and Conditions of Service, CEQA Review, ATR Waivers, and Microutility Status Are Supported by Precedent and Appropriate for the Kind of Utility Proposed by SCMC

A. Rates and Terms and Conditions of Service

Many of the Protestors allege that SCMC is proposing unregulated rates and terms and conditions of service.[24] These claims are all based on a faulty premise – that any regulatory framework for rates that is different from the cost-of-service ratemaking necessarily means that rates are unregulated. Forcing SCMC to follow exactly what the large IOUs are required to do with respect to rates is not compelled by the Public Utilities Code. As explained in SCMC's Application, the Commission has broad authority with respect to rates and has permitted utilities to offer negotiated, market-based rates for service.[25] And again, no Protestor seriously engages precedent to support this point. While the proposed rates will be negotiated and market-based, the Commission's regulatory oversight will be facilitated through both the project-specific filings for each community, as well as the complaint process that is available to utility customers.

There is nothing novel about SCMC's proposal as it concerns electric service. Today, any California homeowner can enter into a power purchase agreement or lease for solar and storage systems. These agreements, which have terms of up to 25 years, lock in the price for the use or leasing of the facilities at the agreed-upon rate. SCMC's proposal would extend this arrangement, which hundreds of thousands of Californians already have in place today, to service by an electrical corporation. The only difference is that a proportionate share of the use of the community facilities and back-up generation would also be part of the power purchase agreement or lease. Far from creating undue risk to customers, it would actually allow them to lock in reliable service and access to microgrid capabilities for a fixed rate over a long-term. In contrast, none of the large IOUs offer

[24] *See, e.g.,* SDG&E Protest at 17-19; PGE Protest at 13.
[25] SCMC Application at Section VI.

their customers this kind of long-term rate certainty,[26] but instead they pass through to their customers the ever-increasing costs of investments and the consequences of deferred maintenance and vulnerable infrastructure.

Likewise, with respect to terms and conditions of service, there is nothing novel about SCMC's proposal, except that it would extend the accountability that residential solar providers live by today to service by an electrical corporation. As explained in SCMC's Application, robust consumer disclosures compliant with relevant laws would be provided to prospective homebuyers, much like disclosures are provided to residential solar customers today. The agreements with customers would also provide terms and conditions of service that include unique consumer protections. For example, as stated in SCMC's Application, "SCMC will provide a form of service guarantee such as waiving a percentage of the monthly service fee for the community microgrid if an outage occurs and the system does not perform."[27] SCMC is unaware of any similar guarantees of service offered by the large IOUs.

Certain Protestors have suggested that SCMC's proposal amounts not only to deregulation, but to customers being faced with a "take it or leave it" approach to rates. That claim is almost farcical given that the customers of the large IOUs face just that today by being captive to utilities who look to their customers to pay for the consequences of their decisions and continually increase rates. What is clear from SCMC's Application is that SCMC proposes real competition that not

[26] As proposed in the Application, the costs and revenues from the purchase or sale of energy from the CAISO market will be passed through to customers without, respectively, mark-up or deduction. Customers will also receive credits for or make payments for electricity obtained from neighbors. Apart from these elements, all other aspects of electric service provided by SCMC will be at a fixed monthly rate under a long-term agreement.

[27] SCMC Application at Section VI (also describing other details of the rate and terms and conditions of service proposal).

only helps justify its rate proposal, but also appears to threaten the long-failing, unchallenged status quo that the large IOUs enjoy.

There are no fewer than three levels of competition that will ensure that customers enjoy fair rates. First, SCMC must compete against other utilities' offerings to be selected by the home builder to serve as the utility for the new community. Thus, SCMC's proposed microgrid must provide competitive rates and terms and conditions of service (including assurance of quality service) because no home builder will want to unreasonably increase the costs to homebuyers of purchasing homes in the community or provide them with substandard electric service. Second, SCMC will compete with solar providers, in addition to the regulated utilities. Solar providers can make competitive offers to a home builder with respect to residential solar and storage, and again, the homebuilder will only select SCMC's microgrid proposal if its offering is competitive, reliable, and meets the needs of the homebuilder's prospective customers. Third, SCMC must offer rates and terms and conditions of service that new homebuyers will choose. In the competitive real estate market, a potential homeowner can simply make the choice for themselves whether SCMC's offering is reasonable and whether the unique capabilities provided by a microgrid serve their needs. In stark contrast, none of these layers of competition govern large IOU rates and terms and conditions of service and their customers simply have no alternative today to their monopolies.

B. CEQA Review

Certain of the Protestors oppose SCMC's Application on the basis that it has not yet undergone California Environmental Quality Act ("CEQA") review.[28] However, these Protestors misunderstand the nature of SCMC's Application and applicable Commission procedures. For

[28] *See, e.g.,* PG&E Protest at 14; Coalition of California Utility Employees Protest at 4-5; SDG&E Protest at 13.

example, SCMC disagrees with PG&E that its Application is subject to Commission's General Order 131-D. SCMC's Application explicitly states that each potential microgrid project will be under 50 megawatts, and therefore General Order 131-D (and any related CEQA review) is not applicable here.[29]

Other Protestors' objections incorrectly assert that the Application triggers CEQA review under CPUC Rule 2.4. But SCMC does not seek approval for authority to undertake a specific microgrid project. Rather, its Application requests a certificate for SCMC to be an electrical corporation and authorize a framework for subsequent review of specific microgrid projects. In fact, Section X of the Application sets forth the expected process for future CEQA review of any specific microgrid project proposed for review by the Commission and identifies Commission precedent in support of that review process. SCMC also has provided additional information on its proposed framework in Section III.B of this Reply.

Because the proposed review framework would not commit the Commission to approve or deny any proposed microgrid project in the future, it is not the type of agency action that is subject to CEQA review. Only public agency approvals impacting the environment where the approval "commits the agency to a definite course of action" trigger CEQA.[30] Here, granting of the certificate and approval of the proposed framework does not commit a future microgrid project to be constructed or operated at all or in any specific way. Thus, SCMC's Application is seeking a type of pre-approval agreement that does not require CEQA analysis.[31]

[29] *Compare* General Order 131-D at Section III.A. *with* SCMC Application at 4, 52.
[30] 14 Cal. Code. Reg. § 15352.
[31] *Id.* at § 15004(b)(4).

C. ATR Waiver Request

Many of the Protestors oppose SCMC's request for a limited ATR waiver.[32] However, this opposition overstates the scope of SCMC's waiver request and ignores the fact that the Commission has granted numerous such waivers previously.[33] As discussed in the Application, SCMC requests waiver only for limited categories of services, which is consistent with the prior Commission precedent.[34]

D. Microutility Status

There is much confusion, perhaps intended, regarding the Protestors' characterization of SCMC's request for microutility status under Section 2780 of the Public Utilities Code. To be clear, SCMC is not relying on Section 2780 in requesting a certificate or with respect to its proposals regarding rates and terms and conditions of service. As is clear in the Application, SCMC is relying on Sections 1001, 1003, and 458 of the Public Utilities Code and is making requests for a different manner of regulation under those provisions that is appropriate for the size, scale, and nature of services it proposes. If the certificate is issued and rate proposal approved, it will be under those sections of the Code, not Section 2780. In fact, the Commission could approve SCMC's Application even if SCMC made no reference to Section 2780 at all. Thus, SCMC is not making any request pursuant to Section 2780 to be an unregulated entity, but instead is asking to be a regulated electrical corporation, albeit one that is regulated differently than the large IOUs.

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[32] *See, e.g.,* The Utility Reform Network Protest at 5.
[33] SCMC Application at Section XI; *see also* D.10-09-005, *In the Matter of the Application of Southwest Gas Corporation for the Issuance of a Limited Exemption from the Affiliate Transaction Rules*, issued Sept. 2, 2010; D.05-02-021, *In the Matter of the Application of Southwest Gas Corporation for the Issuance of a Limited Exemption from the Affiliate Transaction Rules Adopted in D.97-12-088*, issued Feb. 10, 2005; D.99-10-049, *Re PacifiCorp*, issued Oct. 21, 1999; D.99-01-015, *Re Washington Water Power Company*, issued Jan. 20, 1999.
[34] *Id*.

The only relief that SCMC requests under Section 2780 is set forth thereunder: that the Commission "consider the legal, administrative, and operational costs that an electric microutility faces if it is named as a respondent in a hearing generally applicable to electrical corporations."[35] To quote the Application, "SCMC requests that the Commission find that it is an 'electric microutility' under Section 2780 that is eligible to request administrative relief pursuant to Section 2780.1."[36] Thus, as an electrical corporation, SCMC would be subject to generally-applicable proceedings related to resource adequacy, resource planning, renewable portfolio standards ("RPS"), and other matters. As a smaller utility with fewer resources than the large IOUs, SCMC may request that the requirements concerning its participation be tailored appropriately and is simply seeking a finding that it qualifies as an "electric microutility" in order to request that relief when appropriate.

Many of the Protestors claim that SCMC does not qualify for electric microutility status, asserting various misinterpretations of the statute. SCMC believes this issue is appropriate for resolution before the assigned ALJ based on a further developed evidentiary record because it involves disputed issues of law and fact. Nevertheless, SCMC believes that the Protestors' arguments are unsound. As a starting point, the Commission has held with respect to statutory interpretation that:

> [The] relevant case law [] cautions against applying a rigid literal interpretation of statutory language. A statute's overall intent and purpose will take precedence, such that the meaning should not be dictated by any single word or sentence. A literal construction will not prevail if it is contrary to the legislative intent apparent in the statute. And a statute will be interpreted to effectuate the spirit of the act, and the overall purpose of the law. In keeping with these principles, the Courts have expressed a policy favoring a practical application of statutes . . . Similarly, the plain

[35] SCMC Application at Section XII.
[36] *Id.*

> language of a statute is unlikely to control if a literal construction would lead to an absurd result and/or frustrate the overall purpose and intent of a statute.[37]

The Protestors focus on the following bolded terms in the definition of "electric microutility" in Section 2780, and construe them as to disqualify SCMC: "any electrical corporation that is regulated by the Commission and organized for the purpose of providing **sole-source** generation, distribution, and sale of electricity exclusively to a customer base **of fewer than 2,000 customers**." First, the Protestors claim that the proposed connection between the microgrid and the larger grid means that the microutility will not be the "sole source" of power. This interpretation disregards that SCMC indeed proposes to be the sole source of electric service to the customers in the microgrid community and that is not undermined by the fact that SCMC proposes that the microgrids be grid interactive. While SCMC could design the microgrids to be completely independent of the larger grid, it believes that there are substantial two-way benefits from SCMC purchasing some resources in the CAISO market and SCMC providing resources to the CAISO market and the interconnecting utility. Further, upsizing the microgrid could make it fully independent at additional cost that could include increased land use for community-site resources, while also depriving the larger grid and its customers of the benefits of distributed energy and other attributes from the microgrid. Thus, this practical, balanced approach to grid connectivity is consistent with both the text and spirit of Section 2780. Moreover, there may be communities that a utility will not serve due to location or other factors and that are not reasonably proximate to an existing distribution or transmission system. In that instance, where a community may have no other option for reliable service, SCMC would be the sole provider in an absolute physical sense if it serves the community using upsized community resources.

[37] D.11-12-056 at 5-6 (citations omitted) (rejecting San Diego Gas and Electric Company's constrained and unreasonable interpretation of the Public Utilities Code).

With respect to the requirement of "fewer than 2,000 customers," Protestors claim that SCMC is proposing to end run the statute because the aggregate customer base of all communities together could equal or exceed 2,000 customers. As explained in SCMC's Application, each community will have its own agreements, including rates and terms and conditions of service, that are tailored to that community and the resources it requires to meet customer electric demand.[38] Accordingly, each community will be independent from the others and should be evaluated on its own terms. If a microutility service area has fewer than 2,000 customers, then it should qualify under the text and spirit of Section 2780. In this regard, SCMC's proposal is no different from utility holding companies that own and operate multiple utilities, each with its own rates and terms and conditions of service.

If there comes a point in the future that the communities will interact with one another or if the proliferation of microgrid communities results in the creation of an SCMC entity that rivals that of the large IOUs, then the issue of eligibility on those facts could be revisited. But based on SCMC's proposal today to become a new entrant utility with very small service areas, the interpretations urged by the Protestors would only "frustrate the overall purpose and intent of [the] statute," which is inconsistent with Commission precedent.[39] That conclusion is only reinforced when Section 2780 is read in conjunction with S.B. 1339, which directs the Commission to not constrain the deployment of microgrids, but instead "take action to help transition the microgrid from its current status as a promising emerging technology solution to a successful, cost-effective,

[38] SCMC Application at Sections IV & VI.
[39] D.11-12-056 at 5-6.

safe, and reliable commercial product that helps California meet its future energy goals and provides end-use electricity customers new ways to manage their individual energy needs."[40]

V. Additional Issues Raised by the Protestors

While SCMC believes that the following issues are more appropriately addressed in the context of hearing procedures before an ALJ, SCMC wishes to correct certain misconceptions advanced by Protestors.

A. SCMC's Qualifications

Certain Protestors have raised the issue of SCMC's qualifications to undertake its proposal to be a microutility serving microgrid communities.[41] In connection with this claim, they allege that SCMC's Application does not address the topic of qualifications. To the contrary, Sections IV.A, V.A.1, and VIII of the Application each provide information regarding SCMC's capabilities and its parent company Sunnova Energy International ("Sunnova"), which wholly owns SCMC. As recounted in the Application, Sunnova has approximately 70,000 customers in California alone. With respect to labor and safety qualifications, its operating subsidiary holds the following licenses in California: B (General Builder Contractor), C10 (Electrical), and C46 (Solar) under license number 1003498. SCMC also provided information regarding Sunnova's financial reports filed with the Securities and Exchange Commission. SCMC acknowledges that its qualifications (and the extent of support from its parent company) are a proper subject to be examined at a hearing, but it is incorrect to say that SCMC's Application does not address these issues.

One Protestor, The Utility Reform Network, alleges that "SCMC's parent company, Sunnova, has been subject to investigations and numerous customer complaints in several states,

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[40] S.B. 1339, Stern. Electricity: microgrids: tariffs, §1 (e), (Cal. 2018) (hereinafter "S.B. 1339"), available at https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB1339.

[41] *See, e.g.,* PG&E Protest at 7-8; The Utility Reform Network Protest at 4.

and it has also been found to have violated state and federal laws," citing to no judicial or administrative decisions, but instead a single article by a news media outlet.[42] Thus, the Utility Reform Network's claim is without foundation and highly misleading.

As a threshold matter, Sunnova takes compliance with consumer laws very seriously, but every retailer, in energy or in other industry, is subject at one point or another to complaints, lawsuits, or other proceedings. With respect to the article concerning Puerto Rico, the customer complaints related to a form of customer agreement from 2016, which is no longer in use and has since been superseded. Most of the complaints have been resolved with the individual customers, and a majority of the claims were associated with three solar dealers with which Sunnova no longer does business. Since the time of the complaints, Sunnova has put in place a dealer management program to maintain oversight over its dealers and help ensure compliance with applicable law.[43]

[42] The Utility Reform Network Protest at 4. The same protest also alleges that SCMC's Application fails to address the requirements of Section 8371 of the Public Utilities Code regarding cost shifting (*id.* at 5). SCMC's Application expressly addresses this issue in Section V.A.6.

[43] The Puerto Rico Energy Board ("PREB") initiated an investigation regarding the complaints, and in 2020, the PREB issued a Resolution closing the investigative proceeding against Sunnova. In July and October of 2022, Sunnova submitted documentation at the direction of the PREB to resolve a Notice of Non-Compliance that was issued separately from the investigation. If it is determined that Sunnova's documentation is compliant, the PREB indicated in its Resolution and Order issued earlier this month that it will proceed to issue a Resolution dismissing the Notice of Non-Compliance proceeding. Sunnova believes that at all times it acted in good faith and that its submissions to the PREB represent Sunnova's commitment to consumer protection. Further, putting this matter in context, Sunnova has tens of thousands of customers in Puerto Rico and its overall track record, including during the recent Hurricane Ian, demonstrate the high level of performance and customer satisfaction that Sunnova provides every day to its customers in Puerto Rico. Further information regarding the matters before the PREB, including PREB documents referenced above, is available at the PREB website: Investigative Matter (Case No. CEPR-IN-216-0001): https:// energia.pr.gov/en/dockets/?docket=CEPR-in-2016-0001; Notice of Non-Compliance Matter (Case No. NEPR-A1-2019-0001): https://energia.pr.gov/en/dockets/?docket =nepr-ai-2019-0001.

B. Provider of Last Resort

Certain Protestors claim that SCMC's Application does not identify which entity it expects will be the Provider of Last Resort for its customers.[44] That is plainly false. The Application unequivocally states that: "By serving customers as a microutility, SCMC understands and accepts the obligation to serve all loads within the microgrid community, consistent with its duty as a public utility."[45] Thus, consistent with Section 387(b) of the Public Utilities Code, "[t]he provider of last resort shall be the electrical corporation [here, SCMC] in its service territory unless provided otherwise in a service territory boundary agreement . . . or unless another load-serving entity is designated by the commission pursuant to subdivision (c) or (d)."

C. Other Utility Obligations and Rate Riders

Several Protestors raise the issue of whether SCMC will comply with other electrical corporation requirements besides being a provider of last resort. This includes resource adequacy, resource planning, RPS, low-income and medical baseline programs, and non-bypassable charges and public purpose programs. Consistent with its Application to be an electric corporation in the form of a microutility owning and operating community microgrids, SCMC will comply with all applicable requirements. For example, that will include addressing resource adequacy and meeting RPS requirements. On the other hand, there are rate riders and programs that are specific to the large IOUs that would not apply to SCMC's customers. For example, one Protestor alleges that SCMC's customers would owe departing load charges.[46] Such charges would not be applicable because SCMC's customers will be entirely new customers in a service area not previously served by a large IOU and thus there is no existing load that is "departing." As part of its project-specific

[44] SDG&E Protest at 12.
[45] SCMC Application at Section VII.
[46] SCE Protest at 7.

filings, SCMC proposes to include the list of rate riders and program requirements applicable to that community.

One Protestor also suggested that SCMC is unaware of requirements for a public utility's issuance of indebtedness under Section 818 of the Public Utilities Code.[47] SCMC acknowledges that these requirements would apply to SCMC, but SCMC is not yet a public utility and has not proposed to issue any indebtedness yet. As discussed in SCMC's Application, each microutility system would be financed on a project-by-project basis, with initial contributions coming from Sunnova. Thus, at the appropriate time, SCMC will comply with Section 818.

SCMC also notes that it will comply with all applicable cybersecurity and customer information privacy requirements. Physical and cyber security controls will be implemented per industry and government standards to protect both the customer and the microgrid's external communication networks. During the proposed project execution period, both the physical and the cyber security engineering aspects will be designed into the project to meet the desired risk profile and appropriate policies. Since the entire community is new and the distribution system will be built from the ground up, the network and equipment are expected to be more advanced than much of the existing IOU legacy distribution systems.

SCMC's parent, Sunnova, also currently markets a variety of solar and energy storage products and services, which require it to gather, manage, and protect customer information for hundreds of thousands of customers who apply to enter into an agreement for Sunnova's products and services. As such, SCMC will have extensive and proven resources available to it to deploy cybersecurity protections and ensure customer data privacy.

[47] SDG&E Protest at 12-13.

D. Community Choice Aggregators

Peninsula Clean Energy Authority and Sonoma Clean Power Authority raise a number of issues related to community choice aggregators ("CCAs"). While their comments are styled as a protest, SCMC appreciates their thoughtful comments on issues that should be covered in the hearing if granted, their collaborative and positive tone, and interest in furthering the microutility concept. SCMC is open to addressing those issues in this proceeding through the hearing process and would like to work cooperatively with Peninsula Clean Energy Authority and Sonoma Clean Power Authority to create an appropriate framework in this proceeding for how CCAs and SCMC will interact and what their respective obligations are.

E. Impacts to Existing Utility Customers and Interconnection Issues

The Protestors allege without support that the large IOUs and their existing customers will be adversely impacted through cost-shifting, and that SCMC's proposal also will create complicated interconnection issues that could also result in negative impacts. These contentions ignore the Application's clearly limited scope to new home communities with new customers. It is simply illogical to claim that customers that have never been served by the large IOUs in a community that did not exist before could somehow have a cost impact on the large IOUs and their customers. For the same reason, there is no "cream skimming" as one Protestor asserts without any support.[48] SCMC does not propose to serve existing IOU customers – SCMC's customers will be new customers in an entirely new housing development.

The Protestors also conjure all sorts of questions regarding interconnection and market participation they claim are complex, but that, in reality, have very simple, straightforward answers. SCMC is proposing to be an electric corporation, and just like other utilities (and

[48] SDG&E Protest at 21.

generators), it will participate in the CAISO market and interconnect under the Federal Energy Regulatory Commission's rules, either through the transmission system or through the distribution system under a Wholesale Delivery Tariff. There is no "special" compensation or rules required. A load serving entity has the right to interconnect to the larger grid on a non-discriminatory, open access basis and will obtain service under the applicable tariff rates and pay for any system upgrades legitimately identified as part of the interconnection process. Thus, the large IOUs will be fully compensated for the use of their transmission and distribution systems through their approved tariff rates, just as they are by generators and other utilities that use these assets. Any suggestion that these rates will not adequately compensate them for usage is pure speculation. As one example, large generators put thousands of megawatts of energy on the grid every day and consume large quantities of energy during start up and outages, and the interconnecting transmission owner is compensated for this through approved tariffs. An SCMC microgrid comparatively will be very small and will be engaging in usage that is no different from other system users – supplying and receiving power from the system.

Further, as noted above, as part of the interconnection process, any upgrades that SCMC is required to fund or construct will be appropriately identified and SCMC will bear the cost responsibility for those upgrades (or SCMC's share thereof). This will include any upgrades required to allow SCMC to determine whether it will receive power from, provide power to, or island from the grid. Thus, the large IOUs and their customers will not subsidize the interconnection of a microgrid community or be adversely impacted by it.

F. Service Area Monopolies

A few Protestors raise the issue of duplicated or fragmented service areas.[49] With respect to fragmentation, this claim appears to stem from the mindset of the large IOUs that only they can own and operate distribution systems. There will be no fragmentation as such – this claim represents a failure of imagination to see that microgrids operated by microutilities can interconnect with the larger grid, with benefits flowing in two directions. Moreover, the claim of fragmentation is belied by successful commercial, industrial, and educational campus-based microgrids and large-scale self-generation under the federal Public Utilities Regulatory Policy Act and other authorities, which demonstrate that microgrids and large-scale self-served properties can work harmoniously with the existing larger grid.

With respect to duplication, this claim appears to be based on a misunderstanding of SCMC's proposal. SCMC will own and operate the microgrid's distribution system, which will be designed, constructed, and operated for a new home community where no distribution system exists today. There will be no duplicative infrastructure and any usage by SCMC of the existing infrastructure that is part of the larger grid will be facilitated through approved tariffs.

One Protestor also claims that SCMC proposes service that is no different from that provided by a large IOU and intimates on that basis that the Commission should not permit another utility to serve customers in what the large IOU regards as its service territory.[50] As a factual matter, SCMC's Application offers detailed support for the conclusion that it is not a public utility of like character to existing utilities under Section 1001 of the Public Utilities Code. While both types of utilities provide electricity to retail customers, the large IOU does not offer the same kind

[49] *See, e.g.,* SCE Protest at 13; PG&E Protest at 3.
[50] SDG&E Protest at 14.

of community-based service offering, including local onsite renewable generation, a service guarantee, long-term rates, and the ability of a community to island itself during outages or stressed conditions on the larger grid. These offerings are unique and should be recognized as such. Further, it is undisputed that a utility may not claim the sole legal right to serve a given area. The Commission is not "constrained to only allow competition when the existing provider of a regulated service is not providing adequate service at reasonable rates. . . . [Instead,] the court [in *San Diego & Coronado Ferry*] recognizes the broad discretion the Commission holds in allowing entry into a market."[51] Thus, there is no protection from competition, particularly when, as here, there is no proposed duplication of facilities or shifting of costs.

VI. Comments Filed by Parties Other Than the Protestors Demonstrate the Public Interest Benefits from SCMC's Proposal, and Even Those Comments that Raise Issues Are Supportive of Holding a Hearing

SCMC's Application has received broad support from a diverse group of stakeholders, including local government, clean energy, environmental, equity, community and business organizations from across the state of California.[52] Collectively, more than a dozen stakeholders either submitted comments in support of SCMC's proposal to become a microutility and build community microgrids to serve new home developments or recognized the potential of the concept

[51] D.96-09-089, *In Re Competition for Local Exchange Service*, issued Sept. 20, 1996. *See also* D. 20-05-053, *In re Pac. Gas and Elec. Corp. and Pac. Gas and Elec. Co.*, issued May 28, 2020 ("The courts have also found that service territories are not exclusive, and the Commission can accordingly grant CPCNs to competitors of the incumbent[].")

[52] Comments supporting the Application, the concept of a microutility, and/or a hearing include: 350 Bay Area, California Energy Justice Alliance, California Energy Storage Alliance ("CESA"), California Solar & Storage Association ("CALSSA"), Center for Biological Diversity, Clean Coalition, Local Government Sustainable Energy Coalition, Microgrid Resources Coalition ("MRC"), Peninsula Clean Energy Authority, Reclaim Our Power: Utility Justice Campaign, Solar Energy Industries Association ("SEIA"), Sonoma Clean Power Authority, The Climate Center, Vote Solar, World Business Academy, and Zero Net Energy Alliance.

and advocated for the Commission to hold a hearing. SCMC greatly appreciates the support of these stakeholders and re-emphasizes some of their points here.

A. Need to grant hearing

Most of the comments submitted by these stakeholders expressed the need for the Commission to conduct a hearing so that the issues raised in the Application and in respondent comments can be reviewed and resolved through a structured public process. As many reiterated in responses, microutilities and community microgrids can provide numerous benefits in furtherance of California's decarbonization, resiliency, grid modernization, and environmental justice goals, as well as advance the commercialization of microgrids for communities more broadly. The Commission should grant a hearing to consider the merits of the Application, as encouraged by these stakeholders.

B. Microutility Opportunities and Benefits

One of the major benefits of SCMC's proposal is the microutility's ability to incorporate local clean energy, improve resiliency, and empower communities to take control of their energy needs. This can be done without increasing reliance on large centralized generation facilities and transmission infrastructure. As the Joint Respondents (consisting of Local Government Sustainable Energy Coalition, The Climate Center, World Business Academy, Zero Net Energy Alliance, and Center for Biological Diversity) pointed out, microutilities can strategically decentralize and modernize the grid in a manner that reduces costs for all ratepayers.[53] CESA notes that SCMC's proposal can result in avoided transmission investments and simplify complex issues like legacy cost recovery, while also giving customers true energy choice.[54] The MRC emphasized the reliability and cost savings benefits of microgrids, noting that "all options for

[53] Joint Respondents Comments at 3.
[54] CESA Comments at 2.

reducing demand and providing load flexibility should be on the table, this includes leveraging microgrids for grid support and reducing the need for new transmission infrastructure that is driving up rates."[55]

Many stakeholders emphasized the opportunity to advance California's building decarbonization and electrification policy goals with microgrids. Clean Coalition notes the Application's alignment with the DER 2.0 Action Plan and explains that microgrids provide communities with economic, environmental, and resilience benefits.[56] CALSSA pointed out the numerous policies that support this proposal, stating "the plan and design for new home communities aligns with decarbonization and clean energy goals as laid out in SB 100, SB 350, AB 1279, and SB 1020, as well as Title 24."[57] CESA, MRC, SEIA, Vote Solar, and the Joint Respondents all emphasized similar points, especially how SCMC's Application furthers the goals of building electrification, community resilience, and other climate policies.[58] The World Business Academy noted that California is committed to building 2.5 million new housing units by 2030, with over one million homes being designated as affordable, and the proposal offers a way to optimally deploy and maximize on-site capacity and efficiency while providing affordable service.[59]

One of the key benefits of the microutility approach is that it provides a pathway for communities to build microgrids that integrate electrification in the new homebuilding process from the beginning. This will allow for greater economies of scale and reduce the costs of

[55] MRC Comments at 4-5.
[56] Clean Coalition Comments at 1.
[57] CALSSA Comments at 3
[58] Joint Respondents Comments at 3; SEIA & Vote Solar Comments at 2; CESA at 3; MRC at 3-4.
[59] World Business Academy Comments at 3-4.

infrastructure deployment that often serve as a barrier to electrification and deep building decarbonization. The microutility approach will also further commercialize microgrids and help bring down technology and development costs so that many more customers and communities can access the benefits of microgrids, whether they are part of a new home community or not.

The benefits of the microutility proposal and community microgrid deployment more broadly can have a tremendous impact on disadvantaged and vulnerable communities in California by promoting equity and environmental justice. CEJA and Reclaim our Power both support the Application, emphasizing that community microgrids can reduce reliance on centralized fossil fuel infrastructure that disproportionately pollutes and burdens these communities.[60] A microutility can provide true energy equity by giving communities the ability to democratically own and control their energy needs with clean, local generation that also can reduce costs and increase resiliency. The World Business Academy and the Joint Respondents emphasized the opportunity for strategically deploying microutilities in disadvantaged communities and new affordable housing developments.[61] Thus, as these stakeholders recognize, local microgrids constructed and operated as proposed by SCMC can serve the wider community during resilience needs, as well as achieve California's equity goals and serve environmental justice.

VII. Proposed Schedule

Several parties have proposed adjustments to the procedural schedule proposed by SCMC. SCMC is willing to work cooperatively with the parties to this proceeding in an effort to develop a jointly-proposed schedule. SCMC recognizes that adequate time should be provided both for

[60] California Energy Justice Alliance and Reclaim Our Power: Utility Justice Campaign letter, filed as a Public Comment.
[61] Joint Respondents at 3; World Business Academy Comments at 3-4.

any application amendments required of SCMC and SCMC prepared testimony, as well as intervenor testimony.

VIII. Conclusion

As demonstrated in its Application and in this Reply, SCMC's proposal to become an electrical corporation in the form of a microutility is in the public interest, will have wide ranging public policy benefits, and is consistent with directive in S.B. 1339 to commercialize microgrids. Fundamentally, S.B. 1339 directed the removal of barriers to the wide deployment of microgrids, and allowing SCMC's proposal to use the existing pathway provided by Section 1001, Rule 3.1, and other related authorities to proceed would be a major step to reaching that goal in California.

The claims of the Protestors should be rejected because they are inconsistent with the statutes and precedent, made up mainly of conjecture, and at bottom are an attempt to thwart the directive in S.B. 1339. Put more plainly, required commercialization of microgrids does not mean leaving microgrid ownership and operation as the sole province of the large IOUs, who will not commercialize microgrids, but instead will monopolize them to the detriment of customers.

SCMC also notes that there is good reason to act expeditiously to grant SCMC's Application a hearing, in addition to the pressing time-sensitive challenges identified in the Application. Community Microgrids, such as those proposed by SCMC, create a unique opportunity to participate in new benefits from the IRA. Specifically, the IRA enables a 30% credit for microgrid controllers constructed before January 1, 2025. SCMC's plan to develop community microgrid projects is one of the only mechanisms for consumers in California to benefit from this incentive, which to be eligible requires the community to island from the bulk electrical grid.

For all of the reasons set forth in the Application and this Reply, SCMC respectfully requests that the Commission grant a hearing in this proceeding to assess the Application and not

defer any issues to the pending microgrid rulemaking. Granting a hearing is particularly appropriate here given that the parties have raised issues of disputed law and fact concerning SCMC's specific proposal and there is broad support among most of the parties that a hearing should be required.

Respectfully submitted,

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Filed on October 20, 2022