

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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Order Instituting Rulemaking
to Advance Demand Flexibility Through
Electric Rates

Rulemaking 22-07-005
(Filed July 14, 2022)

**REPLY COMMENTS OF
THE SOLAR ENERGY INDUSTRIES ASSOCIATION
ON THE SCOPING MEMO QUESTIONS**

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Pursuant to the Assigned Commissioner’s Phase 1 Scoping Memo and Ruling issued in the above captioned rulemaking proceeding (“OIR”) on November 2, 2022, the Solar Energy Industries Association (“SEIA”) replies to comments on the Scoping Memo questions which were filed on December 2, 2022.

I. INTRODUCTION

Review of the opening comments on the proposed updates to the rate design principles and the proposed new demand flexibility design principles show a large amount of agreement among the parties regarding how to improve these proposals in a manner which will advance the goal of this rulemaking to enable widespread demand flexibility through electric rates in order to promote state policy goals such as large-scale electrification. There are, however, certain proposed changes, as addressed below, which, if adopted, would impede, rather than advance, the objectives of this proceeding. These recommendations should be rejected.

II. COMMENTS ON PROPOSED RATE DESIGN PRINCIPLES

A. Rate Design Principle 2

The Staff proposes to modify the current principle that “rates should be based on marginal costs” by adding the provision “and should not have a negative Contribution to Margin” (“CTM”). San Diego Gas & Electric Company (“SDG&E”) opposes this change stating

that “[t]he CTM calculation was not intended to evaluate all tariffed rates,” and that “[u]sing CTM to look at all tariffed rates, such as the default and optional residential rates, and non-residential rates, is taking the CTM analyses in a different direction.”¹ While SEIA agrees that the CTM calculation was not initially envisioned as a means to evaluate all tariffed rates, it does have increasing importance as the state moves towards electrification and the Commission is tasked with approving rates designed to incent incremental usage. As SDG&E acknowledges, the CTM concept was first applied with the Commission’s adoption of Economic Development Rates.² This type of rate is designed to increase load by providing a discount. The result is a positive CTM. This same concept has been applied in adopting discounted rates for customers with electric vehicles.³ As the Commission looks toward more innovative rate designs which are structured to incent incremental usage, assessment of CTM will be an important means of determining whether the offering of varying types of discounted rates is beneficial to all customers.

In contrast to SDG&E, Southern California Edison Company (“SCE”) does not oppose the recommended change to the principle but asserts that in the decision adopting the revised principles, the Commission should clarify that “CTM is measured inclusive of transmission costs and non-bypassable charges (NBCs).”⁴ SEIA supports the inclusion of marginal transmission costs in the CTM calculation, and observes that the California investor-owned utilities have not

¹ *San Diego Gas & Electric Company Comments on the Scoping Memo and Ruling (Phase 1, Track B)*, R. 22-07-005 (December 2, 2022) (“SDG&E Comments”), p. 6.

² *Id.*, p. 6.

³ *See* D.20-12-023, pp. 10-13.

⁴ *Opening Comments of Southern California Edison Company on Questions Posed in Assigned Commissioner’s Phase 1 Scoping Memo and Ruling*, R. 22-07-005 (December 2, 2022) (“SCE Comments”), p. 3.

regularly calculated marginal transmission costs in their GRC Phase 2 filings. We hope that this clarification will indicate that the Commission expects GRC Phase 2 filings to include calculations of marginal transmission costs.

SEIA opposes SCE's clarification that CTM must include NBCs. NBCs are not marginal costs; they are the costs for specific utility programs that the Commission has determined should be recovered from certain customers who remove load from utility service.⁵ A rate can be a benefit to all ratepayers if it exceeds marginal costs (including transmission marginal costs), even if it does not fully recover all of the costs included in non-bypassable charges. A customer adding new load to the system is not "bypassing" the system and should not be required to make a full contribution to NBCs. Even customers who remove a portion of their load from the system are valuable to retain if they cover marginal costs, even if their contribution to NBCs is partial, if the alternative is to lose the customer completely or if the customer provides other important public benefits. SCE's requested clarification could have the result of limiting the effectiveness of new rates designed to encourage the state's electrification and clean energy goals.

B. Rate Design Principle 4

Principle 4, as revised by Staff, reads "[r]ates should encourage greenhouse gas emissions reduction, beneficial electrification and cost-effective energy efficiency." SCE recommends that the term "cost-effective" be added to beneficial electrification as well as energy efficiency.⁶ The Joint Ratepayer Parties take this a step further and would have the term "cost-effective" also modify "greenhouse gas emissions reductions."⁷ These parties advocate that, without the term

⁵ For example, see the list of NBCs in D. 22-12-056, pp. 118-119.

⁶ SCE Comments p. 4.

⁷ *Joint Comments of the California Farm Bureau Federation, California Large Energy Consumers Association, California Manufacturers & Technology Association, Energy Producers and Users*

“cost-effective” modifying emissions reduction and electrification, the rate design principle could be interpreted to suggest that rates should encourage emissions reduction and electrification at any cost.”⁸ Such statements are pure hyperbole, and read words into the proposed principle that simply are not there. In the adoption of any rate, the Commission operates under the Public Utilities Code directive that the rate be “just and reasonable.” A showing of cost-effectiveness is often an important part of the Commission’s determination of whether a rate is “just and reasonable,” but it should not be a requirement. The Commission may find a rate to be just and reasonable on grounds of equity or for other policy reasons that cannot be quantified in a cost-effectiveness analysis.

The fact that proposed principle uses the term “cost-effective” prior to “energy efficiency” and not emissions reductions and electrification is not indicative that the Commission will not consider the cost impacts of such programs on non-participating ratepayers, but rather that the term “cost-effective” has a defined meaning when applied to energy efficiency. The Commission has developed and used the cost-benefit model set forth in the “Standard Practice Manual” (SPM) to guide the approval and administration of energy efficiency programs.⁹ The Commission has not developed a standard test for determination of the cost effectiveness of programs for emissions reduction or electrification. Thus, the use of the term “cost effective” in those contexts could lead to unnecessary confusion and stymie the creation of rate designs aimed at helping the state meet these important policy goals.

Coalition, Energy Users Forum, and Federal Executive Agencies on the Scoping Memo, R. 22-07-005 (December 2, 2022) (“Joint Ratepayers Comments”) p. 8.

⁸ *Id.*, p. 8; *see also* SCE Comments, p. 4.

⁹ Decision 12-05-015, p. 28 (“The Total Resource Cost (TRC) and Program Administrator Cost (PAC) cost-effectiveness tests are used to determine the cost-effectiveness of the energy efficiency portfolio and are described in the California Standard Practice Manual.”); *see also* Decision 09-08-026

C. Rate Design Principle 5

Current Rate Design Principle 5 provides that rates “should incentivize reduction of both coincident and noncoincident peak demand.” The Staff has proposed to move away from the concept of demand reduction and instead replace this Principle with “rates should optimize use of existing grid infrastructure and limit long-term infrastructure costs.” Review of the comments reveals that only one party - SDG&E - is troubled by the Staff’s removal of the concepts of coincident and non-coincident demand from the proposed Principle. SDG&E would have the Commission revise the Principle to add back in the concept that “rates should incentivize the reduction of demand.”¹⁰ SDG&E says that such is necessary because it “includes a measurable customer behavior (demand) which will help assess whether a rate is actually optimizing the use of existing grid infrastructure.”¹¹ As explained in detail in SEIA’s opening comments, SDG&E’s proposal is out of line with current Commission policy and no longer makes sense on the California grid.¹² The reality is that today, the most valuable customers (i.e., the ones who are the least expensive to serve and who optimize the use of the existing generation resources and grid infrastructure) are the ones with the flexibility to place their load on the grid at times when renewable energy is most abundant. This is not a customer that is trying consistently to reduce their demand. SDG&E’s suggested modification to Rate Design Principle 5 should be rejected.

D. Rate Design Principle 7

¹⁰ SDG&E Comments , p. 9.

¹¹ *Id.*

¹² *Opening Comments of the Solar Energy Industries Association on Scoping Memo Questions*, R. 22-07-005 (December 2, 2022) (“SEIA Comments”), pp. 4-5.

Commission Staff proposes to expand Principle 7 to include the concept that rates should be technology neutral. The Sierra Club opposes this revision, asserting that it “would be complex and needlessly burdensome to demonstrate that rate designs do not have the effect of favoring some technologies over other” especially as the “Commission may have good reason to adopt a rate design that happens to favor one or the other technology” as the state works towards reaching its climate goals.¹³ SEIA agrees that certain policies may dictate a preference for a certain technology and that the rate design principles should not stand as an obstacle to incentivize their adoption through rates. Accordingly, SEIA would recommend that Principle 7 be modified to read.

Rates should be technology-neutral and avoid cross-subsidies, unless favoring a specific technology or the cross-subsidies appropriately support explicit state policy goals.

E. Rate Design Principle 9

Staff proposed that Rate Design Principle 9 be changed from “rates should encourage economically efficient decision making” to “rates should encourage customer behavior that improves system reliability.” Several parties oppose the determination to remove the concept of “economically efficient decision making” from the Principle. Thus SDG&E states that [w]hile system reliability is important, and SDG&E agrees it could be added to RDP 9, economically efficient decision making should encourage long-term system reliability if prices are set accurately and based on cost-causation principles.”¹⁴ Similarly, Pacific Gas & Electric Company (“PG&E”) asserts that maintaining the concept of economic efficiency “better reflects state

¹³ *Sierra Club Opening Comments on Questions for Party Comment in Phase I Scoping Memo*, R. 22-07-005 (December 2, 2022) (“Sierra Club Comments”), pp. 3-4.

¹⁴ SDG&E Comments, p. 12.

policy and the importance of cost-effectiveness of programs for affordability.”¹⁵ While SEIA agrees that rates should promote economically efficient decision making, this concept is already captured in the Principle that provides that rates should be based on marginal costs. Marginal cost-based rates by definition promote economically efficient decision making. There is no need to duplicate this concept in Rate Design Principle 9.

III. DEMAND FLEXIBILITY DESIGN PRINCIPLES

A. Demand Flexibility Design Principle 1

SDG&E argues that the proposed principal that “[d]emand flexibility tariffs should provide a dynamic price signal that can be easily integrated into standardized third-party DER and demand management solutions” should be eliminated in its entirety. In this regard, SDG&E argues that “[t]his principle is dependent on third-party demand management solutions that are not within the utilities’ control.”¹⁶ SDG&E also argues that it is not aware of any “standardized third-party DER and demand management solutions,” so it is “unclear how a utility would design a rate to satisfy this principle.”¹⁷ SDG&E’s arguments for elimination of this principle are contrived and should be ignored.

First, SDG&E’s argument implies that all demand management solutions must be controlled by the utilities, even though it is not the utilities that are creating and installing the supporting technologies. It is third party developers that are creating many innovative demand management solutions and that are aggregating customers with DERs to increase the effectiveness of these new demand response programs. As the state moves towards a more

¹⁵ *Pacific Gas and Electric Company’s Opening Comments to the Phase 1 Scoping Memo Questions*, R. 22-07-005 (December 2, 2022) (“PG&E Comments”), p. 7.

¹⁶ SDG&E Comments, p. 14.

¹⁷ *Id.*

dynamic rate structure, the coordination between the utilities and these developers will become more critical.

Second, SDG&E's assertion that it cannot design a rate to satisfy this principle because it "is not aware of any standardized third-party DER demand management solutions" misses the point of the proposed principle. The objective of the principle is not to design a rate to fit existing standardized solutions, but as explained by Staff, "this principle ensures that a dynamic price signal is designed to enable third parties to easily *create standardized solutions* (e.g., algorithms, demand management services) for demand flexibility."¹⁸ In other words, the principle strives to provide platforms for the creation of rate designs that will enable the creation of standardized solutions, not the other way around as SDG&E implies.

B. Demand Flexibility Design Principle 2

Proposed Demand Flexibility Principle 2 provides that "[d]ynamic prices should accurately integrate the value of energy, generation capacity, distribution capacity, and transmission capacity (to the extent feasible) based on real-time grid conditions." Several parties questioned elements of this principle, namely the integration of the values of distribution and transmission capacity. Thus, SDG&E argues that including distribution capacity would "be challenging" and "operationally problematic," while "transmission pricing is not under CPUC jurisdiction, and therefore should be removed from the principle."¹⁹ The Joint Ratepayer Parties assert that "it is simply impractical to extend the uniform, dynamic pricing signals envisioned in this proceeding beyond generation rates."²⁰ Finally the California Public Advocates ("CalPA")

¹⁸ Staff Proposal, p.5 (emphasis added).

¹⁹ SDG&E Comments, p. 15.

²⁰ Joint Ratepayer Parties Comments, p. 15.

assert that inclusion of all three capacity types “assumes the inclusion of each specific component in dynamic rates” and the Commission should allow for greater consideration of the costs, benefits and impacts of the inclusion of each component.”²¹ None of these parties present a reasoned basis for modifying this proposed principal.

Arguments by SDG&E and the Joint Ratepayer Parties that extending dynamic price signals beyond generation capacity is just too challenging cuts off the discussion before it begins and undercuts the objective of this proceeding – “to enable widespread demand flexibility through electric rates.”²² The Commission is looking for innovative solutions. Specifically, the Commission is looking towards demand flexibility rates to, among, other things, (a) enhance the reliability of California’s electric system; (b) make electric bills more affordable and equitable; and (c) reduce long-term system costs through more efficient pricing of electricity.²³ “System costs” include the grid costs to deliver power over the transmission and distribution systems, as well as the generation costs to produce it. These goals cannot be achieved if the discussion is unnecessarily limited to generation capacity.

CalPA makes the specious argument that specifically calling out each of the three forms of capacity for integration in dynamic rates “presumes” that all should be included prior to any consideration of the cost, benefits and impacts of inclusion of each component. The principle simply does not say that all of these components must be included in every dynamic rate, and the use of the parenthetical “(to the extent feasible)” makes clear that, at least initially, it may not be

²¹ *Opening Comments of the Public Advocates Office on the Scoping Memo and Ruling of Phase 1 Advancing Demand Flexibility Through Electric Rates*, R. 22-07-005 (December 2, 2022) (“CalPA Comments”), p. 5.

²² *Order Instituting Rulemaking to Advance Demand Flexibility Through Electric Rate*, R. 22-07-005 (July 14, 2022), p. 1.

²³ *Id.*

practical to include one or more of these components in a particular dynamic rate.

Finally, eliminating the concept of dynamic price signals for transmission capacity because the Commission does not have jurisdiction over transmission rates overlooks the Commission's role of representing California ratepayers at the Federal Energy Regulatory Commission (FERC) in proceedings addressing the IOUs' transmission rates. Information obtained in CPUC proceedings like this one can help shape the Commission's advocacy before the FERC. Moreover, with the use of the modifier "to the extent feasible," the limitations on the Commission's jurisdiction are in fact recognized in the principle.

C. Demand Flexibility Design Principle 3

Proposed Demand Flexibility Principle 3 provides that "[t]he systems processes needed to calculate the dynamic price signal should be able to integrate bundled and unbundled rate components so that all Load Serving Entities can elect to participate." The Joint Ratepayer Parties support elimination of this principle because "it would be premature to address voluntary, unbundled service options during the early stages of demand flexibility rate reform."²⁴ This recommendation should be rejected.

First, the Joint Ratepayer Parties overlook the fact that one of the objectives of this rulemaking proceeding is to "enable participation in demand flexibility by both bundled and unbundled customers." Second, they ignore the fact that the Community Choice Aggregators ("CCA") now hold a substantial share of the generation market. As such, CCAs should be included in all dynamic rate programs to ensure that their customers can take advantage of dynamic rates. Indeed, even under the Joint Ratepayer Parties' view of this proceeding – i.e.,

²⁴ Joint Ratepayer Parties Comments, p.16.

that it should be limited to addressing dynamic generation rates – the need to address the availability of such rates for unbundled customers would remain paramount.

D. Demand Flexibility Design Principle 6

The Joint Ratepayer Parties seek modification to the proposed principal that “[d]emand flexibility tariffs should provide accurate cost-based compensation for exports that supports customer investments in electrification technologies and DERs” in order to eliminate the “notion that a tariff should aim to support customer investments.”²⁵ But the use of rate design to incent customer investments in certain technologies is not a new concept but has been seen by the Commission as a key tool to encourage electrification and support state clean energy goals.²⁶ this principal should not be looked at in isolation of the other principals, including Rate Design Principal 7 which provides that “rates should be technology-neutral and avoid cross-subsidies, unless the cross-subsidies appropriately support explicit state policy goals” The bottom line is that it is essential to support customer investments in DERs because it is state policy to create and sustain viable markets for these essential resources.

IV. CONCLUSION

SEIA supports the goal of this rulemaking to enable widespread demand flexibility through electric rates to promote state policy goals to lower rates, improve system efficiency, and reduce GHG emissions. Achieving these goals will require large-scale electrification and the further deployment of clean generation technologies and storage. The Commission should review any requested changes to the rate design principles and demand flexibility design principles with

²⁵ *Id.*, p.21.

²⁶ *See, e.g.*, D.20-03-003, p. 42.

an eye towards whether such changes would advance or impede these overarching goals and programs.

Respectfully submitted the 4th day of January 2023 at San Francisco, California.

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