



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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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 22-09-002
(Filed September 1, 2022)

**COMMENTS OF MICROGRID RESOURCES COALITION ON PROPOSED
DECISION GRANTING THE PUBLIC ADVOCATES OFFICE OF THE CALIFORNIA
PUBLIC UTILITIES COMMISSION MOTION TO DISMISS SUNNOVA COMMUNITY
MICROGRIDS CALIFORNIA, LLC'S APPLICATION**

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Introduction

Pursuant to Rule 14.3,¹ the Microgrid Resources Coalition (**MRC**)² respectfully files its comments on the Proposed Decision of ALJ Rizzo (the **Proposed Decision**) on the motion of the Public Advocates Office (**Public Advocates**) of the California Public Utility Commission (the **Commission**) to dismiss the Application of Sunnova Community Microgrids California, LLC (**SCNC**) for a Certificate of Public Convenience and Necessity to Construct and Operate Public Utility Microgrids and to Establish Rates for Service (the **Application**).

The MRC is a consortium of leading microgrid owners, operators, developers, suppliers, and investors formed to advance microgrids through advocacy for laws, regulations and tariffs that support their access to markets, compensate them fairly for their services, and provide a level playing field for their deployment and operations. In pursuing this objective, the MRC intends to remain neutral as to the technology deployed in microgrids and the ownership of the assets that form a microgrid.

¹ Commission Rules of Practice and Procedure, 20 CCR § 14.3.

² Members of the MRC include: Bloom Energy, City of Lancaster (CA), eco(n)law, ENGIE North America, Google, Ictec Energy Services, Mainspring Energy, Power Storage Solutions, Princeton University, Reimagine Power, Scale Microgrid Solutions, Schneider Electric, and The Energy Coalition. The MRC's comments represent the perspective of the coalition and should not be construed as speaking for individual members.

The mission of the MRC is to promote microgrids as energy resources by advocating for policy and regulatory reforms that recognize and appropriately value the services that microgrids offer, while assuring non-discriminatory access to the grid for various microgrid configurations and business models. We generally support disaggregated, fair pricing for well-defined services both from the grid to microgrids as well as from microgrids to the grid. We promote community-based resilience standards and support utilities that are working toward new business models that value resilient distributed resources. We work for the empowerment of energy customers and communities.

Summary

The MRC is deeply disappointed with the Proposed Decision. We do not seek to dispute that the Proposed Decision is within the discretion of the Commission. Rather we believe that the Proposed Decision, if adopted, would become the latest in a long line of decisions in which the Commission does a disservice to the citizens of California by ignoring the contribution that distributed generation, and microgrids in particular, can make to resolving the state's ongoing crisis of grid inadequacy. The Application gives the Commission the opportunity to explore use of its undoubted statutory authority to permit the establishment of microutilities to help alleviate California's current crisis, but the Proposed Decision squanders that opportunity.³ We note that the proposal is for microgrids for new-build communities and thus would almost entirely avoid the need for incumbent utilities to install distribution and metering equipment within these communities. Accordingly, it would clearly reduce costs for existing ratepayers, and yet the Commission proposes to dismiss the Application without any attempt or opportunity to quantify the potential ratepayer savings or other benefits that likely would be realized as a result of the proposed microgrid projects.

The Application provides an opportunity to consider the appropriate balance between a variety of competing policy objectives in a context that has not and will not be addressed by any other microgrid-related proceeding currently pending before the Commission. If Californians were well-served by the current grid and generation supplies, perhaps dismissal would be appropriate, but of course the opposite is true. We urge the Commission to reject the motion to dismiss, withdraw the Proposed decision, and take the opportunity to consider the Application.

³ Pub. Util. Code § 2780.

Discussion

California is bearing the brunt of a global climate change crisis. It has adopted policies to combat that crisis by making a rapid transition to an all-renewable grid and moving to electrify transportation and building thermal loads. The combination of the climate crisis and those policies are leading to a serious capacity shortage and the Commission has consistently failed to take effective action to unlock the full potential of microgrids and distributed energy resources (**DERs**) to help address the crises. The proposed dismissal of the Application is only to latest failure to seize an opportunity to explore ways to expand the role of DERs and microgrids. The citizens of California deserve better.

The Climate and Capacity Crises

California has been flirting with a disastrous shortage of electric generating capacity for years. The governor declared a state of emergency on July 30, 2021⁴ (the **2021 Emergency Declaration**) and has been forced to issue subsequent calls for voluntary conservation. Since then, if anything, the situation has worsened. In the most recent Integrated Resource Plan (the **IRP Update**), the Commission acknowledged that prior capacity forecasts were too low and that progress toward existing targets is lagging,⁵ so much so that “backstop” imports of power from outside California were authorized without regard to greenhouse gas (**GHG**) emissions.⁶ In the light of the same circumstances, the California Energy Commission (**CEC**) recommended deferring the closure of the Diablo Canyon nuclear plant until 2030 stating:

California is experiencing a substantial shift in conditions affecting the electric grid, which is transitioning to the state’s clean energy future, while confronting the impacts of climate change. This shift in conditions is creating challenges for its residents, especially those in disadvantaged communities and low-income communities. . . . At the same time, climate change is causing substantial variability in weather patterns and an increase in climate-driven natural disasters, resulting in more challenges to grid reliability.⁷

During its 2022 session, the California Legislature found that the “Commission, the [CEC],

⁴ Governor Newsome, *Proclamation of a State of Emergency*, available at, <https://www.gov.ca.gov/wp-content/uploads/2021/07/Energy-Emergency-Proc-7-30-21.pdf>

⁵ D.23-02-040 at 8-9.

⁶ D.23-02-040 at 2.

⁷ CEC Report, *Diablo Canyon Power Plant Extension* (March 2023, **Diablo Canyon Report**), at 1-2.

and the State Air Resources Board have jointly estimated that the state's installed electric generation may need a threefold increase in capacity to meet state carbon-free electricity policy targets.”⁸ Expanding on the gravity and complexity of the crisis in its report on Diablo Canyon, the CEC states:

The sustained level of resource additions necessary to realize the resource builds envisioned in the PSP and through the CPUC procurement orders represent a significant increase over average resource builds. For example, the average solar additions since 2011 was 1,341 MW/year. Assuming the same build rate continues through 2032, the solar build will be at least 2,500 MW lower than the [Commission’s Preferred System Plan (“PSP”)] in all years through 2032.

While the high battery resource additions in the PSP and the CPUC procurement orders appear equally concerning, battery resources are relatively new additions to the grid. Thus, the builds may not follow the average since 2011, and the resource build may increase as the industry continues to increase production capacity.

While historic resource build rates are not alone indicative of the state’s ability to deploy resources or meet its clean energy goals, it raises the question of whether the current processes can handle the scale of resources. Developers have identified the timelines for interconnection and permitting as currently impacting build rates. While the state agencies are evaluating and recommending changes to adapt the processes to meet the urgency of challenge at hand, staff believes there is a risk of not meeting resource build needs. . . .⁹

As the Commission understands, reliability needs cannot be met with intermittent solar and wind resources alone. The long-term hope is for massive deployment of storage systems, but that is one arena where the available technology is not yet consistent with the grid’s needs for longer duration reliability resources.¹⁰ The legislature’s commendable goals are based on the urgency of the climate crisis but are necessarily based on an incomplete investigation of the logistics challenges and the laws of physics as applied to the grid, and it falls to the Commission’s to turn those directives into reality without the grid collapsing.

The Role of Microgrids in Addressing the Crises

⁸ Pub. Util. Code § 454.57.

⁹Diablo Canyon Report at 11.

¹⁰See, James Temple, *The \$2.5 trillion reason we can’t rely on batteries to clean up the grid*, MIT Technology Review (July 27, 2018), <https://www.technologyreview.com/2018/07/27/141282/the-25-trillion-reason-we-cant-rely-on-batteries-to-clean-up-the-grid/>

Microgrids are ideally suited to meet the needs of California's grid and are capable of doing so immediately.

Given their mix of resources, microgrids can modify the load shape of their included customers with respect to the grid. They can do this directly in response to energy prices through time-of-use or transactive energy tariffs of their local utility or through direct exposure to wholesale rates through aggregators. They can also participate in direct load reduction programs that pay for emergency load reduction or direct grid operator dispatch either for load reduction or export of power. While these grid services are typically called upon to reduce stress on the grid, they also generally displace generation by the oldest, highest carbon emitting resources on the grid. Microgrids by contrast, are typically among the cleanest resources on the grid.

Microgrids often include solar and battery storage and take advantage of advanced building controls to manage demand. Deploying these resources and encouraging microgrids to sell services to the grid can be expected to make a rapid and substantial contribution both to the reliability and to decarbonization of the grid. In addition, they are ideally suited to serve grid resilience – the ability to adjust and continue operations when the larger grid is disrupted.¹¹

The Utility Code requires the Commission to implement integrated resource planning to “[s]trengthen the diversity, sustainability, and resilience of the bulk transmission and distribution systems, *and local communities.*”¹² (emphasis supplied). It should be clear that every megawatt of capacity installed and used behind the meter directly reduces the need for capacity installed (or procured) by the distribution utilities or other load serving entities, reduces stress on the transmission system (and reduces line losses), and when deployed as microgrids serving critical facilities has a unique ability to provide resilience to local communities. When behind-the-meter (**BTM**) capacity is installed by or for customers or communities at no cost to ratepayers, it directly reduces the cost to all customers. Moreover, because microgrids employ a mix of resources and technologies that permit them to operate in balance as an island and have the capability to shape load over a 24-hour period, they also (given appropriate tariffs or markets) can reduce the grid's need for ramping capacity.

¹¹ See, National Academy of Science, Engineering and Medicine: Enhancing the Resilience of the Nation's Electricity System, 2017, available at, <https://www.nap.edu/catalog/24836/enhancing-the-resilience-of-the-nations-electricitysystem>

¹² Pub. Util. Code § 454.52 (a)(1)(G).

Failure to Take Advantage of Distributed Resources

Despite the crises facing the California grid, despite the benefits to all ratepayers that microgrids can provide, and despite numerous legislative directives, the Commission has consistently failed to advance deployment of DERs and microgrids.

DERs are not included in the IRP.

The MRC strongly supports California's efforts to transition to a net-zero energy sector and to decarbonize buildings and transportation. We believe that the CEC's analysis shows that an all-hands-on-deck effort will be required. Unfortunately, the Commission seems to be committed to fighting the battles for resource adequacy and against climate change with one hand tied behind its back. Nothing in the IRP Update mentions any role for distributed energy resources (**DERs**) in meeting reliability goals. This is despite the clear directive of the Utility Code to the Commission to "consider the role . . . of distributed energy resources . . . while reducing the need for new generation"¹³ in the formulation of the IRP.

The Commission has deferred meaningful action on SB 1339.

In 2018 the legislature passed Senate Bill 1339,¹⁴ which requires the Commission to "facilitate the commercialization of microgrids for distribution customers of large electrical corporations." Among other issues, the legislation calls on the Commission to address "How microgrids can support California's policies to integrate a high concentration of distributed energy resources on the electrical grid." Over a year later, the Commission opened proceeding R.19-09-009 (the **Microgrid Proceeding**) to take up this legislative requirement. After three and a half years and four phases, this proceeding has accomplished next to nothing to advance commercialization of non-utility microgrids. It has made a small tweak to Rule 18 to allow emergency transfer of electricity across property lines in extremely limited circumstances;¹⁵ it has reduced utility standby charges for an arbitrarily limited class of microgrids; and it has rechristened existing tariffs that discriminate against many microgrids as a "microgrid tariff."¹⁶ In the view of

¹³ Pub. Util. Code § 454.52 (a)(3).

¹⁴ SB 1339 (Stern 2018), https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB1339

¹⁵ D.21-01-018

¹⁶ D.21-01-018

the MRC the work done on multi-customer microgrids will result in few microgrids at unnecessarily great cost to ratepayers.¹⁷

The standby charge modifications in the Microgrid Proceeding were a step in the right direction but were arbitrarily limited.

The decision in Track 3 of the Microgrid Proceeding (the **Standby Decision**) gave relief for a limited class of microgrids from the capacity reservation component of the standby tariffs of the large electric companies.¹⁸ The modifications made to the standby charge in the Standby Decision impose qualifications for waiver make arbitrary technology distinctions and do not appear to be based in the need for standby services or cost causation. The Commission has articulated a set of Ratemaking Principles to guide its actions. Principle 3 states: “Rates should be based on cost-causation principles.”¹⁹ In its current demand flexibility proceeding, Commission staff has suggested a redraft of Principle 7 to add: “Rates should be technology-neutral. . . .”²⁰ In any event, the Standby Decision made no effort to explain how the technology limitation were justified. Moreover, PG&E, as an example, has implemented the revised standby charge requirement by imposing a requirement not contained in the Standby Decision that the microgrid actually achieve carbon neutrality by 2030.²¹ This contrasts with the requirements of the Utility Code that the grid achieve 60 percent renewables by 2030, 90 percent by 2035, 95 percent by 2045 and 100 percent by 2045.²² In other words, the Commission has permitted an implementation strategy that imposes requirements on microgrids more stringent than those applicable to load serving entities and accordingly is clearly discriminatory.

The emergency capacity phase in Track 4 of the Microgrid Proceeding arbitrarily dismissed all non-utility microgrid proposals.

¹⁷ See, for example, the opening comments of TURN on the Track 2 proposed decision in the Microgrid Proceeding, <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M356/K253/356253543.PDF>

¹⁸ D.21-07-011 at 26-28.

¹⁹ D.14-06-029.

²⁰ R.22-07-005, Assigned Commissioner’s Phase 1 Scoping Memo and Ruling (November 2, 2022), Attachment at 3.

²¹ See tariff application form at 2, www.pge.com/tariffs/assets/pdf/adviceletter/ELEC_6364-E.pdf

²² Pub. Util. Code § 454.52-3

In response to the Governor’s Proclamation of Emergency on July 30, 2021,²³ the Commission opened two new dockets, one open to all parties and one specifically within the Microgrid Proceeding (the **Microgrid Emergency Capacity Track**).²⁴ In response to the Microgrid Emergency Capacity Track OIR, the three large electric companies and 16 other parties including the MRC proposed actions to the Commission that could provide immediate additions to capacity. The Commission accepted two utility proposals (including one for consideration of backup diesel generators) and rejected all the non-utility proposals with, in most cases, little or no discussion. In the case of the MRC’s proposal the Decision said only that it “may” affect other proceedings.²⁵ The Commission stated, “These parties may find proper venue in other proceedings. . . .”²⁶ It seems a bit ironic, and a loss for California ratepayers, that all microgrid proposals²⁷ were excluded from the Microgrid Emergency Capacity Track.

Other proceedings affecting DERs and microgrids have languished.

In June of 2021 the Commission issued its Order Instituting Rulemaking to Modernize the Electric Grid for a High Distributed Energy Resources Future.²⁸ It solicited comments on a Draft DER Action Plan²⁹ and on a Gridworks whitepaper,³⁰ which each introduced forward thinking proposals to incorporate large amounts of DERs and operate markets for their services. Over a year has gone by, and so far the only action the Commission has taken is to initiate the Demand Flexibility proceeding.

The MRC supports the Demand Flexibility proceeding proposals, but they do not provide adequate incentives to invest in DERs.

²³ 2021 Emergency Declaration at 2.

²⁴ E-Mail Ruling on Potential Microgrid & Resiliency Solutions for Commission Reliability Action to Address Governor Newsom's July 30, 2021 Proclamation of a State of Emergency, <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M400/K897/400897673.PDF>

²⁵ D.21-12-004 at 37.

²⁶ D.21-12-004 at 11.

²⁷ Other than a previously rejected proposal from SDG&E.

²⁸ Order Instituting Rulemaking to Modernize the Electric Grid for a High Distributed Energy Resources Future, R.21-06-017 (June 24, 2021), <https://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&docid=382451995>

²⁹ *Distributed Energy Resources Action Plan, Aligning Vision and Action* (April 21, 2022), <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M467/K470/467470758.PDF>

³⁰ *Evaluating Alternative Distribution System Operator Models for California*, Gridworks (March 2022), <https://gridworks.org/wp-content/uploads/2022/03/Evaluating-Alternative-DSO-Models-for-California.docx.pdf>

The Commission has instituted a Demand Flexibility proceeding³¹ to institute transactive energy rates for all customers as an alternative to the current welter of demand response programs and time of use rates. The MRC strongly supports this initiative. However, the Staff White Paper issued at the inception of the proceeding states that a goal of the proceeding is that it, “Encourages investment in BTM DERs, including vehicle-to-grid integration and microgrids, without cost-shifts to non-participating customers.”³² Unfortunately, this is a misunderstanding of the incentives for customers and communities to invest. There is no assurance as to how many hours per year that attractive pricing will be available for demand response or exports. Annual capacity payments would be required on a level comparable to annual RA payments, which represent the cost to utilities of capacity. It would be appropriate if such capacity payments required a commitment to respond to dispatch instructions for a specific number of hours per year or some other availability requirement, but an uncertain number of hours at an uncertain price will not be an adequate investment incentive.

Commission decisions about microgrids have relied frequently on statement about safety and cost shifting without actual analysis.

The Commission’s decisions in the Microgrid Proceeding have contained frequent expressions of concern about the safety of microgrids.³³ These concerns have been expressed without any basis in the record or in fact and are often couched as speculation. Each of the large electrical corporations has well established procedures for safety in their interconnection procedures, and there is no suggestion that microgrids present a greater hazard. Indeed, due to multiple resources and sophisticated controls, they are generally safer than other resources. The United States Army has concluded that microgrids are the preferred resilience technology for

³¹ R.21-06-017 (This is one of the “other proceedings” to which the Commission referred microgrid proposals in the Microgrid Emergency Capacity Track.)

³²Advanced Strategies for Demand Flexibility www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/demand-response/demand-response-workshops/advanced-der---demand-flexibility-management/ed-white-paper---advanced-strategies-for-demand-flexibility-management.pdf

³³ See, D.20-06-017 at 23 (limiting the size of microgrids); D.20-06-018 at 29 (caps number of emergency exemptions), at 31-32 (rejects modification of Rules 18 and 19), at 95 (dismisses arguments for more microgrid support); D.21-04-021 at 10 (offers the “we don’t have to do something reasonable if we don’t want to” argument that is used again in the Proposed Order); D.21-07-011 at 26 (denies blanket exception), at 30 (requires demand assurance); D.21-12-004 at 35 (rejects microgrid proposals), at 45 (rejects Long Beach arguments).

military bases.³⁴ The Army plans to have 20 microgrids either in design or under construction by 2024. By 2026, it wants to have 15 microgrids completed and in operation and another 20 microgrids operating by 2027. The Army Plan sets a critical target to have microgrids meet 30% of mission-critical energy demand by 2027 or 50% for what it calls its mission assurance installations, power projection platforms and mobilization force generation installations.³⁵ The Army plans to install microgrids at all bases worldwide by 2035.³⁶ Other branches of the military are following suit.³⁷ In other words, the United States military has not only concluded that microgrids are safe, but that in matters of life and death they are more reliable and secure than the grid.

The Commission's decisions in the Microgrid Proceeding have also included frequent references to the prohibition in SB 1337 on policies that result in "cost shifting."³⁸ Like the concerns about safety, the references to cost shifting have been included without an analysis of the costs and benefits that meet the Commission's own standard for such determinations.³⁹ The use of cost shifting as a conclusory label ignores the many benefits that microgrids can provide to the grid as discussed above. The MRC does not oppose rigorous analysis of proposals. Nor do we advocate for arbitrary subsidies for microgrids. We do ask for a level playing field where microgrids are permitted to provide needed grid services at prices reflecting grid cost. The grid clearly has an urgent need for those services.

The Proposed Decision

³⁴ *Army Climate Strategy Implementation Plan*, Fiscal Years 2023-2027 (**Army Plan**), at 7, https://www.army.mil/e2/downloads/rv7/about/2022_Army_Climate_Strategy_Implementation_Plan_FY23-FY27.pdf

³⁵ Army Plan at 15-16.

³⁶ Elisa Wood, *Army to equip all bases with microgrids by 2035 as part of carbon-free electricity goal*, Microgrid Knowledge (February 9, 2022) <https://www.microgridknowledge.com/editors-choice/article/11427449/army-to-equip-all-bases-with-microgrids-by-2035-as-part-of-carbon-free-electricity-goal>

³⁷ Ken Silverstein, *Microgrids are Becoming Essential for the Military*, <https://www.environmentalleader.com/2022/02/microgrids-are-becoming-essential-for-the-military/#:~:text=The%20US%20military%20has%20said,for%20two%20weeks%20by%202025>.

³⁸ SB 1339 Sec. 8371(d). *See*, D.20-06-018 at 33 (rejects modification of rule 18 and 19), at 43 (rejects new tariff), at 50 (sends tariff proposal to working group – where it hasn't been considered), at 98 (rejects modification of departing load charges); D.21-07-011 at 24, 26 (rejects blanket exemption); D.21-12-004 at 34-35 (denies Bloom proposal); at 42-44 (denies microgrid proposals).

³⁹ D.09-08-026.

The Proposed Decision is the latest example of the Commission's cursory treatment of proposals and requirements related to microgrids. To begin with, it is disappointing that the Public Advocate, in moving for dismissal, is ignoring its role in protecting the interests of ratepayers generally. Further, as discussed at the outset, we do not question the Commission's power to issue the decision, but we do question its wisdom. The Proposed Decision states:

“[T]he Commission already rejected proposals such as SCMC's to establish “private utilities to sell power under contractual arrangements to nearby third-parties without any Commission oversight and without regard to the existing regulatory and legislative requirements that are reflected in Section 218 and other parts of the Public Utilities Code.” SCMC cannot by way of its application here, avoid a previous determination by the Commission and sidestep the requirements of the Public Utilities Code.”⁴⁰

Neither the Proposed Decision nor the earlier cited decision provides any reasoned discussion. Indeed, the earlier “determination” related as the quotation suggests to Section 218 of the Public Utility Code and is entirely inapposite here. We Certainly agree that Section 2780 does not give the Commission authority to alter legislative requirements of the Public Utility Code. However, the statute does provide:

(a) It is the intent of the Legislature 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. The limited resources of a microutility are disproportionately strained by the cost of response.

“(b) Further, it is the intent of the Legislature that the commission consider the costs described in subdivision (a) before naming an electric microutility as a respondent in a hearing generally applicable to electrical corporations.”⁴¹

These provisions clearly seem to encourage the Commission to engage in thoughtful, light-handed regulation of microuilities. Moreover, we do not understand the relevance of the reference in the Proposed Decision quoted above to “private utilities.” SCMC is a for-profit company that proposes to become an electric company. In that regard it would be no different than the state's large electric companies. We are not taking a position on whether the particular form of regulation suggested by SCMC is appropriate, only suggesting that the Application presents the Commission with the opportunity to open a proceeding that will define what the appropriate parameters are. Given the urgent need for additional capacity, the proposal of SCMC to shoulder costs that would

⁴⁰ Proposed Decision at 21-22.

⁴¹ Pub. Util. Code § 2780.1.

otherwise be borne by other ratepayers, and the chance to set clear guidelines to encourage future investment, it seems like an opportunity wasted at ratepayer expense.

In any event, the language from the Proposed Decision quoted above, is unnecessary to the decision, and seems to be calculated to foreclose thoughtful consideration in the future. At the very least the Proposed Decision should make clear that it is without prejudice to future applications that provide additional information.

Encourage and Empower Customers and Communities to Act

California communities and individual customers want a more resilient electricity supply. They want lower electric prices. They have demonstrated their willingness to pitch in to solve energy crises. With policies that give them a level playing field to invest, they can be a major force in meeting California's multiple energy goals. They can do that with new local resources that increase resilience and do not require new investments in transmission. The incumbent large electric utilities are only too willing to invest in new transmission at the FERC guaranteed rate of a 12 percent return on assets, and the Commission along with other California and nationwide agencies has complained of that to FERC.⁴² Instead the utilities should be encouraged to upgrade their distribution and communication systems to facilitate deployment of microgrids. The federal government has unleashed unprecedented support under the IIJA and the IRA both for the needed upgrades to the distribution system and for customer and community microgrids. In particular, the IRA creates investment tax credits for energy storage technology, microgrid controllers and interconnection costs that expire at the end of 2024.⁴³ The Commission should be working with the CEC and other agencies to assure that California communities and customers can take full advantage of these incentives, which will reduce the cost of meeting the state's goals.

Findings of Fact and Conclusions of Law

Because we recommend withdrawal of the Proposed Decision, we are not generally

⁴² Letter to FERC commissioners re Docket Numbers PL19-3 and PL19-4 Notices of Inquiry and Increasing Transmission Costs (August 23, 2019), https://www.publicpower.org/system/files/documents/Joint_Letter_Final.pdf

⁴³ Internal Revenue Code §§ 48(a)(3) and (8).

suggesting alternative findings of fact and conclusions of law. Our only suggestion is in the event the Proposed Decision is not withdrawn to remove of findings of fact 19, 20, and 32. Findings 19 and 32 are not findings of fact but rather a misstatement of a conclusion of law in Decision 21-01-018. Finding 20 is an incorrect conclusion of law. While the applicable statutes are the same for all electrical corporations, Utility Code Section 2780.1 encourages light-handed regulation, and the Commission has not made any considered determination about the application of statutes affecting electrical corporations to microutilities.

Conclusion

For the reasons discussed above, the MRC strongly urges the Commission to reject the Public Advocate's motion to dismiss, withdraw the Proposed Decision, and proceed to consider the Application.

Respectfully submitted,

C. BAIRD BROWN

By: /s/ C. Baird Brown
C. Baird Brown

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