STATE OF CALIFORNIA GAVIN NEWSOM, *Governor*

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

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October 15, 2025

Agenda ID #23814
Ratesetting

TO PARTIES OF RECORD IN RULEMAKING 14-10-003:

This is the proposed decision of Administrative Law Judge Trevor Pratt. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's November 20, 2025, Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, *ex parte* communications are prohibited pursuant to Rule 8.2(c)(4).

/s/ MICHELLE COOKE
Michelle Cooke
Chief Administrative Law Judge

MLC:cg7
Attachment

Decision **PROPOSED DECISION OF ALJ PRATT (Mailed 10/15/2025)**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Create a Consistent Regulatory Framework for the Guidance, Planning and Evaluation of Integrated Distributed Energy Resources	Rulemaking 14-10-003

DECISION DENYING THE PETITION FOR MODIFICIATION OF DECISION 19-05-019

Summary

This decision denies the Petition for Modification of Decision 19-05-019 (Petition) filed by the California Efficiency and Demand Management Council to replace the Total Resource Cost test with the Program Administrator Cost test as the primary test for budget allocation of Distributed Energy Resource programs. The Petition fails to meet all the requirements of Rule 16.4 of the Commission's Rules of Practice and Procedure and is denied.

This proceeding is closed.

1. Procedural Background

The Commission adopted Decision (D.) 19-05-019, effective May 16, 2019, in this integrated demand-side resource program rulemaking (R.) 14-10-003. D.19-05-019 adopted cost-effectiveness analysis framework policies for distributed energy resources (DERs), and ordered that starting July 1, 2019, the Total Resource Cost (TRC) test would be the primary test for all Commission

activities, including filings and submissions, requiring cost-effectiveness analysis of DERs, except where expressly prohibited by statute or Commission decision. In addition, D.19-05-019 ordered that starting July 1, 2019, all Commission activities that required cost-effectiveness analysis of DERs would also review and consider the results of the Program Administrator Cost (PAC) test and the Ratepayer Impact Measure test.

The California Efficiency and Demand Management Council (Council) filed a Petition for Modification of D.19-05-019 on April 15, 2025 (Petition).

Council is a statewide trade association of non-utility energy efficiency, demand response, and distributed energy resource businesses. Council filed the Petition to request that the TRC test be replaced with the PAC test as the primary test for budget allocation of DER programs.

Comments to the Petition were filed on May 15, 2025, by the Natural Resources Defense Council (NRDC), Pacific Gas and Electric Company (PG&E), Recurve Analytics, Inc., Southern California Edison Company (SCE), the Commission's Public Advocates Office (Cal Advocates), and jointly by Southern California Gas Company and San Diego Gas & Electric Company (SoCalGas and SDG&E). Council did not request an opportunity to file a reply to the comments to the Petition.

2. Submission Date

This matter was submitted on May 15, 2025, upon the filing of party comments to the Petition.

3. Summary of Petition

The Council requests that the Commission modify D.19-05-019 to require use of the PAC test, instead of the current TRC test, only for the allocation of DER program budgets. The Council explicitly states that it does not propose

replacing the TRC for other cost-effectiveness determinations, including those used in DER program selections.

4. Issues Before the Commission

The issues before the Commission are (a) whether the Petition complies with the requirements of Rule 16.4 of the Commission's Rules of Practice and Procedure (Rules), and (b) whether to grant the Petition.

As discussed below, this decision does not address the substantive question of whether to grant the Petition because the Petition fails to meet the requirements of Rule 16.4.

5. Whether the Petition Meets the Requirements of Rule 16.4

Rule 16.4 provides the rules for petitions for modification.

Rule 16.4(b) requires that a petition for modification includes proposed language for the modified decision and clear citations to factual information that is in the proceeding record or may be taken under notice. The petitioner is also required to include affidavits or declarations to any factual allegations that are raised in the petition.

Council's Petition includes proposed language for the modified decision. The Petition alleges material factual information outside of the proceeding record but does not provide an affidavit or declaration for all such factual allegations, such as the claim that increased heat pump adoption will improve affordability through increased electricity usage.[1] Similarly, the Council proposes that the statement: "The Total Resource Cost test is not the appropriate test to use for DER program budget allocation decisions because it inappropriately penalizes measures that require significant upfront investments and constrains DER

[1] Petition at 4.

programs from contributing to Commission goals" be added to the findings of fact in D.19-05-019 without establishing the supporting material facts and background through a declaration or affidavit.[2]

Rule 16.4(c) requires the Council to serve the Petition on the service list of the subject proceeding and to any other entities or service lists if directed by the assigned Administrative Law Judge (ALJ). The Council served the Petition to the service list of this proceeding. The Assigned ALJ did not direct any additional service of the Petition. The Council has fulfilled the requirements of Rule 16.4(c).

Rule 16.4(d) provides that a petition for modification must be filed and served within one year of the effective date of the decision proposed to be modified. If more than one year has elapsed, the petition must also explain why the petition could not have been presented within one year of the effective date of the decision. If the Commission determines that the late submission has not been justified, it may, on that ground, issue a summary denial of the petition.

Council's Petition was filed and served more than one year after the effective date of the decision it proposes to modify. Council argues that its Petition could not have been filed within one year of D.19-05-019 because the Petition is responsive to the governor's Executive Order N-5-24 issued in October 2024,[3] a state auditor's report issued in March 2025,[4] the Commission's reauthorization of the Market Access Program in D.23-06-055,[5] and the

[2] Petition at 7.

[3] Governor Executive Order N-5-24 issued October 30, 2024, available at GSS_9610_1E-20241030131318.

[4] California State Auditor Report 2023-127, published March 18, 2025, available at 2023-127 The California Public Utilities Commission - California State Auditor.

[5] Petition at 4.

Commission's recent decision regarding application of the Societal Cost Test for DER programs in D.24-07-015.[6]

5.1. Party Responses

Cal Advocates, PG&E, SCE, SoCalGas and SDG&E all oppose granting the Petition.

Cal Advocates argues that the Petition fails to comply with Rule 16.4(d) as seeking to modify a past decision (D.19-05-019) that has recently been modified by a subsequent decision (D.24-07-019) does not demonstrate that the Petition could not have been filed within a year of the decision (D.19-05-019).[7] Cal Advocates also argues that Council has had the opportunity to raise its concerns in course of reaching D.24-07-019.

PG&E opposes using the Petition to address the broader issues of affordability and cost-effectiveness and recommends that the Commission address these issues in the Integrated Distributed Energy Resources successor proceeding, Rulemaking 22-11-013 (Customer Programs OIR), or Rulemaking 25-04-010 (Energy Efficiency).

SCE disagrees with the solution and modifications proposed by the Council and notes the dated nature of the record of this proceeding when compared to other current proceedings that SCE argues could consider the Council's concerns.

SoCalGas and SDG&E state that the Petition does not comply with Rule 16.4(b) and note that the concerns raised in the Petition have already been considered in other proceedings and more recent Commission decisions.

[6] Petition at 4.

[7] Cal Advocates at 2.

NRDC and Recurve Analytics, Inc. support granting the Petition.

NRDC supports the Petition and encourages application of the PAC test standard at the program level.

Recurve Analytics, Inc., supports the Petition and argues that the current TRC test unintentionally curtails private investment in DERs.

5.2. Discussion

We agree with SoCalGas and SDG&E that the Petition fails to meet the requirements of Rule 16.4(b). The Council alleges material facts with respect to the consequences of proposed modifications without a clear declaration or affidavit to support those material facts. While this may be a repairable defect of the Petition, such repairs would be moot due to failure of the Petition to meet the requirements of Rule 16.4(d), as discussed below.

We agree with Cal Advocates, PG&E, SCE, and SoCalGas and SDG&E that the Petition fails to meet the requirements of Rule 16.4(d).

The policy considerations enacted by entities outside the Commission, such as the Governor's Executive Order N-5-24, do not, in this situation, constitute substantive factual evidence of shortcomings of D.19-05-019. The State Auditor's report, while identifying potential shortcomings of the Commission's programs, does not provide explicit evidence that D.19-05-019 was made in error, was based upon erroneous evidence, or requires specific modifications to ensure functionality.

Lastly, the Council failed to provide sufficient justification for why it could not have filed a petition for modification with this argument within one year of the effective date of D.19-05-019. Since that time, the Commission has reached a subsequent decision, D.24-07-015, where the Council had the opportunity to raise

its concerns, and where the Commission confirmed its use of the TRC as its primary cost effectiveness test.

The Petition fails to comply with all the requirements of Rule 16.4 and is therefore denied.

6. Summary of Public Comment

Rule 1.18 allows any member of the public to submit written comment in any Commission proceeding using the "Public Comment" tab of the online Docket Card for that proceeding on the Commission's website. Rule 1.18(b) requires that relevant written comment submitted in a proceeding be summarized in the final decision issued in that proceeding.

One comment was submitted by Mike Specian, on behalf of the American Council for an Energy-Efficient Economy, generally reiterating and supporting the Petition.

7. Comments on Proposed Decision

The proposed decision of Administrative Law Judge Trevor Pratt in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____ by _____.

8. Assignment of Proceeding

Darcie L. Houck is the assigned Commissioner and Trevor Pratt is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. The Petition was filed more than one year after the effective date of D.19-05-019.
2. The Petition fails to comply with the requirements of Rule 16.4(b).
3. The Petition fails to comply with the requirements of Rule 16.4(d).

Conclusions of Law

1. It is reasonable to deny the Petition.

O R D E R

IT IS ORDERED that:

1. The Petition for Modification of Decision 19-05-019 filed by California Efficiency and Demand Management Council on April 15, 2025, is denied.
2. Rulemaking 14-03-010 is closed.

This order is effective today.

Dated November ___, 2025, at San Francisco, California