Decision 19-10-040 October 24, 2019

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Develop a Successor to Existing Net Energy Metering Tariffs Pursuant to Public Utilities Code Section 2827.1, and to Address Other Issues Related to Net Energy Metering.	Rulemaking 14-07-002
And Related Matter.	Application 16-07-015

DECISION DENYING PETITION FOR MODIFICATION OF DECISION 16-01-044 AND MODIFYING DECISION 18-09-044 REGARDING PROCESS FOR NET ENERGY METERING SUCCESSOR TARIFF RESEARCH PLAN

Summary

On May 19, 2017, the California Solar Energy Industries Association, the Multifamily Affordable Solar Homes Coalition, and Everyday Energy filed a petition for modification of Decision 16-01-044 with respect to that decision's imposition of mandatory time-of-use rates for residents of multifamily affordable housing utilizing virtual net energy metering.

This decision denies the petition. The petitioners have not demonstrated that any appreciable number of residents of multifamily affordable housing utilizing virtual net energy metering are negatively affected by time-of-use rates,

which is the alleged harm that the petition seeks to remedy. There is, therefore, no reason to grant the petition.

This decision also modifies Decision 18-09-044 regarding the process for receiving and addressing stakeholder input into the draft research plan for the lookback evaluation of the net energy metering successor tariff.

1. Petition for Modification of Decision 16-01-044

1.1. Background

On May 19, 2017, the California Solar Energy Industries Association,[1] the Multifamily Affordable Solar Homes (MASH) Coalition, and Everyday Energy (joint petitioners) filed a petition for modification (petition) of Decision (D.) 16-01-044 with respect to that decision's imposition of mandatory time-of-use (TOU) rates for residents of multifamily affordable housing utilizing virtual net energy metering (VNEM).[2] The petition sought to exclude such residents from the mandatory TOU rates imposed by D.16-01-044, alleging that a significant number of those residents were expected to experience negative bill impacts as a result of the imposition of TOU rates even while making a transition to VNEM service.

The Center for Sustainable Energy (CSE), Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E), and Pacific Gas and Electric Company (PG&E) filed responses to the petition on June 19, 2017.

[1] This party later changed its name to the California Solar & Storage Association.

[2] Virtual Net Energy Metering (VNM or VNEM) is a tariff arrangement that enables a multi-meter property owner to allocate the property's solar system's energy credits to tenants. The electricity does not flow directly to any tenant meter, but feeds directly back onto the grid. The participating utility then allocates the kilowatt hours from the energy produced by the solar system to both the building owner's and tenants' individual utility accounts, based on a pre-arranged allocation agreement.

SCE, SDG&E, and PG&E jointly filed their response. The joint petitioners filed a reply to the responses on June 29, 2017.

An administrative law judge's (ALJ) ruling on March 25, 2019 sought to refresh the record on the petition. The ruling sought updated comments from parties on the petition and specifically asked for "the current justification for necessary change, if any, to D.16-01-044…".[3]

The joint petitioners, SDG&E, and SCE filed comments on the ruling on April 15, 2019. SCE, SDG&E, and PG&E filed reply comments on April 25, 2019.

1.2. Jurisdiction

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

1.3. Discussion

D.16-01-044 generally established rules relating to the net energy metering (NEM) successor tariff, sometimes referred to as NEM 2.0. One of the rules established by that decision was to mandate NEM customer enrollment in TOU rates as a condition of taking service on a NEM tariff. VNEM customers are NEM customers. They receive bill credits on the generation portion of their electricity bill depending on the size of the NEM system and the formula used to apportion bill credits attributable to the NEM system across tenants in a building. VNEM customers must take service on TOU rates per D.16-01-044.

Using data obtained from a utility, joint petitioners estimated that about one-quarter of VNEM customers transitioned to TOU rates would experience

[3] March 25, 2019 ALJ Ruling at 5.

higher electricity bills than they would have under non-TOU rates without the addition of VNEM generation credits. Joint petitioners asserted that affordable housing sponsors would be dissuaded from installing tenant-serving solar photovoltaic systems because of the negative effects on the bills of some customers, and the wide variability in bill impacts. Joint petitioners argue that this would frustrate legislative mandates to promote solar installations at low income, multifamily dwellings.

For these reasons, joint petitioners sought a modification to D.16-01-044 to exempt residential customers that live in qualified multifamily housing and receive VNEM credits from the requirement to take service on a TOU rate.

The joint response to the petition from SCE, SDG&E, and PG&E argued that the outcomes of the data analysis cited in the petition regarding TOU bill impacts were incorrect. The utilities contended that an updated analysis showed that 99% of affected customers taking service on TOU rates and receiving VNEM credits would see bill savings rather than bill increases.[4] The joint utilities held that the petition should be denied as the factual basis for the petition did not exist after further review of the data.

CSE also responded to the petition. Unlike the joint utilities, CSE accepted the premise of the petition, but contended that the waiver of the TOU mandate should be temporary and expanded to include all projects eligible for solar installation incentives under Assembly Bill (AB) 693 (Ch. 582, Stats. 2015).

The ALJ ruling of March 25, 2019 sought to refresh the record concerning the petition given the passage of time from the petition's 2017 filing. In response to the March 25, 2019 ruling, the joint petitioners continued to argue in their

[4] Joint utilities' response at 2-4.

comments that their petition should be granted. They posited that the Commission's holding in D.17-12-022 that customers participating in the Solar on Multifamily Affordable Housing (SOMAH)[5] program should be exempted from mandatory TOU is consistent with their petition's objectives, and ask that the Commission extend the mandatory TOU exemption for participating SOMAH tenants to other multifamily affordable housing tenants participating in VNEM. Joint petitioners also argue that the manner in which mandatory TOU has been implemented so far for VNEM customers has been unfair, as one utility required potential VNEM customers to proactively opt-in to TOU rates before they could receive their VNEM generation credits.

While the joint petitioners' comments on the ruling refer to a "risk that some customers' bills may actually increase by moving to a TOU rate,"[6] the joint petitioners do not quantify that risk or specifically address the previous assertions by the joint utilities that approximately 99% of affected customers taking service on TOU rates and receiving VNEM credits would see bill savings rather than bill increases.

SDG&E and SCE also commented on the March 25, 2019 ALJ ruling. SDG&E argued that their planned transition of all of their VNEM residential customers to default TOU rates in the long-term, in compliance with Commission direction, makes the petition moot. SCE maintains its original position that because approximately 99% of VNEM customers would see bill

[5] The SOMAH program is overseen by the Commission and provides solar incentives to qualifying affordable housing within the service territories of PG&E, SCE, SDG&E, Liberties Utilities Company (Liberty), and PacifiCorp. To ensure tenant benefits, the program requires that at least 51% of an incented system's electric output must directly offset tenant load and be provided to tenants in the form of VNEM bill credits.

[6] Joint petitioners' comments on March 25, 2019 ALJ ruling at 3.

savings under TOU rates, there is no reason to grant a petition seeking to shield those customers from TOU rates. SCE also mentions that TOU rates can have positive outcomes on policy goals surrounding system costs, environmental effects, and customer education. In particular, SCE asserts that customer education related to TOU rates can help ensure customers make informed choices that can lower their bills and support state policy goals, and these outcomes are more desirable than exceptions for certain groups from mandatory TOU rates.

Joint petitioners did not file reply comments in response to the comments of SCE and SDG&E. Reply comments were filed by SCE, SDG&E, and PG&E on April 25, 2019. SCE's reply comments argue that the implementation issue mentioned by joint petitioners – namely that some VNEM customers were required to proactively enroll in TOU rates to receive their VNEM generation credits – has been addressed and is no longer a live issue. SCE also asserts that the exception for mandatory TOU for SOMAH participants crafted by the Commission in D.17-12-022 is based on specific statutory language that does not apply to other VNEM customers. The absence of such statutory language for other VNEM customers gives the Commission discretion to deny the petition in the view of SCE. SCE claims that if the petition were granted they would need to manually bill the VNEM customers excluded from mandatory TOU rates, leading to increased administrative costs and delayed billing.

PG&E's reply comments address the proactive TOU enrollment issue raised by joint petitioners and claim that this issue has been resolved in PG&E's territory. According to PG&E, their VNEM customers in multifamily affordable housing are being automatically transitioned to TOU rates rather than being required to proactively enroll. PG&E notes that there is no evidence that any

so-called "MASH-2" customers are worse off as a result of enrollment onto TOU rates and VNEM, and that SCE's data shows that only approximately 1% of such customers could be worse off.[7] Like SCE, PG&E notes that there would be administrative costs in executing a prohibition on mandatory TOU for these VNEM customers.

As noted by PG&E, there is no evidence in the record that any affected customer has actually seen a negative bill impact, or that any complaints have been received to that effect. The petition should be denied on this ground alone, given that there is no basis in fact for the existence of the problem that the petition seeks to address.

Furthermore, granting the petition would impose administrative costs on the utilities and create the potential for delayed billing that would adversely affect other ratepayers and potentially VNEM customers themselves. Joint petitioners fail to address how such costs are justified given the absence of a problem to address.

Finally, it appears the TOU rate implementation issue raised by the joint petitioners in their April 2019 comments has been addressed by the utilities. That issue is therefore moot.

For all of these reasons, the petition is denied.

2. Modification to Staff Process for Receiving Stakeholder Input on NEM Successor Tariff Research Plan

D.18-09-044, providing for a measurement and evaluation process for the NEM successor tariff, requires a Tier 2 advice letter process to receive input on the selected consultant's draft research plan. This Tier 2 advice letter process is

[7] PG&E reply comments to March 25, 2019 ALJ ruling at 2.

duplicative of the informal staff-led process, also provided for in D.18-09-044, in which staff and its selected consultant will hold a workshop on the draft research plan, and parties will subsequently have the opportunity to provide informal comments on the plan that the consultant will be required to respond to (this latter requirement is included in the scope of work).[8] The Tier 2 advice letter process does not add value to the informal staff-led process and creates a significant amount of extra work that the consultant will already have to perform. Additionally, maintaining the Tier 2 advice letter process would needlessly delay staff's and the selected consultant's ability to initiate the evaluation process; we prefer not to delay this work. This decision therefore modifies D.18-09-044 to eliminate the requirement for SDG&E to submit a Tier 2 advice letter detailing key aspects of the evaluation, including the draft research plan developed by the selected consultant, and serve the advice letter on this proceeding's service list for public review and comment.

We make the following specific revisions to D.18-09-044 (additions in italics, deletions in strikeout):

At 45-46:

> Energy Division is authorized to select an independent evaluation consultant through a request for proposal (RFP) process managed by SDG&E on behalf of the Commission for this evaluation work. Energy Division staff will draft the RFP and make the final decision on the winning bidder. Key aspects of the evaluation, including the draft research plan developed by the selected consultant, will be distributed to this proceeding service list for public review and comment. Stakeholder input will be considered and acted on, where warranted. In coordination with Energy Division, the winning

[8] SDG&E provided notice of the Request for Proposals to the service list on September 9, 2019.

consultant will host a public workshop or webinar to allow stakeholders and interested parties to comment and provide input on the study.

~~Within 90 days after the effective date of the contract or agreement with the selected consultant, SDG&E shall submit a Tier 2 advice letter detailing key aspects of the evaluation, including the draft research plan developed by the selected consultant, and serve the advice letter on this proceeding's service list for public review and comment. Subsequently, the selected consultant for measurement and evaluation of the NEM successor tariff shall coordinate with Energy Division to host a public workshop or webinar to allow stakeholders and interested parties to comment and provide input on the study.~~ The Commission's Energy Division Director or his/her/their designee will approve a final research plan by letter.

Ordering Paragraph 13:

We authorize up to $2 million co-funded proportionally according to 2018 retail electric revenue, from Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company (together, the electric utilities), to be set aside for measurement and evaluation of the net energy metering successor tariff. Within 30 days of the issue date of this decision, each of the electric utilities shall submit a Tier 2 advice letter establishing a balancing account to collect its proportionate share of the $2 million budget, and will collect those costs through their respective public purpose program surcharges. Energy Division is authorized to select the independent evaluation consultant through a request for proposal process managed by San Diego Gas & Electric Company on behalf of the Commission for the measurement and evaluation work consistent with today's decision. San Diego Gas & Electric Company is responsible for ~~filing~~ *serving* the draft research plan, coordinating the webinar, and taking any other steps necessary to be consistent with Section 2.5 of this decision.

3. Comments on Proposed Decision

The proposed decision of the ALJ 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. On October 10, 2019, SCE, PG&E and SDG&E filed joint comments; no party filed reply comments. SCE, PG&E and SDG&E support adoption of the proposed decision without modification. Non-substantive revisions have been made for clarity and consistency.

4. Assignment of Proceeding

Martha Guzman Aceves is the assigned Commissioner and Patrick Doherty and Valerie U. Kao are the assigned Administrative Law Judges in this proceeding.

Findings of Fact

1. There is no evidence in the record that any affected customer has actually seen a negative bill impact, or that any complaints have been received to that effect.

2. There is no basis in fact for the existence of the problem that the petition seeks to address.

3. Granting the petition would impose administrative costs on the utilities and create the potential for delayed billing that would adversely affect other ratepayers and potentially VNEM customers themselves.

4. The TOU rate implementation issue raised by the joint petitioners in their April 2019 comments has been addressed by the utilities.

5. Commission staff and the selected consultant for evaluation of the NEM successor tariff will invite and address stakeholder feedback on the draft research plan, as provided for in Decision 18-09-044.

Conclusions of Law

1. Given that there is no basis in fact for the existence of the problem that the petition seeks to address, and that granting the petition would impose unjustified costs on ratepayers, the petition should be denied.

2. Given that a Tier 2 advice letter will unnecessarily duplicate staff's and the consultant's work with respect to receiving and addressing stakeholder feedback on the NEM successor tariff draft research plan, Decision 18-09-044 should be modified to remove the Tier 2 advice letter process for the NEM successor tariff draft research plan.

O R D E R

IT IS ORDERED that:

1. The petition for modification of Decision 16-01-044 filed by the California Solar Energy Industries Association, the Multifamily Affordable Solar Homes Coalition, and Everyday Energy on May 19, 2017 is denied.

2. Decision 18-09-044 is modified as follows:

At pages 45-46:

Energy Division is authorized to select an independent evaluation consultant through a request for proposal (RFP) process managed by SDG&E on behalf of the Commission for this evaluation work. Energy Division staff will draft the RFP and make the final decision on the winning bidder. Key aspects of the evaluation, including the draft research plan developed by the selected consultant, will be distributed to this proceeding service list for public review and comment. Stakeholder input will be considered and acted on, where warranted. In coordination with Energy Division, the winning consultant will host a public workshop or webinar to

allow stakeholders and interested parties to comment and provide input on the study.

The Commission's Energy Division Director or his/her/their designee will approve a final research plan by letter.

Ordering Paragraph 13:

We authorize up to $2 million co-funded proportionally according to 2018 retail electric revenue, from Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company (together, the electric utilities), to be set aside for measurement and evaluation of the net energy metering successor tariff. Within 30 days of the issue date of this decision, each of the electric utilities shall submit a Tier 2 advice letter establishing a balancing account to collect its proportionate share of the $2 million budget, and will collect those costs through their respective public purpose program surcharges. Energy Division is authorized to select the independent evaluation consultant through a request for proposal process managed by San Diego Gas & Electric Company on behalf of the Commission for the measurement and evaluation work consistent with today's decision. San Diego Gas & Electric Company is responsible for serving the draft research plan, coordinating the webinar, and taking any other steps necessary to be consistent with Section 2.5 of this decision.

3. Rulemaking 14-07-002 and Application 16-07-015 remain open.

This order is effective today.

Dated October 24, 2019, at Redding, California.

MARYBEL BATJER
President
LIANE M. RANDOLPH
MARTHA GUZMAN ACEVES
CLIFFORD RECHTSCHAFFEN
GENEVIEVE SHIROMA
Commissioners