

ALJ/KHY/jnf

Date of Issuance 2/17/2021

Decision 21-02-007 February 11, 2021

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to
Revisit Net Energy Metering Tariffs
Pursuant to Decision 16-01-044, and to
Address Other Issues Related to Net
Energy Metering.

Rulemaking 20-08-020

**DECISION ADOPTING GUIDING PRINCIPLES FOR THE DEVELOPMENT OF
A SUCCESSOR TO THE CURRENT NET ENERGY METERING TARIFF**

TABLE OF CONTENTS

Title	Page
DECISION ADOPTING GUIDING PRINCIPLES FOR THE DEVELOPMENT OF A SUCCESSOR TO THE CURRENT NET ENERGY METERING TARIFF	1
Summary	2
1. Background	2
2. Issues Before the Commission.....	4
3. Adoption of Guiding Principles.....	5
3.1. Proposed Principle 1	9
3.2. Proposed Principle 2	11
3.3. Proposed Principle 3	13
3.4. Proposed Principle 4	17
3.5. Proposed Principle 5	17
3.6. Proposed Principle 6	18
3.7. Proposed Principle 7	20
3.8. Proposed Principle 8	23
3.9. Additional Principles Proposed by Parties.....	25
3.9.1. Additional Principle Regarding Urgency	25
3.9.2. Additional Principle Regarding Storage	26
3.9.3. PCF's Proposed Additional Principles	26
3.9.4. SEIA/Vote Solar' Proposed Additional Principles.....	27
3.9.5. Utilities' Proposed Additional Principles.....	30
3.9.6. TURN's Proposed Additional Principle Regarding Price Signals	32
4. Final Set of Guiding Principles.....	33
5. Comments on Proposed Decision.....	34
6. Assignment of Proceeding	36
Findings of Fact.....	36
Conclusions of Law	42
ORDER	45

DECISION ADOPTING GUIDING PRINCIPLES FOR THE DEVELOPMENT OF A SUCCESSOR TO THE CURRENT NET ENERGY METERING TARIFF

Summary

This decision adopts eight guiding principles to assist in the development and evaluation of proposals for a successor to the current net energy metering tariff. The principles reflect the statutory requirements of Public Utilities Code Section 2827.1; as well as equity; consumer protection measures; the fair consideration of all technologies that meet the definition of renewable electrical generation facility; coordination with the Commission's and California's energy policies; transparency; maximizing the value of customer-sited renewable generation; and competitive neutrality amongst Load Serving Entities. These principles are broad to provide us flexibility in our review of the successor proposals yet speak to specific objectives of the Commission and the California Legislature.

1. Background

On August 27, 2020, the Commission adopted an Order Instituting Rulemaking to revisit the existing net energy metering tariffs as identified in Decision (D.) 16-01-044 and to retain issues related to net energy metering into a separate stand-alone rulemaking (Order). In the Order, the Commission provided a preliminary scope of issues that included the identification of guiding principles to assist in the development and evaluation of different tariff or contract options for the successor to the current net energy metering tariff. The assigned Administrative Law Judge presided over a prehearing conference on November 2, 2020, at which time parties discussed the proceeding scope, including the issue of guiding principles.

During the prehearing conference, parties disagreed on the regulatory process for development of the guiding principles. Some parties argued for the Commissioner to provide the guiding principles in the proceeding's scoping memo, based on comments to the Order and the discussion during the prehearing conference. Asserting a due process violation would otherwise occur, opposing parties maintained the Commission should facilitate a workshop and take comment on the guiding principles.

On November 19, 2020, the Commission issued the Assigned Commissioner's Scoping Memo and Joint Administrative Law Judge Ruling (Scoping Memo), which set forth the scope and schedule for the proceeding. To ensure due process, the Commissioner and Administrative Law Judge provided a proposed set of guiding principles in the Scoping Memo and directed parties to file comments on the following proposed principles:

1. A successor shall ensure that customer-sited renewable generation continues to grow sustainably among different types of customers and throughout California's diverse and disadvantaged communities;
2. A successor shall be chosen based on the costs and benefits of the renewable electrical generation facility;
3. A successor shall ensure equity among customers and enhance consumer protections measures;
4. A successor shall ensure that the total benefits to all customers and the electrical system are approximately equal to or greater than the total costs;
5. A successor shall be technology neutral;
6. A successor shall be aligned with the Commission and California's energy policies, including but not limited to Senate Bill 100 (2018, De Leon), the Integrated Resource Planning process, and the Title 24 Building Energy Efficiency Standards;

7. A successor shall provide regulatory certainty; and
8. A successor shall maximize the value of customer-sited renewable generation.

On December 4, 2020, the following parties filed comments on the proposed set of guiding principles: California Alliance for Community Energy (CACE); California Solar & Storage Association (CALSSA); Center for Sustainable Energy (CSE); Clean Coalition; Coalition of California Utility Employees (CUE); GRID Alternatives; National Diversity Coalition (NDC); Natural Resources Defense Council (NRDC); Pacific Gas and Electric Company with San Diego Gas & Electric Company and Southern California Edison Company (jointly, Utilities); Public Advocates Office of the Public Utilities Commission (Public Advocates Office); Protect Our Communities Foundation (PCF); Small Business Utility Advocates (SBUA); Solar Energy Industries Association with Vote Solar (SEIA/Vote Solar); and The Utility Reform Network (TURN). On December 11, 2020, the following parties filed reply comments: CACE, CESA, CSE, CALSSA, California Wind Energy Association (CalWEA), Clean Coalition, GRID Alternatives, NDC, Public Advocates Office, PCF, SBUA, SEIA/Vote Solar, TURN, and Utilities.

2. Issues Before the Commission

This decision addresses one issue: What guiding principles (including those related to Assembly Bill (AB) 327 (2013, Perea), equity, environmental goals, and social justice) the Commission should adopt to assist in the development and evaluation of a successor to the current net energy metering tariff.

3. Adoption of Guiding Principles

Below, we discuss each proposed principle separately. Parties propose additional principles, which we also consider. First, however, we address two threshold issues, the first of which involve parties' differing interpretations of guiding principles and whether the principles should be general or more specific. The second threshold issue involves Public Utilities Code Section 2827.1 and the requirements for the development of a standard contract or tariff.

We begin with the threshold issue of whether the guidelines should be broad or, instead, contain specific metrics. CALSSA, CESA, and SEIA/Vote Solar consider guiding principles to be general and set high level goals. In particular, CESA remarks that guiding principles should be high level and generalizable in order to provide the flexibility necessary to balance multiple, and somewhat competing, objectives.¹ SEIA/Vote Solar asserts guiding principles should not attempt to undercut the Commission's deliberative process.² CALSSA maintains that principles should encapsulate goals and provide a framework to assist in the development and evaluation of a successor but not adopt tariff elements or predetermine the resolution of contested issues of fact and law.³

Other parties call on the Commission for more specificity in the guidelines. For example, Public Advocates Office and CACE argue additional guidance and clarity is needed in the proposed guiding principles and advocate for specific

¹ CESA Reply Comments, December 11, 2020 at 1-2.

² SEIA/Vote Solar, Opening Comments, December 4, 2020 at 1.

³ CALSSA Reply Comments, December 11, 2020 at 1.

metrics to be included.⁴ Similarly, TURN maintains that the Commission's focus in the guidelines should be on the elimination of a "growing cost shift."⁵

Utilities' comments concentrate on costs and benefits and recommend the Commission revise the proposed principles to consider the costs and benefits of participation in existing net energy metering tariffs from the participating customers' perspective using the Participant Cost Test, and the impacts on all customers, using the Ratepayer Impact Measure test.⁶

Some specific metrics proposed by parties rely on facts not currently in the record of this proceeding. For example, TURN points to a "growing cost shift," which TURN maintains is identified in a study of the previous net energy metering tariff. This study is in draft form (as noted by TURN) and, more importantly, is not currently contained in the record of this proceeding. The Commission should not determine what guiding principles to adopt in this decision based on information that is not final and not in the record of this proceeding.

Relatedly, parties request to adopt principles that rely on certain cost-effectiveness approaches with specific results. For example, CUE, TURN, and Utilities all request adoption of principles that would require use of cost-benefit tests other than the Total Resource Cost test and/or specify the required outcome of that test.⁷ We find it inappropriate to adopt principles that

⁴ Public Advocates Office Opening Comments, December 4, 2020 at 3 and CACE Opening Comments, December 4, 2020 at 4.

⁵ TURN Opening Comments, December 4, 2020 at 2.

⁶ Utilities Opening Comments, December 4, 2020 at 3.

⁷ CUE Opening Comments, December 4, 2020 at 5-6; TURN Opening Comments, December 4, 2020 at 2; and Utilities Opening Comments, December 4, 2020 at 2-4.

require findings of facts we cannot make prior to the service of testimony or evidentiary hearings. There is no evidence currently in this proceeding with respect to the use of alternative tests or what the outcomes of the tests should be. Moreover, D.19-05-019 states that “[b]eginning on July 1, 2019, the Total Resource Cost test shall be considered the primary test for all Commission activities, including filings and submissions, requiring cost-effectiveness analysis of distributed energy resources, except where expressly prohibited by statute or Commission decision” but “shall also review and consider the results of the Program Administrator Cost test and the Ratepayer Impact Measure test.”⁸ Hence, cost-effectiveness analysis should be conducted in the manner directed by D.19-05-019. We decline to adopt proposed principles that specify methods with a specific outcome or any other outcome, which would first require testimony and evidentiary hearing to establish the facts.

We agree with CALSSA, guiding principles should provide a framework to assist in the development and evaluation of a successor but not adopt tariff elements or predetermine the resolution of contested issues of fact and law.

Relatedly, in comments to the proposed decision, CALSSA asserts that if guiding principles should not predetermine the resolution of contested issues of fact and law, framing language should be guiding and not prescriptive. Thus, CALSSA recommends use of “should” instead of “shall” in each of the principles.⁹ Public Advocates Office opposes this recommendation contending the change would weaken the direction of the proposed guiding principles.¹⁰

⁸ D.19-05-019 at Ordering Paragraphs 1 and 2.

⁹ CALSSA Opening Comments on Proposed Decision at 1-2.

¹⁰ Public Advocates Office Reply Comments on Proposed Decision at 5.

Supporting the change, PCF argues removal of the prescriptive language would delineate between mandates and guides.¹¹ CALSSA highlights that use of the less prescriptive term, “should” is consistent with guidance provided in the Power Charge Indifference Adjustment method in D.18-10-019 and rate design principles in D.15-07-001.¹² The use of the less prescriptive term “should” is consistent with past guidance provided by the Commission. Further, less prescriptive language will provide the Commission with flexibility needed to balance the varying, and sometimes competitive, objectives of this proceeding. Accordingly, we will use the term “should” in the guiding principles language.

We turn to the threshold issue of statutory requirements in the guiding principles. PCF contends the guiding principles should exclude the statutory requirements, arguing the guiding principles should be additive and incorporate directives.¹³ PCF submits guiding principles beyond the statutory mandates risk the possibility of narrowing the scope of the proceeding and, thus, recommends the Commission provide a separate list of legislative mandates and fewer principles.¹⁴

We find that proposed principles 1, 2, and 4, as written, could lead to party confusion due to the language or wording differences between the proposed principles and the Commission’s applicable legislative requirements.¹⁵ The Commission should provide a clear differentiation between statutory mandates

¹¹ PCF Reply Comments on Proposed Decision at 4.

¹² CALSSA Opening Comments on Proposed Decision at 13-14.

¹³ PCF Opening Comments, December 4, 2020 at 2-3.

¹⁴ *Ibid.*

¹⁵ *Id.* at 2.

and guiding principles. However, we agree that enshrining the code into guiding principles raises the awareness of the statutory mandates. Hence, the Commission should delete proposed principles 1, 2, and 4 and instead adopt one guiding principle that requires the successor to the net energy metering tariff to comply with the statutory requirements of Public Utilities Code Section 2827.1.

We have determined that we should not adopt proposed principles 1, 2, and 4 as proposed and, instead, adopt one principle that incorporates the value of these three principles. However, there are additional comments made on these principles, which we find valuable to address. We now turn to a discussion of each of the eight proposed principles below.

3.1. Proposed Principle 1

We have determined the Commission should not adopt proposed principle 1: A successor shall ensure that customer-sited renewable generation continues to grow sustainably among different types of customers and throughout California's diverse and disadvantaged communities. In comments, however, several parties recommend the Commission adopt a definition of what it means to grow sustainably because, otherwise, as noted by Public Advocates Office, parties could offer widely varying proposals that attempt to achieve fundamentally different goals.¹⁶ We recognize that parties should understand how the Commission interprets "to grow sustainably" so they submit proposals that follow the same interpretation. However, as discussed further below, we decline to adopt a definition or interpretation of "grow sustainably" at this time in order to provide the Commission with flexibility.

¹⁶ Public Advocates Office Opening Comments, December 4, 2020 at 4.

Several parties present interpretations of “grow sustainably” that are multifaceted. For example, Public Advocates Office suggests that sustainable growth requires program cost not surpass program benefits to non-participating customers, while ensuring program customers are fully compensated for the installed cost of their distributed energy resources during the lifespan of the system.¹⁷ NRDC offers a similar definition: to grow sustainably, the tariff should ensure that non net energy metering customers do not pay costs in excess of the benefits they receive and full value of electricity exports from clean distributed generation are realized.¹⁸ CUE, with the support of SBUA, defines sustainable growth as growth that is repeatable, ethical and responsible to, and for, current and future communities.¹⁹ Utilities recommend the term, grown sustainably, be construed as “in a sustainable manner” in a way that reflects changing customer preferences regarding emerging distributed generation technologies, growth into new customer segments, and the California grid, in particular, the need to add storage to complement intermittent renewable generation.²⁰ Providing a narrow definition, TURN contends sustainable growth be demonstrated with Participant Cost Test and Ratepayer Impact Measure test results of at least 1.0.²¹ Opposing TURN’s more narrow definition, as well as NRDC’s and Public Advocates Office’s definition of sustainable growth, CALSSA argues that AB 327 requires total benefits are approximately equal to

¹⁷ *Ibid.*

¹⁸ NRDC Opening Comments, December 4, 2020 at 1-2.

¹⁹ CUE Opening Comments, December 4, 2020 at 2 and SBUA Reply Comments, December 11, 2020 at 2.

²⁰ Utilities Opening Comments, December 4, 2020 at 2-4.

²¹ TURN Opening Comments, December 4, 2020 at 2.

the total costs and, thus, the guiding principle cannot state that costs cannot exceed benefits.²² CALSSA further contends that “sustainable growth” clearly means a continuation of market growth.²³

In comments to the proposed decision, CALSSA submits that it is inappropriate at this time to adopt an interpretation or definition of “grow sustainably.” CALSSA contends that the meaning of this term within AB 327 should not be decided prior to the development of a record and the opportunity for legal briefing.²⁴ NRDC argues, however, that the Commission has conducted due process when it took into account parties’ proposed definition.²⁵

Upon further deliberation, we find that delaying adoption of the Commission’s definition or interpretation of the phrase “grow sustainably” provides additional flexibility in the review and ultimate adoption of a successor to the net energy metering tariff. Accordingly, we decline to adopt a definition of “grow sustainably” at this time.

3.2. Proposed Principle 2

As discussed above, we decline to adopt proposed principle 2 and instead adopt an overarching principle that the successor to the current net energy metering tariff should comply with Public Utilities Code Section 2827.1, including 2827.1(3), the basis for proposed principle 2. Proposed principle 2 states: a successor shall be chosen based on the costs and benefits of the

²² CALSSA Reply Comments, December 11, 2020 at 6.

²³ *Ibid.*

²⁴ CALSSA Opening Comments to the Proposed Decision at 11-12.

²⁵ NRDC Reply Comments to the Proposed Decision at 2.

renewable electrical generation facility. Several parties request clarification of costs and benefits, which we address here.

CUE recommends the Commission define the costs and benefits by clarifying the successor must be based on the actual avoided costs that incorporate quantifiable grid benefits, but cautions the Commission not to relitigate the Avoided Cost Calculator.²⁶ TURN states that behind-the-meter resources should be compensated based on avoided costs that incorporate the quantifiable benefits the generator provides to the grid, the environment, and all ratepayers, and recommends use of the Participant Cost Test and Rate Impact Measure test.²⁷ NDC asserts that as long as the successor is based on the costs and benefits to the grid, the successor will be sustainable, reasonable, and should not result in significant increases to non-participating customer rates.²⁸

With respect to the analysis of costs and benefits, as we stated above, D.19-05-019 requires the Total Resource Cost test be the primary test for all Commission activities requiring cost-effectiveness analysis but also requires the review and consideration of the results of the Program Administrator Cost test and the Ratepayer Impact Measure test as well. Again, cost-effectiveness shall be conducted in the manner directed by D.19-05-019. Relatedly, D.16-06-007 requires that cost-effectiveness evaluations for distributed energy resources shall use the most recent version of the Avoided Cost Calculator.²⁹ We clarify that the most recent version of the Avoided Cost Calculator was adopted by the

²⁶ CUE Opening Comments, December 4, 2020 at 2-3.

²⁷ TURN Opening Comments, December 4, 2020 at 2.

²⁸ NDC, Opening Comments, December 4, 2020 at 3.

²⁹ D.16-06-007 at Ordering Paragraph 1.

Commission in D.20-04-010 and Resolution E-5077. Accordingly, requests for changes to the Avoided Cost Calculator in this proceeding will not be considered. However, we underscore that in D.20-04-010, the Commission concluded that “consideration of the benefits of grid services provided by specific distributed energy resources should be addressed in resource-specific proceedings.”³⁰

3.3. Proposed Principle 3

Proposed principle 3 states, “A successor shall ensure equity among customers and enhance consumer protection measures.” Parties request the Commission define equity and separate the two distinct issues. As discussed below, we agree the two distinct issues should be two separate principles so that both issues are provided appropriate consideration; we also provide a definition of equity.

With respect to a principle of equity, parties offer differing views of equity. Public Advocates Office recommends that to ensure equity, the successor must lower net energy metering’s growing cost burden on customers not participating in net energy metering.³¹ SBUA agrees with the original language with one revision – replacing the word, ensure, with the word, promote.³² TURN agrees equity should be defined and recommends the following: ensuring equal compensation for the same generation, equal collection of unavoidable and

³⁰ D.20-04-010 at Conclusion of Law 19.

³¹ Public Advocates Office Opening Comments, December 4, 2020 at 6-7.

³² SBUA Opening Comments, December 4, 2020 at 3.

non-bypassable charges from participants and non-participants, and requiring participants to pay a fair share for the grid services they use.³³

We agree with CALSSA that Public Advocates Office's proposal for an equity principle is based on a contention that has yet to be provided in the record of this proceeding.³⁴ In comments to the proposed decision, CALSSA, GRID Alternatives, and CSE repeat concerns that the use of TURN's proposed equity principle would prescribe outcomes and predetermine resolution of contested legal issues.³⁵ Further, Sierra Club asserts TURN's proposed principle moves the focus away from equity to a predetermined outcome, which could run counter to equity.³⁶ Sierra Club submits TURN's proposed principle conflates equality with equity. Agreeing with Sierra Club, GRID Alternatives contends that TURN's proposed principle regarding equity is devoid of remedying disparities in deployment between upper income and lower and middle income customers.³⁷ SEIA/Vote Solar further submits that TURN's proposal overlooks the element of equity in access.³⁸

Upon review of the comments, we revise our equity principle. First, we agree that the proposed equity principle strays from a focus on equity. Furthermore, we find that simplifying the principle will provide the Commission with additional flexibility in its review of proposals. Hence, we find it

³³ TURN Opening Comments, December 4, 2020 at 4-5.

³⁴ CALSSA Reply Comments, December 11, 2020 at 8-10.

³⁵ CALSSA Opening Comments to Proposed Decision at 3-9, GRID Alternatives Opening Comments to Proposed Decision at 3, and CSE Reply Comments to Proposed Decision at 2.

³⁶ Sierra Club Opening Comments to Proposed Decision at 2-3.

³⁷ *Ibid.*

³⁸ SEIA/Vote Solar Opening Comments on Proposed Decision at 6.

reasonable to simplify and revise the equity proposal to “a successor should ensure equity among all customers.”

With respect to a principle on consumer protection measures, multiple parties support the inclusion of these considerations in our guiding principles. NDC urges the prioritization of this principle, stating “Strong consumer protections will encourage greater participation in other utility programs, compounding program benefits.”³⁹ However, SEIA/Vote Solar maintains consumer protections should not be embedded in the successor, noting that “tariffs govern the Commission-regulated relationship between the utility and its customer, whereas consumer protection measures are directed at the broader commercial relationship between solar vendors, the utilities, and customers.”⁴⁰ CALSSA contends the stand-alone principle on consumer protection should state the consumer protections should be separate from the net energy metering tariff successor. CALSSA reasons that “many of the important consumer protection requirements that have been developed recently exist outside of the net energy metering tariff” and the proposed principle “wraps the tariff mechanisms and consumer protection provision together.”⁴¹ Further, CALSSA refers to the split between tariff considerations and consumer protections measures as the “existing framework,” with which the Commission should remain consistent.⁴²

These comments provide an opportunity to clarify why the Commission should include consumer protections in the guiding principles. While it is true

³⁹ NDC Opening Comments, December 4, 2020 at 9.

⁴⁰ SEIA/Vote Solar Opening Comments, December 4, 2020 at 3-4.

⁴¹ CALSSA Opening Comments, December 4, 2020 at 4.

⁴² *Ibid.*

that several recent consumer protections were adopted following adoption of the current net energy metering tariff, that does not mean that all future consumer protections-related considerations should be deferred until after we have adopted a successor to the current tariff. On the contrary, the Commission should consider how potential successors may support or inform consumer protections simultaneous to considering the protections. CALSSA, TURN and NDC raise several aspects of how potential successors to the current tariff could impact or inform how well the successor itself protects consumers, including elements such as transparency and consistency. We intend to include these consumer protection considerations as part of our overall consideration of the successor tariff. Hence, the Commission should adopt a principle requiring such considerations.

With regard to language for a separate consumer protection principle, we agree with and adopt TURN's recommendation, with one modification. TURN proposes the following language for a consumer protection principle: A successor shall enhance consumer protection measures for customer-generators providing net energy metering services, including those with paired storage resources.⁴³ As we discuss further below, principles should not highlight specific technologies and we find it unnecessary to do so here. Accordingly, we adopt an abbreviated version of TURN's proposed consumer protection principle: "a successor should enhance consumer protection measures for customer-generators providing net energy metering services."

⁴³ TURN's Opening Comments, December 4, 2020 at 5.

3.4. Proposed Principle 4

Proposed principle 4 states, “A successor shall ensure that the total benefits to all customers and the electrical system are approximately equal to or greater than the total costs.” As discussed above, we decline to adopt proposed principle 4 and instead adopt an overarching principle that the successor to the current net energy metering tariff should comply with Public Utilities Code Section 2827.1, including 2827.1(4), which is the basis for proposed principle 4. Comments on this proposed principle raised other concerns including unmandated revisions to the language,⁴⁴ amending the language to address the aforementioned cost burden,⁴⁵ and defining the costs and benefits by use of tests other than the Total Resource Cost test.⁴⁶ We have addressed each of these concerns above and make no further findings regarding this proposed principle.

3.5. Proposed Principle 5

Proposed principle 5 states that a successor shall be technology neutral. As discussed below, we refine this to comply with Public Utilities Code Section 2827 and replace the term “shall” with the less prescriptive term “should”.

Utilities assert it is important to achieve pricing neutrality across demand side and supply side resources in a least cost manner to achieve greenhouse gas goals. Utilities suggest clarifying the intent of the principle and rephrasing as: a

⁴⁴ *Id.* at 4-5, PCF Opening Comments, December 4, 2020 at 5, and SEIA/Vote Solar Opening Comments, December 4, 2020 at 4-5.

⁴⁵ Public Advocates Office Opening Comments, December 4, 2020 at 6-7.

⁴⁶ CUE Opening Comments, December 4, 2020 at 5-6 and TURN Opening Comments, December 4, 2020 at 5-6.

successor shall fairly consider all eligible technologies.⁴⁷ This comports with the contention of CACE and PCF that the statute requires that net energy metering apply to “eligible customer-generators with a renewable electrical generation facility.”⁴⁸ No party objected to this language.

We find the Utilities proposed language for proposed principle 5 is reasonable. However, for clarity, we revise the language to state the following: “a successor to the net energy metering tariff should fairly consider all technologies that meet the definition of renewable electrical generation facility in Public Utilities Code Section 2827.1”

3.6. Proposed Principle 6

Proposed principle 6 focuses on California environmental policies: a successor shall be aligned with the Commission and California’s energy policies, including, but not limited to: Senate Bill 100 (2018, DeLeon), the Integrated Resource Planning process, and the Title 24 Building Energy Efficiency Standards. While no party opposes this principle, party comments address two concerns: the list of environmental policies included in the principle and the use of the words, “aligned with.” As discussed below, we revise the list of environmental policies contained in the principle and we replace the word, “aligned” with the word “coordinated” and, as previously discussed, the word “shall” with the word “should.”

We begin with the use of the word “align.” CACE submits the Commission should define the words, “aligned with” as it has no value as a

⁴⁷ Utilities Opening Comments, December 4, 2020 at 6-7.

⁴⁸ CACE Opening Comments, December 4, 2020 at 5 and PCF Opening Comments, December 4, 2020 at 5. See also CACE Reply Comments, December 11, 2020 at 6.

means of guiding action or agreement toward outcomes.⁴⁹ NRDC and Utilities agree, with NRDC suggesting replacing the words “be aligned” with the word “further.”⁵⁰ Utilities suggest the replacement of “aligned” with the word “coordinated.”⁵¹ Utilities state that in the case of the Integrated Resource Planning proceeding, the adopted Reference System Plan includes the California Energy Commission’s forecast of photovoltaic capacity as an input but maintain this is not a policy goal. Utilities assert the forecast of photovoltaic capacity will change each year and when the Commission adopts a successor in this proceeding, the forecast will change based on that successor. Utilities maintain that replacing the word “aligned” with the word “coordinated” will “provide the Commission with flexibility to address and realize the states’ greenhouse gas reduction goals.”⁵² We agree that use of the word “coordinated” instead of “aligned” provides the Commission with needed flexibility.

We now move on to the list of environmental policies included in proposed principle 6. NRDC, along with PCF and SBUA assert the list of policies should include California Executive Order B-55-18, the carbon neutrality goals.⁵³ NRDC asserts and we agree that the successor should be designed in a manner that furthers decarbonization objectives.⁵⁴ NRDC also argues for the elimination

⁴⁹ CACE Opening Comments, December 4, 2020 at 5.

⁵⁰ NRDC Opening Comments, December 4, 2020 at 5.

⁵¹ Utilities Opening Comments, December 4, 2020 at 7-8.

⁵² *Ibid.*

⁵³ NRDC Opening Comments, December 4, 2020 at 5, CACE Reply Comments, December 11, 2020 at 6 and SBUA Reply Comments, December 11, 2020 at 3.

⁵⁴ NRDC Opening Comments, December 4, 2020 at 5.

of the Title 24 reference, as these are building code requirements.⁵⁵ While we recognize that Title 24 is a set of building code requirements regulated by the California Energy Commission, these requirements are intertwined with net energy metering requirements and necessitate coordination with the California Energy Commission. Hence, we find it appropriate to include Title 24 as one of the environmental policies listed in this principle. We find the following list of environmental policies appropriate to include in the principle: Senate Bill 100 (2018, DeLeon), the Integrated Resource Planning process, the Title 24 Building Energy Efficiency Standards, and California Executive Order B-55-18.

3.7. Proposed Principle 7

Proposed principle 7 states: the successor should provide regulatory certainty. Here, parties focus their comments on the definition of regulatory certainty. As described below, we adopt a portion of the SEIA/Vote Solar and Utilities' proposed revisions to this principle: A successor should be transparent and understandable to all customers and should be uniform, to the extent possible, across all utilities.

Many parties request the Commission to provide clarity regarding the definition of regulatory certainty. NRDC asks to clarify what certainty the new tariff needs to provide, for whom, and to what end.⁵⁶ Three parties offer revisions of the principle to address these questions.

- SEIA/Vote Solar: A successor shall provide regulatory certainty in terms of both (1) a predictable, uniform, and reliable expectation of stability of the net energy metering structure under which a customer decides to invest in their customer-sited renewable distributed generation system, and

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*

- 2) providing for a gradual transition from the current net energy metering structure.
- TURN: A successor shall provide regulatory certainty regarding low-income protections from any future cost shifts associated with the successor tariff and regarding the anticipated payback period for participating customers.
 - Utilities: A successor should be transparent, understandable, and allow for future adjustments in values as customer-sited systems proliferate and state policy goals evolve.

In reply comments, TURN agrees that customers should have a predictable and reliable expectation of stability in the successor, as proposed by SEIA/Vote Solar, but asserts that it is impossible to accurately forecast customer payback, since compensation is tied to evolving rate design.⁵⁷ TURN, however, opposes the second part of SEIA/Vote Solar's revised proposal arguing that a gradual transition from the current compensation structure would result in uncertainty.⁵⁸ Utilities also oppose the second part of SEIA/Vote Solar's revised proposal, contending that SEIA/Vote Solar misapplies the concept of gradualism because gradualism relates to tariff changes that will affect current, not potential, customer rates.⁵⁹ We agree that SEIA/Vote Solar's language on gradualism does not comport with the concept of gradualism. Furthermore, we find this language prejudices outcomes that should be addressed through testimony and evidentiary hearing. Hence, we decline to adopt a principle requiring a gradual transition from the current structure.

⁵⁷ TURN Reply Comments, December 11, 2020 at 2-3.

⁵⁸ *Ibid.*

⁵⁹ Utilities Reply Comments, December 11, 2020 at 8-9.

SEIA/Vote Solar and CALSSA oppose the Utilities' proposed revision to allow for future adjustments in values, with CALSSA arguing this would result in uncertainty leading to increased confusion, risk, and outreach time, which would then increase costs.⁶⁰ CALSSA further argues adopting a principle to allow for future adjustments would inappropriately prejudice issues surrounding the compensation level and eligibility period.⁶¹ While advocating that customers need a clear understanding of tariff terms, the Public Advocates Office argues that the Commission should be afforded the flexibility of future adjustments, as is the case with other rates and regulations.⁶² We recognize the importance of this flexibility; however, parties should be afforded due process to argue whether the flexibility should outweigh the certainty. We decline to adopt a principle that allows for future adjustments.

With respect to TURN's proposed revisions to proposed principle 7, SEIA/Vote Solar objects to focusing this principle regarding uncertainty from the perspective of low income customers. SEIA/Vote Solar highlights that other principles focus on addressing cost shifts and that such protections should not pervade every guiding principle. We agree. Furthermore, we reiterate our prior finding that principles cannot be based on information that is not final nor in the record of this proceeding.

We find portions of the SEIA/Vote Solar and Utilities revisions to this principle appropriately refine the issue of regulatory uncertainty. We find it

⁶⁰ CALSSA Reply Comments, December 11, 2020 at 11-12 and SEIA/Vote Solar Reply Comments, December 11, 2020 at 6-7.

⁶¹ *Id.* at 12.

⁶² Public Advocates Office Reply Comments, December 11, 2020 at 8-9.

reasonable to adopt the following revised language: A successor should be transparent and understandable to all customers and should be uniform, to the extent possible, across all utilities.

3.8. Proposed Principle 8

The final proposed principle focuses on the concept of value: a successor shall maximize the value of customer-sited renewable generation. Many parties recommend the Commission provide more clarity in proposed principle 8, including defining the word value and delineating value to whom. As described below, we adopt a simple but flexible principle. As we previously concluded, principles should not be based upon findings that can only be made after the service of testimony and evidentiary hearings. Hence, as described below, we decline to define the term “value”.

Maintaining that AB 327 requires the successor to be cost-effective, Public Advocates Office contends prioritizing technologies that provide the largest benefits to the grid will increase cost-effectiveness.⁶³ Therefore, Public Advocates Office recommends adding the phrase, “to the electrical grid,” to the end of proposed principle 8.⁶⁴ Focusing on for whom the value is maximized, Utilities agree with the proposed principle but offer additional language at the end: to all customers and to the electrical grid.⁶⁵ Similar to Utilities, TURN recommends adding “to ratepayers and the electrical system.”⁶⁶ In reply

⁶³ Public Advocates Office Opening Comments, December 4, 2020 at 8, footnote 27.

⁶⁴ *Id.* at Appendix A.

⁶⁵ Utilities Opening Comments, December 4, 2020 at 9.

⁶⁶ TURN Opening Comments, December 4, 2020 at 9.

comments, CALWEA and CACE offer support to these clarifications.⁶⁷ We find this additional language reasonable for providing clarity regarding for whom the value is maximized. However, it is also prudent to revise the language to be consistent with Public Utilities Code Section 2827.1(b)(4), which requires the benefits of net metering flow to all customers and the electrical system.⁶⁸

With respect to defining the term, “value”, TURN offers that the value maximization would be demonstrated through the ranking of Ratepayer Impact Measure test results and a dollar per kilowatt hour avoided cost. In reply comments, CALSSA opposes adoption of TURN’s proposal to define value. CALSSA contends TURN’s proposal is not a principle but rather a specific proposal. We previously denied adoption of such language in the principles; specific proposals require testimony and potential cross-examination in evidentiary hearing.

NRDC cautions the principle, as currently proposed, could be misconstrued as focusing solely on maximizing the value of customer-sited renewable generation at the expense of other principles. NRDC submits value should be defined as the sum of benefits customer-sited generation provides the electric grid and clean energy policy benefits.⁶⁹ CACE provides support for NRDC’s clarity of the term value.⁷⁰

In comments to the Proposed Decision, several parties submit the definition of value – the sum of benefits customer-sited generation provides the

⁶⁷ CALWEA Reply Comments, December 11, 2020 at 4 and CACE Reply Comments, December 11, 2020 at 7.

⁶⁸ PCF Opening Comments on Proposed Decision at 5.

⁶⁹ NRDC Opening Comments, December 4, 2020 at 6.

⁷⁰ CACE Reply Comments, December 11, 2020 at 7.

electric grid – is inconsistent with the clarification regarding to whom the value is provided. These parties contend that limiting the value to benefits to the grid would omit values to customers, which would predetermine conclusions in this proceeding.⁷¹ We agree that defining the term “value” could prejudice facts in dispute. Further, simplifying this principle would provide additional flexibility in reviewing and, ultimately, selecting a successor to the net energy metering tariff. Hence, we decline to define the term “value” in this principle or in this decision.

3.9. Additional Principles Proposed by Parties

Parties recommend the adoption of additional principles. We adopt one additional principle: a successor should consider competitive neutrality amongst Load Serving Entities. We decline to adopt all others for various reasons, as discussed below.

3.9.1. Additional Principle Regarding Urgency

First, both Public Advocates Office and TURN request a principle that would require decisive and urgent action.⁷² We do not consider the subject of urgency to be a principle for the design of a successor. The Commission has twice conveyed a sense of urgency for adoption of a successor; first, in the Order, where the preliminary schedule indicated a proposed decision on a successor in November 2021; and second, in the Scoping Memo, where the schedule indicated a proposed decision on successor to the current net energy metering tariff and net energy metering tariff for fuel cells no later than 90 days after submission,

⁷¹ See GRID Alternatives Opening Comments on the Proposed Decision at 7, SEIA/Vote Solar Reply Comments on the Proposed Decision at 5.

⁷² Public Advocates Office Opening Comments, December 4, 2020 at 8-9 and TURN Opening Comments, December 4, 2020 at 9-10.

which is currently July 19, 2021. We decline to adopt a principle regarding urgency of a successor.

3.9.2. Additional Principle Regarding Storage

CALSSA and SBUA recommend the Commission adopt a principle regarding storage. CALSSA offers the following proposed principle: a successor should ensure it does not discourage the installation of energy storage, contending the Commission should encourage the trend of increased installation of storage and photovoltaics.⁷³ Similarly, SBUA submits its proposed principle: a successor shall balance promotion of storage technology with avoidance of incentives to storage and re-dispatch grid-supplied power.⁷⁴ We decline to adopt a separate principle to encourage, or not discourage, the installation of energy storage. We previously adopted the principle: a successor should fairly consider all technologies that meet the definition of renewable electrical generation facility in Public Utilities Code Section 2827.1. Adopting a principle that singles out one technology conflicts with one that requires fair consideration of all eligible technologies.

3.9.3. PCF's Proposed Additional Principles

PCF proposes two additional principles: 1. A successor's costs and benefits evaluation shall be required to fully incorporate the benefit of:

- a. Reductions in greenhouse gas emissions, b. Reductions in particulate pollution, c. Reductions in the number of premature deaths due to pollution reduction, d. Reductions in the congestion of the transmission systems, e. Reductions in the congestion of the distribution systems, and f. Reduction of

⁷³ CALSSA Opening Comments, December 4, 2020 at 5.

⁷⁴ SBUA Opening Comments, December 4, 2020 at 6-7.

peak demand and net peak demand; and 2. A successor shall align with the directives of California Executive Order B-55-18.⁷⁵ We decline to adopt either proposed principle. Adoption of PCF's first principle regarding a successor's cost and benefits would conflict with our prior determination that cost-effectiveness analysis in this proceeding shall be conducted in the manner directed by Decisions 16-06-007, 19-05-019, 20-04-010 and Resolution E-5077. With respect to the principle regarding California Executive Order B-55-18, this Executive Order has been added to the list of energy policies in proposed principle 6. Hence a separate principle on this same topic is unnecessary.

3.9.4. SEIA/Vote Solar' Proposed Additional Principles

We now turn to SEIA/Vote Solar's recommendations. First, SEIA/Vote Solar recommends: a successor shall protect the customer's right to self-consume and store clean energy generated onsite. SEIA/Vote Solar contends the Commission and successor must recognize that Behind-the-Meter distributed generation reduces the customer's use of power from the utility and, at times, allows the customer to export excess generation to the grid. SEIA/Vote Solar further contends these customers, as generators who export excess generation to the grid, have legal status as qualifying facilities under the Public Utility Regulatory Policies Act of 1978 (PURPA). SEIA/Vote Solar further claims that PURPA requires a utility to interconnect with the customer's renewable distributed generation system; allows such a customer to use the output of the system to offset on-site load; and purchases excess power exported from such

⁷⁵ PCF Opening Comments, December 4, 2020 at 6.

systems at a state-regulated price based on the utility's avoided costs.⁷⁶

SEIA/Vote Solar maintains the successor cannot deny customers the right to self-serve their own Behind-the-Meter loads.⁷⁷

In reply comments, Utilities and TURN oppose adoption of this proposed principle. TURN contends that net energy metering tariffs are a function of state law, stating that the applicability of PURPA is limited to situations where there is a net sale of power by the customer in excess of any exports reconciled through a net billing (or net metering) arrangement and the Commission addressed such applicability through a net surplus compensation rate.⁷⁸ Utilities argue neither PURPA itself, nor the implementing regulation cited by SEIA/Vote Solar, Section 292.302, requires a utility to allow a qualifying facility to offset its on-site load. Utilities contend that PURPA addresses sales to and purchases from qualifying facilities but provides no right to self-supply on-site load. Further, Utilities cite *Windway Technologies v. Midland Power* where the Iowa Supreme Court found no federal case or regulatory decision holding that net metering is required by PURPA.⁷⁹

We deny the request to adopt SEIA/Vote Solar's proposed principle to protect the customer's right to self-consume and store clean energy generated onsite. No other party supports this proposed principle. Moreover, this proposed principle conflicts with our previous finding that guiding principles

⁷⁶ SEIA/Vote Solar Opening Comments, December 4, 2020 at 8, citing 18 CFR 292.303.

⁷⁷ *Ibid.*

⁷⁸ TURN Reply Comments, December 11, 2020 at 6, citing D.11-06-016 and *MidAmerican Energy Co.*, 94 FERC ¶ 61,340 (2001).

⁷⁹ Utilities Reply Comments, December 11, 2020 at 6-7, citing 696 NW 2d 303 (Iowa 2005).

should provide a framework to assist in the development and evaluation of a successor but not predetermine the resolution of contested issues of fact and law.

SEIA/Vote Solar's proposes a second principle: a successor shall include rates, charges, and fees for participating customers that are consistent with the Commission's rate design principles. SEIA/Vote Solar explains that the current net energy metering tariff is based on participating customers taking service under Commission-approved rates that also apply to non-participating ratepayers.⁸⁰ Solar customers today have assurance that the rates to which they are subject are Commission approved and consistent with rate design principles.⁸¹ SEIA/Vote Solar recommends this should continue.

TURN asserts this is not correct and only NEM 1.0 customers may take service under Commission-approved rates that also apply to non-participating customers; Public Utilities Code Section 2827(g) protects these customers against additional cost responsibility.⁸² TURN further asserts that Public Utilities Code Section 2827.1 requires NEM 2.0 customers to take service under the successor tariff and disallows these customers to switch to any other rate option provided to non-participating customers.⁸³ Public Utilities Code Section 2827(g) is part of Section 2827, which applies to NEM 1.0 customers and Section 2827.1 applies to NEM 2.0 customers.

SEIA/Vote Solar also contends Public Utilities Code Section 452, which states that no public utility shall establish or maintain any unreasonable

⁸⁰ SEIA/Vote Solar Opening Comments, December 4, 2020 at 9.

⁸¹ *Ibid.*

⁸² TURN Reply Comments, December 11, 2020 at 3-5.

⁸³ *Ibid.*

difference as to rates, charges, service, facilities, or in any other respect, either as between localities or as between classes of service, supports adoption of this principle.⁸⁴ TURN maintains that there is no basis for concluding that Section 452 neuters the requirements of Section 2827.1.⁸⁵ We agree; NEM 2.0 customers are held to the requirements of Section 2827.1. Accordingly, we deny the request to adopt this principle.

3.9.5. Utilities' Proposed Additional Principles

We now turn to Utilities' request for additional principles. Utilities request adoption of four principles.

First, Utilities request that: a successor shall consider costs and benefits of previous tariffs to evaluate values included in a successor tariff. Utilities maintain it is imperative the Commission assess and understand the costs and benefits associated with participation in current net energy metering tariffs. In reply comments, CALSSA acknowledges the principle itself is not problematic, but CALSSA cautions the Utilities' request is inappropriate for comments framed as a proposed guiding principle. CALSSA and SEIA/Vote Solar contend this guiding principle is an attempt to broaden the scope of the proceeding to include revisiting the question of legacy treatment for NEM1 and NEM2.⁸⁶ The Scoping Memo in this proceeding includes the issue: What information from the Lookback Study should inform the successor and how should the Commission

⁸⁴ SEIA/Vote Solar Opening Comments, December 4, 2020 at 9.

⁸⁵ TURN Reply Comments, December 11, 2020 at 4.

⁸⁶ CALSSA Reply Comments, December 11, 2020 at 14 and SEIA/Vote Solar Reply Comments, December 11, 2020 at 8.

apply those findings in its consideration.⁸⁷ We find it unnecessary to adopt a principle requiring the consideration of costs and benefits of previous tariffs.

Second, Utilities request that: a successor shall use a transparent structure from which customers and policy makers can discern the costs and benefits. Utilities state that a future structure must be understandable and costs and values transparent. Utilities argue this may reduce the risk of consumer protection issues if the tariff is clean enough for customers to understand.⁸⁸ We agree that transparency is important to the success of the successor. Hence, we adopted a principle stating the successor should be transparent. There is no need for a duplicate principle.

Third, Utilities request: a successor shall be developed with consideration of the additional and potentially overlapping revenue streams, incentive programs, and subsidies available to the same customers. Utilities contend the Commission should consider the successor with an understanding of the impacts of other revenue streams on a customer's decision to adopt solar.⁸⁹ Utilities recommend the successor be designed to allow for flexibility to accommodate the revenue streams and avoid double compensation.⁹⁰ CALSSA opposes adoption of this principle, arguing that the Commission can only avoid overlap between revenue streams currently defined and lasting into the existence of the successor. CALSSA contends it is not reasonable or practical for the Commission to consider overlap between the successor and other revenue streams that do not

⁸⁷ Scoping Memo at 2.

⁸⁸ Utilities Opening Comments, December 4, 2020 at 10.

⁸⁹ Utilities Opening Comments, December 4, 2020 at 11.

⁹⁰ Utilities Opening Comments, December 4, 2020 at 11.

currently exist.⁹¹ SEIA/Vote Solar asserts this principle is duplicative of the statutory requirement to ensure that the standard contract or tariff made available to eligible customer-generators is based on the costs and benefits of the renewable electrical generation facility.⁹² We agree that the Utilities' proposal regarding additional revenue streams can be addressed through the statutory requirement. We find it would be duplicative to adopt this principle.

Fourth, Utilities recommend: a successor shall ensure competitive neutrality amongst Load Serving Entities. Noting that non-investor owned utility load serving entities serve a significant portion of the electric customers eligible for the successor, Utilities contend the successor should consider the interaction of non-regulated entities with the successor.⁹³ No party opposes the adoption of this proposed principle. We agree that given the increasing numbers of non-investor owned utility load serving entities interacting with the successor, the Commission should consider this in development of the successor. However, we recognize that we cannot necessarily ensure the actions of non-regulated entities. Hence, we find it reasonable to adopt this proposed principle but modified to replace the word "ensure" with the word "consider" and replace the prescriptive term "shall" with the term "should."

3.9.6. TURN's Proposed Additional Principle Regarding Price Signals

The final proposed new principle, offered by TURN, is that a successor shall provide price signals and requirements for dispatchable distributed energy resources, such as paired storage, to maximize grid benefits and assist with the

⁹¹ CALSSA Reply Comments, December 11, 2020 at 14.

⁹² SEIA/Vote Solar Reply Comments, December 11, 2020 at 9-10.

⁹³ Utilities Opening Comments, December 4, 2020 at 11.

avoidance of grid outages.⁹⁴ We decline to adopt this as a principle because we do not consider this to be a principle. We consider this to be a proposal that should be included in testimony and offered for cross examination in evidentiary hearing.

4. Final Set of Guiding Principles

For the reasons set forth in section 3 above, we conclude it is reasonable to adopt the guiding principles listed below. These principles will assist the Commission in the development and evaluation of proposals for a successor to the current net energy metering tariff. We consider these principles sufficiently broad to provide us the flexibility needed to balance the varying, and sometimes competing, objectives of this proceeding. Simultaneously, these principles speak to the specific objectives of the Commission and the California Legislature in establishing this proceeding and embarking upon a revisit of the net energy metering tariff.

- (a) A successor to the net energy metering tariff should comply with the statutory requirements of Public Utilities Code Section 2827.1;
- (b) A successor to the net energy metering tariff should ensure equity among customers;
- (c) A successor to the net energy metering tariff should enhance consumer protection measures for customer-generators providing net energy metering services;
- (d) A successor to the net energy metering tariff should fairly consider all technologies that meet the definition of renewable electrical generation facility in Public Utilities Code Section 2827.1;

⁹⁴ TURN Opening Comments, December 4, 2020 at 9-10.

- (e) A successor to the net energy metering tariff should be coordinated with the Commission and California's energy policies, including but not limited to, Senate Bill 100 (2018, DeLeon), the Integrated Resource Planning process, Title 24 Building Energy Efficiency Standards, and California Executive Order B-55-18;
- (f) A successor to the net energy metering tariff should be transparent and understandable to all customers and should be uniform, to the extent possible, across all utilities;
- (g) A successor to the net energy metering tariff should maximize the value of customer-sited renewable generation to all customers and to the electrical system; and
- (h) A successor to the net energy metering tariff should consider competitive neutrality amongst Load Serving Entities.

5. Comments on Proposed Decision

The proposed decision of Administrative Law Judge Hymes in this matter was mailed to the parties in accordance with Pub. Util. Code section 311 and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed by CARE, CALSSA, CSE, Clean Coalition, GRID Alternatives, Joint Community Choice Aggregators⁹⁵ NDC, NRDC, Public Advocates Office, PCF, Sierra Club, SEIA/Vote Solar, SBUA, TURN, and Utilities on January 25, 2021. Reply comments were filed by California Hydrogen Business Council, CALSSA, CalWEA, CSE, CUE, GRID Alternatives, NRDC, PCF, Public Advocates Office, SBUA, SEIA/Vote Solar, TURN, and Utilities on February 1, 2021. Clarifications and corrections were made throughout this

⁹⁵ The Joint Community Choice Aggregators are Peninsula Clean Energy Authority, Sonoma Clean Power, and San Diego Community Power.

decision in response to the comments. Many parties reiterated previously filed positions; we do not address those here. However, we find it prudent to discuss an issue related to the matter of cost effectiveness.

This decision concludes that cost-effectiveness analysis should be conducted in the manner directed by D.19-05-019, with the Total Resource Cost test as the primary cost-effectiveness test, except where prohibited by Statute or Commission Decision. Utilities, NDC, CalWEA, and SBUA submit that AB 327 and Public Utilities Code Section 2827.1 require the Commission to analyze cost-effectiveness of the successor to the net energy metering tariff through the use of the Ratepayer Impact Measure test.⁹⁶ Utilities further argue that the Commission implied in D.19-05-019 that the Ratepayer Impact Measure test should be the primary cost-effectiveness test, by including footnote 43. Footnote 43 of D.19-05-019 states that PG&E provided two examples where the Total Resource Cost test could be expressly prohibited by statute or Commission Decision; one of which is using the Ratepayer Impact Measure in net energy metering pursuant to AB 327.

As highlighted by SEIA/Vote Solar and CALSSA, the inclusion of footnote 43 does not denote agreement.⁹⁷ SEIA/Vote Solar and CALSSA also underscore that Commission determinations are made in findings of facts, conclusions of law. Furthermore, as noted by SEIA/Vote Solar, CALSSA and SBUA, D.16-01-004 rejected arguments that the Ratepayer Impact Measure test

⁹⁶ NDC Opening Comments on Proposed Decision at 2-3, Utilities Opening Comments on Proposed Decision at 4, CalWEA Reply Comments on Proposed Decision at 1-2 and SBUA Reply Comments on Proposed Decision at 2.

⁹⁷ SEIA/Vote Solar Reply Comments on Proposed Decision at 2 and CALSSA Reply Comments on Proposed Decision at 3-4.

should be the main test for cost-effectiveness.⁹⁸ As pointed out by SEIA/Vote Solar, the Commission found that evaluating proposals for a successor to the net energy metering tariff in terms of impacts on nonparticipants promotes a standard that does not fully reflect the actual legislative requirement of “all customers and the electrical system”.⁹⁹

Accordingly, this Decision will follow the directives of D.19-05-019 and D.16-01-004 and designate the Total Resource Cost test as the primary test for analyzing the cost effectiveness of successors to the net energy metering tariff but will also review the Ratepayer Impact Measure and Participant Cost Test as part of the analysis.

6. Assignment of Proceeding

Martha Guzman Aceves is the assigned Commissioner and Kelly A. Hymes is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. Certain specific metrics proposed by parties rely on facts not currently in the record of this proceeding.
2. There is no evidence currently in this proceeding with respect to the use of alternative cost-effectiveness tests or what the outcomes of the tests should be.
3. It is inappropriate to adopt principles that require findings of facts we cannot make prior to the service of testimony or evidentiary hearings.
4. D.19-05-019 requires the Total Resource Cost test be the primary test for all Commission activities, including filings and submissions, requiring cost-effectiveness analysis of distributed energy resources, except where

⁹⁸ SEIA/Vote Solar Reply Comments on Proposed Decision at 3, CALSSA Reply Comments on Proposed Decision at 3, and SBUA Reply Comments on Proposed Decision at 4.

⁹⁹ SEIA/Vote Solar Reply Comments on Proposed Decision at 3 citing D.16-01-044 at 55.

expressly prohibited by statute or Commission decision but the results of the Program Administrator Cost test and the Ratepayer Impact Measure test shall also be reviewed and considered.

5. Guiding principles should provide a framework to assist in the development and evaluation of a successor but should not adopt tariff elements or predetermine the resolution of contested issues of fact and law.

6. The use of the less prescriptive term “should” is consistent with past guidance provided by the Commission.

7. Less prescriptive language will provide the Commission with flexibility needed to balance the varying, and sometimes competitive, objectives of this proceeding.

8. Proposed principles 1, 2, and 4, as written, could lead to party confusion due to the language or wording differences between the proposed principles and the Commission’s applicable legislative requirements.

9. Enshrining Public Utilities Code Sections into guiding principles raises the awareness of the statutory mandates.

10. Delaying adoption of the Commission’s definition or interpretation of the phrase “grow sustainably” provides additional flexibility in the review and ultimate adoption of a successor to the net energy metering tariff.

11. D.16-06-007 requires that cost-effectiveness evaluations for a distributed energy resources shall use the most recent version of the Avoided Cost Calculator.

12. In D.20-04-010, the Commission concluded that consideration of the benefits of grid services provided by specific distributed energy resources should be addressed in resource-specific proceedings.

13. The issues of equity and consumer protection should be separated into two principles to ensure equal footing of both.

14. Public Advocates Office's proposal for an equity principle is based on a contention that has yet to be provided in the record of this proceeding.

15. The proposed equity principle strays from a focus on equity.

16. Simplifying the equity principle will provide additional flexibility in reviewing proposals for a successor net energy metering tariff.

17. It is reasonable to simplify and revise the equity proposal to "a successor should ensure equity among all customers.

18. While several recent consumer protections were adopted following adoption of the current net energy metering tariff, that does not mean that all future consumer protections-related considerations should be deferred until after we have adopted a successor to the current tariff.

19. Principles should not reference specific technologies.

20. The Utilities' revised principle 5: "a successor shall fairly consider all eligible technologies," comports with the statutory requirement that net energy metering apply to "eligible customer-generators with a renewable electrical generation facility."

21. No party objected to the Utilities' revised language for proposed principle 5 regarding technology neutrality.

22. We find the Utilities' proposed language for proposed principle 5 is reasonable and complies with Public Utilities Code Section 2827.

23. For clarity, it is prudent to revise the language to proposed principle 5 as follows: a successor to the net energy metering tariff should fairly consider all

technologies that meet the definition of renewable electrical generation facility in Public Utilities Code Section 2827.1.

24. Use of the word “coordinated” instead of “aligned” in proposed principle 6 provides the Commission with needed flexibility.

25. Adding California Executive Order B-55-18 to the list of energy policies in proposed principle 6 is reasonable as the successor should be designed in a manner that furthers decarbonization objectives.

26. Title 24 is a set of building code requirements regulated by the California Energy Commission.

27. Title 24 requirements are intertwined with net energy metering requirements and necessitate coordination with the California Energy Commission.

28. It is appropriate to include Title 24 as one of the policies listed in the environmental policy principle.

29. SEIA/Vote Solar’s proposed revision to principle 7 regarding gradualism does not comport with the concept of gradualism.

30. SEIA/Vote Solar’s language in principle 7: “providing for a gradual transition from the current net energy metering structure,” prejudices outcomes that should be addressed through testimony and evidentiary hearing.

31. We find the flexibility of future adjustments is important; however, parties should be afforded due process to argue whether the flexibility should outweigh the certainty.

32. AB 327 addresses cost shifts.

33. Protections against cost shifts should not pervade every guiding principle.

34. Portions of the SEIA/Vote Solar and Utilities revisions to proposed principle 7 appropriately refine the issue of regulatory uncertainty.

35. The additional language, “to all customers and to the electrical grid,” provides clarity regarding for whom the value is maximized in proposed principle 8.

36. It is prudent to revise the language in proposed principle 8 to be consistent with Public Utilities Code Section 2827.1(b)(4), which requires the benefits of net metering flow to all customers and the electrical system.

37. TURN’s proposal for refining principle 8 is not a principle but rather a proposal: the value maximization would be demonstrated through the ranking of Ratepayer Impact Measure test results and a dollar per kilowatt-hour avoided cost.

38. Specific proposals contained in proposed principles require testimony and potential cross-examination in evidentiary hearing.

39. Defining the term “value” could prejudge facts in dispute.

40. Simplifying proposed principle 8 would provide additional flexibility in reviewing and, ultimately, selecting a successor to the net energy metering tariff.

41. The subject of urgency is not a principle for the design of a successor to the net energy metering tariff.

42. The Commission has twice conveyed a sense of urgency, in this proceeding, for adoption of a successor.

43. Adopting a principle that singles out one technology conflicts with a principle that requires fair consideration of all eligible technologies.

44. Adoption of PCF’s first principle regarding a successor’s cost and benefits would conflict with our prior determination that cost-effectiveness analysis in

this proceeding shall be conducted in the manner directed by Decisions 16-06-007, 19-05-019, 20-04-010 and Resolution E-5077.

45. PCS's principle regarding California Executive Order B-55-18 is unnecessary as the Executive Order has been added to the list of energy policies in proposed principle 6.

46. SEIA/Vote Solar's proposed principle to protect the customer's right to self-consume and store clean energy generated onsite conflicts with our previous finding that guiding principles should not predetermine the resolution of contested issues of fact and law.

47. The Scoping Memo in this proceeding includes the issue: What information from the Lookback Study should inform the successor and how should the Commission apply those findings in its consideration.

48. It is unnecessary to adopt a principle requiring the consideration of costs and benefits of previous tariffs when there is a similar scoping issue.

49. Transparency is important to the success of the successor, which is why we adopted a principle requiring the successor to be transparent.

50. There is no need for a duplicate principle on transparency.

51. The Utilities' proposal regarding additional revenue streams can be addressed through the statutory requirement.

52. It would be duplicative to adopt the Utilities' proposed principle regarding additional revenue streams.

53. No party opposes the adoption of the Utilities' proposed principle on Load Serving Entities.

54. Given the increasing numbers of non-investor owned utility load serving entities interacting with the successor, the Commission should consider this in development of the successor.

55. It is reasonable to adopt the Utilities' proposed principle on Load Serving Entities but revise the language to recognize that the Commission cannot ensure the actions of non-regulated entities.

56. TURN's proposed principle regarding price signals and paired storage is not a principle but, rather, a proposal that should be included in testimony and offered for cross examination in evidentiary hearing.

Conclusions of Law

1. The Commission should adopt guiding principles in this decision based on information that is in the record of this proceeding.

2. Cost-effectiveness analysis should be conducted in the manner directed by D.19-05-019.

3. The Commission should adopt neutral guiding principles that do not specify methods with a specific outcome or any other outcome.

4. The Commission should use the less prescriptive term "should" versus the term "shall" in the guiding principles.

5. The Commission should provide a clear differentiation between statutory mandates and guiding principles.

6. The Commission should not adopt proposed principles 1, 2, and 4 but instead adopt one guiding principle that requires the successor to the net energy metering tariff to comply with the statutory requirements of Public Utilities Code Section 2827.1.

7. The Commission should not adopt a definition or interpretation of sustainable growth at this time..

8. The Commission should simplify and revise the equity proposal to “a successor should ensure equity among all customers.

9. The Commission should consider how potential successors may support or inform consumer protections simultaneous to considering the protections.

10. The Commission should adopt an abbreviated version of TURN’s proposed principle regarding consumer protection measures, deleting the reference to a specific technology.

11. The Commission should adopt revised principle 5 whereby a successor should fairly consider all technologies that meet the definition of renewable electrical generation facility in Public Utilities Code Section 2827.1.

12. The Commission should revise proposed principle 6 to replace the word “aligned” with the word “coordinated”.

13. The Commission should maintain Title 24 in the list of energy policies in principle 6 and also revise the list to add California Executive Order B-55-18.

14. The Commission should not adopt a principle whereby a successor requires a gradual transition from the current structure.

15. The Commission should not adopt a principle whereby a successor allows for future adjustments.

16. The Commission should adopt the following language as a revision to proposed principle 7: “A successor should be transparent and understandable to all customers and should be uniform, to the extent possible, across all utilities.”

17. Specific proposals contained in proposed principles should not be adopted.

18. The Commission should adopt proposed principle 8 with the revised language “to all customers and the electrical system” to clarify for whom the

value is maximized and remain consistent with Public Utilities Code Section 2827.1(b)(4).

19. The Commission should not define the term “value” in proposed principle 8.

20. The Commission should not adopt a principle regarding the urgency of a successor.

21. The Commission should not adopt a principle to encourage, or not discourage, the installation of energy storage.

22. The Commission should not adopt PCF’s proposed principles on cost and benefits or the principle on California Executive Order B-55-18.

23. The Commission should not adopt SEIA/Vote Solar’s proposed principle to protect the customer’s right to self-consume and store clean energy generated onsite.

24. Public Utilities Code Section 2827(g) is part of Section 2827, which applies to NEM 1.0 customers whereas Section 2827.1 applies to NEM 2.0 customers.

25. There is no basis for concluding that Section 452 alters the requirements of Section 2827.1.

26. The Commission should not adopt SEIA/Vote Solar’s proposed principle: “a successor shall include rates, charges, and fees for participating customers that are consistent with the Commission’s rate design principles.”

27. The Commission should not adopt the Utilities’ proposed principle: “a successor shall consider costs and benefits of previous tariffs to evaluate values included in a successor tariff.”

28. The Commission should not adopt the Utilities' proposed principle: "a successor shall use a transparent structure from which customers and policy makers can discern the costs and benefits."

29. The Commission should not adopt the Utilities' proposed principle: "a successor shall be developed with consideration of the additional and potentially overlapping revenue streams, incentive programs, and subsidies available to the same customers."

30. The Commission should adopt the Utilities' proposed principle regarding load serving entities but modified as follows: "a successor shall consider competitive neutrality amongst Load Serving Entities."

31. The Commission should not adopt TURN's proposed principle: "a successor shall provide price signal and requirements for dispatchable distributed energy resources, such as paired storage, to maximize grid benefits and assist with the avoidance of grid outages."

O R D E R

IT IS ORDERED that:

1. The following guiding principles are adopted to assist in the development and evaluation of a successor to the current net energy metering tariff:

- (a) A successor to the net energy metering tariff should comply with the statutory requirements of Public Utilities Code Section 2827.1;
- (b) A successor to the net energy metering tariff should ensure equity among customers;
- (c) A successor to the net energy metering tariff should enhance consumer protection measures for customer-generators providing net energy metering services;
- (d) A successor to the net energy metering tariff should fairly consider all technologies that meet the definition of

renewable electrical generation facility in Public Utilities Code Section 2827.1;

- (e) A successor to the net energy metering tariff should be coordinated with the Commission and California's energy policies, including but not limited to, Senate Bill 100 (2018, DeLeon), the Integrated Resource Planning process, Title 24 Building Energy Efficiency Standards, and California Executive Order B-55-18;
- (f) A successor to the net energy metering tariff should be transparent and understandable to all customers and should be uniform, to the extent possible, across all utilities;
- (g) A successor to the net energy metering tariff should maximize the value of customer-sited renewable generation to all customers and to the electrical system; and
- (h) A successor to the net energy metering tariff should consider competitive neutrality amongst Load Serving Entities.

2. Rulemaking 20-08-020 remains open.

This order is effective today.

Dated February 11, 2021, at San Francisco, California.

MARYBEL BATJER
President
MARTHA GUZMAN ACEVES
CLIFFORD RECHTSCHAFFEN
GENEVIEVE SHIROMA
Commissioners