

Decision 21-12-030 December 16, 2021

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to
Continue the Development of Rates
and Infrastructure for Vehicle
Electrification.

Rulemaking 18-12-006

DECISION REVISING COMMISSION DECISION 21-07-028

Summary

This decision revises two elements of Commission Decision 21-07-028, which set near-term priorities for transportation electrification investments by the electrical corporations. First, this decision revises one criterion for the new building construction investment area. Second, this decision revises language describing the expedited review process for applications to extend existing transportation electrification programs.

Rulemaking 18-12-006 remains open.

1. Background

In July 2021, the Commission issued Decision (D.) 21-07-028, establishing near-term priority areas for transportation electrification (TE) investments by the electric utilities. Upon review of the final decision, there are two elements of D.21-07-028 that require revision by this decision. These revisions to D.21-07-028 are made pursuant to the authority granted to the Commission by Public Utilities Code Section 1708.

2. Discussion

The first revision made by this decision relates to the criteria for electric utility investments in TE infrastructure for new building construction. On page 60 of D.21-07-028, a criterion for new building construction investments is that proposals for such investments “must exclusively support infrastructure that exceeds existing state and local EV infrastructure building code requirements.” Identical language appears in the first bullet of Ordering Paragraph 6 of D.21-07-028. The words “and local” should be stricken from the text in these two locations. The Commission intended to remove references to the applicability of local infrastructure building code requirements to new building construction TE investments when it adopted D.21-07-028, as evidenced by comments made by Commissioners during their discussion of D.21-07-028 at the Commission business meeting adopting the decision. In addition, the Joint community choice aggregators (CCAs) provided comments in support of removing the “local” restriction in the proposed decision.¹ The term “and local” remained in the final version of D.21-07-028 in error.

The second area of revision concerns the expedited review process for applications that seek to extend existing TE programs. The final version of D.21-07-028 included language referring to Rule 2.9 of the Commission’s Rules and Practice and Procedure that was inappropriate given that TE investment applications may not comply with the criteria for Rule 2.9 treatment. Therefore, this language should be deleted.

In the discussion of such applications on pages 25 and 26 of D.21-07-028, the Commission stated that “the [electric utilities] should submit these proposals

¹ See Joint CCA Opening Comments at 14.

via application pursuant to Rule 2.9 (Requests for Expedited Schedule) of the Commission's Rules of Practice [and] Procedure. In addition to Rule 2.9, this decision outlines some parameters for applications extending existing TE programs, which could lead to a schedule similar to that used for the Priority Review Programs." References to Rule 2.9 of the Commission's Rules of Practice and Procedure should be stricken from this text. Instead, the text should read as follows: "the [electric utilities] should submit these proposals via applications with requests for expedited schedule. This decision outlines some parameters for applications extending existing TE programs, which could lead to a schedule similar to that used for the Priority Review Programs."

Similarly, in the discussion of party comments on the proposed decision that appears on pages 67 and 68 of D.21-07-028, references to Rule 2.9 treatment for utility applications to extend existing TE infrastructure programs should be stricken. Instead, the language on pages 67 and 68 under the heading "Expedited Application Process" should read as follows:

Many parties commented on the need for a firm timeline to approve an application to extend an existing TE program or pilot. While we understand the intent behind this request, we defer to the Assigned Commissioner for each application, who has the discretion to grant a request for an expedited schedule. We expect that a prehearing conference will take place no later than 30 days from the date the date of preliminary categorization of the proceeding, with a proposed decision no later than 12 months after the application was filed.

3. Comments on Proposed Decision

The proposed decision of Commissioner Clifford Rechtschaffen in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on November 30, 2021 by

Pacific Gas and Electric Company (PG&E), the Joint CCAs, Natural Resources Defense Council (NRDC), supporting adoption of the proposed decision without modification. In addition, opening comments were filed by the Utility Reform Network (TURN) and the Greenlining Institute. Reply comments were filed on December 6, 2021 by Southern California Edison Company.

TURN's comments address proposed revisions to language describing the expedited review process for applications to extend existing transportation electrification programs. TURN argues that future TE applications may not comply with the criteria for Rule 2.9, the remedy should not be eliminating all references to the rule without establishing a clear process and guidelines for expedited review TE applications. TURN notes if the Commission chooses to move forward with proposed revisions to D.21-07-028, the schedule should provide for at least one public participation hearing (PPH) and time for intervenors to conduct discovery, at a minimum. TURN stresses, an expedited schedule that allows for a proposed decision within 12 months of the filing of the application is the minimum regulatory review period that would be fair and feasible.

The Joint CCAs provide support for the technical correction in the proposed decision because it would carry out the Commission's intent not to exclude ratepayers living in communities that have adopted "reach codes" from participating in near-term priority programs. Specific changes to D.21-07-028's conclusions of law and ordering paragraphs are detailed in the body of the instant decision.

In reply, SCE argues that TURN fails to justify its assertions and that the Commission has previously considered and rejected TURN's proposals. Moreover, SCE highlights D.21-07-028's robust set of parameters for

transportation electrification programs proposed pursuant to the near-term priority investment areas.

While the Commission understands TURNs concerns, the inclusion of Rule 2.9 constituted an error, as applications for transportation electrification programs would have difficulty satisfying Rule 2.9(c). Rule 2.9 sets out criteria for specific types of requests for an expedited schedule that were never meant to apply to utility applications for investments in EV charging infrastructure. Such applications require requests to show “a threat to public safety or the need to resolve a financial matter expeditiously to avoid ratepayer harm.” In addition, D.21-07-028 does not require applications for expedited review to follow a schedule similar to Priority Review Programs, which is merely noted in the decision as a possibility. Accordingly, no changes have been made to the proposed decision, except the addition of an ordering paragraph to remove the reference to the applicability of local infrastructure building code requirements to new building construction TE investments in D.21-07-028, page 60.

Assignment of Proceeding

Clifford Rechtschaffen is the assigned Commissioner and Sasha Goldberg and John Larsen are the assigned Administrative Law Judges in this proceeding.

Findings of Fact

1. The Commission intended to remove references to the applicability of local infrastructure building code requirements to new building construction TE investments when it adopted D.21-07-028.

2. The final version of D.21-07-028 included language referring to Rule 2.9 of the Commission’s Rules and Practice and Procedure that was inappropriate given that TE investment applications may not comply with the criteria for Rule 2.9 treatment.

Conclusions of Law

1. The revisions to D.21-07-028 made by this decision are made pursuant to the authority granted to the Commission by Public Utilities Code Section 1708.

2. Language referring to the applicability of local infrastructure building code requirements to new building construction TE investments should be deleted from D.21-07-028.

3. Language referring to Rule 2.9 of the Commission's Rules of Practice and Procedure should be deleted from D.21-07-028.

O R D E R

IT IS ORDERED that:

1. The first bullet point on page 60 of Decision 21-07-028 is updated to state: Proposals must exclusively support infrastructure that exceeds existing state electric vehicle (EV) infrastructure building code requirements.

2. The first bullet point in Ordering Paragraph 6 of Decision 21-07-028 is updated to: Any proposal must exclusively support infrastructure that exceeds existing state electric vehicle infrastructure code requirements.

3. The language in Decision 21-07-028 referencing Rule 2.9 of the Commission's Rules of Practice and Procedure is revised as described in this decision.

4. Rulemaking 18-12-006 remains open.

This order is effective today.

Dated December 16, 2021 at San Francisco, California.

MARYBEL BATJER

President

MARTHA GUZMAN ACEVES

CLIFFORD RECHTSCHAFFEN

GENEVIEVE SHIROMA

DARCIE HOUCK

Commissioners