

Decision 22-08-043 August 25, 2022

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

ORDER EXTENDING STATUTORY DEADLINE

Summary

This decision extends the statutory deadline in this proceeding until August 27, 2023.

1. Background and Justification

The Commission initiated Rulemaking 20-08-020 on August 27, 2020 to develop a successor tariff to the net energy metering tariff pursuant to the requirements of Assembly Bill 327 (2013, Perea). Pursuant to Public Utilities Code Section 1701.5(b), the November 19, 2020 *Joint Assigned Commissioner's Scoping Memo and Administrative Law Judge Ruling Directing Comments on Proposed Guiding Principles* noted the complexity of the issues to be resolved in this proceeding and established a statutory deadline of 24 months, i.e., August 27, 2022, for the proceeding to be completed.

Following a series of workshops in early 2021, the service of opening testimony on June 18, 2021 and rebuttal testimony on July 16, 2021, evidentiary

hearing from July 26, 2021 through August 10, 2021, and the filing of opening briefs on August 31, 2021 and reply briefs on September 14, 2021, the assigned Administrative Law Judge issued a proposed decision on December 13, 2021.

On January 11, 2022, a new commissioner was assigned to the proceeding, at which time she requested the opportunity to review the proposed decision and the record of the proceeding.

On May 9, 2022, the assigned Administrative Law Judge issued a ruling setting aside submission of the record to expand the record for further exploration of three elements of the proposed decision: 1) the glide path approach, 2) non-bypassable charges on gross consumption; and 3) community distributed energy resources. The ruling directed respondents and permitted parties to file comments responding to questions contained in the ruling. Opening comments were filed on June 10, 2022 and reply comments were filed on July 1, 2022.

In addition to developing a successor tariff, the scope of this proceeding also includes the matter of the net energy metering fuel cell tariff. On April 6, 2021, the assigned Administrative Law Judge issued a ruling seeking party comment on a *Staff Proposal to Implement Net Energy Metering Fuel Cell Greenhouse Gas Emission Standards*. Parties filed comments on May 6, 2021 and reply comments on May 17, 2021. The Commission has not made a determination on the staff proposal at this time.

Public Utilities Code Section 1701.5(a) allows an order extending the deadline of a ratesetting or quasi-legislative proceeding when the Commission makes a written determination that the deadline cannot be met and includes findings as to the reason. The current statutory deadline of August 27, 2022 does not allow time for: i) the Commission to review and address the two separate

sets of comments (i.e., the April 6, 2021 Ruling comments on the fuel cell staff proposal and the May 9, 2022 Ruling comments on the successor tariff) in proposed decisions, ii) the public to review and comment on the proposed decisions, and iii) the Commission to consider the proposed decisions. Hence, Rulemaking 20-08-020 cannot be completed by August 27, 2022. Accordingly, it is necessary to extend the deadline by one year to allow adequate time to address the remaining issues of this proceeding.

2. Waiver of Comment Period

Under Rule 14.6(c)(4) of the Commission's Rules of Practice and Procedure, the Commission may waive the otherwise applicable 30-day period for public review and comment on a decision that extends the 24-month deadline set forth in Pub. Util. Code § 1701.5(b). Under the circumstances of this proceeding, it is appropriate to waive the 30-day period for public review and comment.

3. Assignment of Proceeding

Alice Reynolds is the assigned Commissioner and Kelly A. Hymes is the assigned Administrative Law Judge and the presiding officer in this proceeding

Findings of Fact

1. The current statutory deadline for resolving Rulemaking 20-08-020 is August 27, 2022.
2. Rulemaking 20-08-020 cannot be completed by August 27, 2022.
3. An extension of the statutory deadline until August 27, 2023 is necessary to allow adequate time to complete this proceeding.

Conclusion of Law

Pursuant to the authority granted to the Commission under Pub. Util. Code § 1701.5(a), the statutory deadline should be extended to August 27, 2023.

IT IS ORDERED that the statutory deadline for completion of this proceeding is extended until August 27, 2023.

This order is effective today.

Dated August 25, 2022, at San Francisco, California.

ALICE REYNOLDS
President
CLIFFORD RECHTSCHAFFEN
GENEVIEVE SHIROMA
DARCIE L. HOUCK
JOHN REYNOLDS
Commissioners