

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**



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Petition of the California Solar & Storage Association, California Energy Storage Association, Enel X, ENGIE Services, ENGIE Storage, OhmConnect, Inc., Solar Energy Industries Association, and Stem, Inc. to Adopt, Amend, or Repeal a Regulation Pursuant to Pub. Util. Code § 1708.5.

Petition 18-11-004

**OPENING COMMENTS OF THE JOINT PETITIONERS AND SMALL BUSINESS  
UTILITY ADVOCATES TO THE PROPOSED DECISION OF ALJ DOHERTY**

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In accordance with Rule 14.3 of the Rules of Practice and Procedures of the California Public Utilities Commission (“Commission”), the California Solar & Storage Association, the California Energy Storage Alliance, Enel X, Engie Services, Engie Storage, OhmConnect, Inc., the Solar Energy Industries Association and Stem, Inc. (collectively the “Joint Petitioners”) and the Small Business Utility Advocates (“SBUA”) comment on the Proposed Decision of ALJ Doherty issued in the above captioned proceeding on February 8, 2019 (“Proposed Decision” or “PD”). The Joint Petitioners filed the Petition for Rulemaking (“Petition”) on November 6, 2018 requesting that the Commission open a rulemaking to address real-time pricing (“RTP”), other dynamic rates, and demand charge reform. On December 5, 2018, SBUA filed a Response to the Petition, expressing general support for the Petition and SBUA’s interest in ensuring that the Petition’s proposals, if implemented, result in energy savings and lower utility bills for small

business customers.<sup>1</sup> SBUA continues to believe that the Petition’s proposals have the potential for benefiting small businesses and therefore joins the Joint Petitioners in these Opening Comments to request that the Commission allow the proceeding to move forward or, in the alternative, rule that these issues will be addressed for all three large electric utilities in an upcoming General Rate Case Phase 2 proceeding.

## **I. INTRODUCTION**

The Joint Petitioners and SBUA disagree with many of the findings and conclusions that the PD relies on in denying the Petition. If the Commission does not revise the PD and decide to evaluate RTP and demand charge methodologies in one forum, it will forego an opportunity to efficiently address the issues raised in our Petition. The key flaw in the PD’s reasoning, which is addressed below, is its assertion that RTP and demand charge setting methodologies require consideration of utility-specific costs in separate General Rate Case (“GRC”) proceedings. They do not, and requiring re-examination of RTP and demand charge methodologies in three different GRCs will create unnecessary work for Commission staff and parties. Joint Petitioners and SBUA urge the Commission to choose one proceeding, whether a rulemaking or upcoming GRC Phase 2, as the single venue to examine these issues, as it has recently done on three occasions: residential rate reform (R.12-06-013), time of use (“TOU”) setting methodologies (R.15-12-012), and residential fixed charge methodologies (A.16-06-013).

## **II. RESPONSE TO THE PROPOSED DECISION’S CONCLUSIONS REGARDING THE SUBSTANTIVE MERITS OF THE PETITION**

In denying the Petition on substantive grounds, the PD states that “analysis of costs and billing determinants in GRC 2 proceedings is essential to the task of rate design, including the

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<sup>1</sup> See Response of Small Business Utility Advocates to Petition of the Joint Petitioners to Adopt, Amend, or Repeal Regulation Pursuant to Public Utilities Code Section 1780.5 (Dec. 5, 2018).

task of designing demand charges and RTP tariffs.”<sup>2</sup> The PD thus concludes that “[i]t is more appropriate, and frankly more expedient, for these issues to be considered in each utility’s GRC Phase 2 proceeding.”<sup>3</sup> The PD’s determination is faulty.

With respect to demand charges, the PD is correct to the extent that, when using any given methodology for setting demand charges, determination of the specific prices customers are charged for their demand requires utility-specific analysis. However, evaluation of demand charge *methodologies* in one proceeding would serve the interest of greater uniformity and efficient use of the Commission’s and parties’ resources, as the Commission did in conducting a rulemaking for the purpose of developing a framework for designing, implementing, and modifying time periods for use in future TOU rates for all three of the state’s large investor owned utilities (R.15-12-012).

With respect to RTP, the PD is simply incorrect. As explained by the Joint Petitioners in reply comments to the Petition, *there are no new utility-specific costs that require consideration*.<sup>4</sup> Under RTP, the energy portion of a customer’s bill would consist of passed-through wholesale prices. In addition to the energy charges, RTP customers would pay their otherwise applicable customer, generation capacity, distribution, transmission, and public purpose charges. No utility-specific analysis is necessary. All other aspects of RTP program design such as whether to base the RTP price on the day-ahead or real-time markets or both and what, if any, hedging mechanisms to offer will be common across all utilities.

In addition to the PD’s conclusion that the evaluation of RTP and novel demand charge structures necessitates utility-specific analysis, the PD also argues that it would be inefficient and

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<sup>2</sup> Proposed Decision, at 8.

<sup>3</sup> *Id.*

<sup>4</sup> Reply of the Joint Petitioners to Responses to the Petition, at 8. (December 17, 2018)

duplicative to consider these issues in a separate rulemaking proceeding.<sup>5</sup> If the PD's conclusions regarding the need for utility-specific analysis were accurate, then the PD's concerns about inefficiency and duplication would be justified. However, the evidentiary showing that Joint Petitioners would make in support of RTP and novel demand charge structures would consist, in large part, of the same set of academic literature and case studies from jurisdictions where RTP and different forms of demand charges have been implemented. It would be extremely inefficient for the Commission to have its staff and parties review substantially the same evidence in three separate proceedings.

Accordingly, the Joint Petitioners submit that opening a rulemaking to consider the adoption of real-time electricity pricing and demand charge reforms is not inconsistent with the tasks performed in Phase 2 of each utility's GRC nor would it be inefficient or duplicative. The Proposed Decision should be modified to correct the statements to the contrary contained therein.

That said, after considering the suggestion of the Public Advocates Office to create a separate track in San Diego Gas & Electric Company's ("SDG&E's") GRC Phase 2 application, we conclude that such an approach could be preferable and would avoid the duplication that the PD hopes to avert.<sup>6</sup> Although the Public Advocates Office's suggestion was in reference to demand charge issues, their rationale applies all the more to RTP where utility-specific costs are even less relevant. Consolidating these issues in SDG&E's GRC Phase 2 would be consistent with the Commission's precedent in D.15-07-001, which directed that residential fixed charge

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<sup>5</sup> *Id.*

<sup>6</sup> Opening Responses of the Public Advocates Office on Petition for Rulemaking, P.18-11-004 (December 5, 2018) at 4 ("One possible approach that would contribute to a timely and more standardized assessment across the IOUs would be to direct that PG&E and SCE participate in a separate demand charges track of SDG&E's 2019 GRC Phase 2 proceeding.")

methodologies for all three utilities would be considered in the next scheduled GRC Phase 2 proceeding, which was PG&E’s GRC Phase 2 proceeding, A.16-06-013.<sup>7</sup>

Accordingly, the Joint Petitioners and SBUA respectfully request that the Proposed Decision be modified to order the opening of a separate track in SDG&E’s upcoming GRC Phase 2 Application to consider the adoption of real-time electricity pricing and demand charge reforms for customers of SDG&E, Pacific Gas and Electric Company (“PG&E”), and Southern California Edison Company (“SCE”).

### **III. RESPONSE TO THE PROPOSED DECISION’S CONCLUSIONS REGARDING THE PROCEDURAL MERITS OF THE PETITION**

The PD denies the Petition based on procedural grounds stating that the subject matter of the Petition – demand charges and RTP – have been addressed by the Commission within the last 12 months. Thus, the PD concludes the Petition is in contravention of Commission Rule 6.3(f).<sup>8</sup> The PD, however, is not entirely accurate on this point.

RTP has not come before the Commission for either PG&E or SDG&E during the last 12 months. For SCE, the extent of the Commission’s consideration of RTP was simply the approval of a settlement stating that RTP “can be explored” in SCE’s 2021 GRC Phase 2, as noted in the Petition.<sup>9</sup> In fact, in D.18-11-027, the phrase “real-time pricing” (or any variant thereof) occurs only twice in the decision, once noting that it was a topic in the Medium and Large Light and

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<sup>7</sup> “[T]he first GRC Phase 2 filed by one of the three IOUs subsequent to today’s decision shall include workshops on fixed charges. [footnote omitted] The assigned ALJ for that GRC, the assigned ALJ for R.12-06-013 and the Energy Division will set workshops to discuss a consistent methodology... The decision on the proposed fixed charge calculation will apply to the specific utility, with respect to the actual amount of fixed costs identified, but the determination of which categories of costs the Commission determines should be permitted in a fixed charge should be considered precedential. The GRC Phase 2 applications for the other two IOUs should rely on the findings from the first decision.” D.15-07-001 at 192.

<sup>8</sup> Rule 6.3(f) states that the Commission will not entertain a petition for rulemaking on an issue that the Commission has acted on or decided not to act on within the preceding 12 months.

<sup>9</sup> Petition, at 22.

Power settlement and once noting that SCE’s optional “RTP” (which is not actually RTP, as explained in the Petition<sup>10</sup>) will remain available to agricultural and pumping customers.<sup>11</sup> Thus, the Commission has not “acted on or decided not to act on” the issues raised in the Petition: whether to make true RTP (based directly on wholesale prices) available to all customers, whether to base RTP on day-ahead or real-time market prices, how to ensure adequate collection of capacity-related and above-market costs, and the other issues we identified in our suggested scope.

Similarly, with the exception of daily demand charges, none of the novel demand charges described in the Petition have been considered in a Commission proceeding in the previous 12 months. The PD, by asserting that “the demand charge rate design issues proposed for the scope of the rulemaking were *implicitly* part of the scope of the previous GRC Phase 2 proceedings,”<sup>12</sup> is in effect stating that every conceivable rate design issue is within the scope of every GRC Phase 2 proceeding -- that clearly is not the case.

#### **IV. TIMING OF RTP IMPLEMENTATION**

As an additional observation on timing, we note that if the Commission were to reach a decision on RTP in SDG&E’s GRC Phase 2 by late 2020, implementation would not likely occur until sometime in 2021. To the extent this may compete for attention with the implementation of default TOU for residential customers in PG&E and SCE territories, the introduction of RTP could begin with non-residential customer classes, with availability for residential customers delayed until after the final roll-out of default TOU.

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<sup>10</sup> Petition, at 9 (footnote 30).

<sup>11</sup> D.18-11-027 at 32, 61.

<sup>12</sup> Proposed Decision, at 6 (emphasis added).

## V. CONCLUSION

For the reasons discussed above, the Commission should revise the findings, conclusions, and orders of the PD following the revisions suggested in Attachment A. RTP and demand charge reform could play a major role in aligning the incentives of distributed resources and customer load management with maximum GHG reduction and economic efficiency. The overriding concern of the Joint Petitioners and SBUA is to minimize the burden on the Commission and all stakeholders when considering the proposals set forth in the Petition. We urge the Commission choose one procedural forum for this purpose, applicable to all three large electric utilities.

Respectfully submitted,

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## Attachment A: Suggested Revisions to Findings of Fact, Conclusions of Law, and Ordering Paragraphs

### Findings of Fact

~~4. The Demand demand~~ charge rate design issues for which a rulemaking is sought ~~are regularly have not been~~ addressed by the Commission ~~and were addressed by the Commission with respect to SCE and PG&E~~ in the last 12 months.

~~6. Litigating the reasonableness of a utility's rate designs is the very purpose of a GRC Phase 2 proceeding.~~

~~76. With the exception of daily demand charges, T~~the demand charge rate design issues proposed for the scope of the rulemaking were ~~implicitly not~~ part of the scope of the previous GRC Phase 2 proceedings ~~and, in the case of PG&E and SCE, were disposed of in the previous 12 months.~~

~~87. The general issue of the reasonableness of the rate designs for each IOU was within the scope of each utility's previous GRC Phase 2 proceeding. This includes, but the RTP-specific issues described in the petition were not included.~~

~~9. In the most recent SCE GRC Phase 2 proceeding, RTP rates were explicitly considered.~~

~~108. In D.18-11-027 the Commission approved modifications to SCE's RTP tariffs and approved a settlement that schedules future consideration of SCE's RTP tariffs in SCE's next GRC Phase 2 proceeding but did not evaluate the merits of RTP or how it should be implemented.~~

~~11. The RTP rate design issues proposed for the scope of the rulemaking were implicitly part of the scope of the previous GRC Phase 2 proceedings and, in the case of PG&E and SCE, were disposed of in the previous 12 months.~~

~~129. The analysis of a particular utility's costs and billing determinants in GRC Phase 2 proceedings is not essential to the task of rate design, including the task of designing either evaluating broad demand charges methodologies and or designing RTP tariffs.~~

~~1310. All of the utilities are preparing revised demand charge rate designs, RTP designs, or both in preparation for their SDG&E is the next utility to file a GRC Phase 2 applications.~~

*11. In D.15-07-001, the Commission determined that in order to promote the use of a consistent methodology for setting residential fixed charges, the methodological options would be litigated for all three utilities in the next-filed GRC Phase 2 application.*

## **Conclusions of Law**

4. It would *not* be duplicative and inefficient to open a rulemaking to undertake the design of demand charges and RTP tariffs ~~outside of the proceedings that actually consider the utility-specific costs that would drive those designs.~~

*5. It would be duplicative and inefficient to consider substantially the same evidence regarding the methodologies used to design demand charges and the benefits and implementation details of real-time pricing in three separate GRC Phase 2 proceedings.*

*6. It would be a more efficient use of the Commission's and parties' resources to consider real-time pricing and demand charge methodologies for all three large investor-owned utilities in San Diego Gas & Electric Company's GRC Phase 2 application, expected in March of this year.*

## **Orders**

*2. Consideration of real-time pricing, methodologies used to set demand charges, and novel demand charges shall be considered for Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company (SDG&E), in a separate track of the General Rate Case Phase 2 application to be filed by SDG&E in 2019.*

23. Petition 18-11-004 is closed.