STATE OF CALIFORNIA
GAVIN NEWSOM, *Governor*

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

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Erik Jacobson, c/o Megan Lawson
Director, Regulatory Relations
Pacific Gas and Electric Company
77 Beale St., Mail Code B13U
P.O. Box 770000
San Francisco, California 94177
PGETariffs@pge.com

Laura Genao
Managing Director, State Regulatory Affairs
c/o Karyn Gansecki
Southern California Edison Company
601 Van Ness Avenue, Suite 2030
San Francisco, California 94102
Karyn.Gansecki@sce.com

Gary A. Stern, Ph.D.
Managing Director, State Regulatory Operations
Southern California Edison Company
8631 Rush Street
Rosemead, California 91770
AdviceTariffManager@sce.com

Greg Anderson
Regulatory Tariff Manager
GAnderson@sdge.com
SDGETariffs@sdge.com

Subject: Energy Division Disposition Rejecting Joint Pacific Gas and Electric Company Advice Letter 5945-E, Southern California Edison Company Advice Letter 4291-E, and San Diego Gas & Electric Company Advice Letter 3606-E With Proposed "Common Function" Definition Requirement for General Market Virtual Net Energy Metering Successor Tariffs Pursuant to Decision 20-08-002, Ordering Paragraph 5

Dear Mr. Jacobson, Dr. Stern, Ms. Genao, and Mr. Anderson:

This letter rejects the joint advice letter (AL) Pacific Gas and Electric Company (PG&E) AL 5945-E, Southern California Edison Company (SCE) AL 4291-E, and San Diego Gas & Electric Company (SDG&E) AL 3606-E with a proposed "common function" definition requirement for general market virtual net energy metering (VNEM) successor tariffs.

On September 10, 2020, PG&E, SCE, and SDG&E (the Joint Investor-Owned Utilities, or IOUs) submitted the joint AL pursuant to Decision 20-08-002, Ordering Paragraph 5. The joint AL proposed modifications regarding a "common function" to the definition of "property" in the Joint IOUs' respective general market VNEM rate schedules.

The California Solar & Storage Association (CALSSA) filed a timely protest, and The Utility Reform Network (TURN) filed a timely response, on September 30, 2020. The Joint IOUs filed a timely reply to the protest on October 7, 2020.

Energy Division finds the proposal in the joint AL to be unsupported. Therefore, PG&E AL 5945-E, SCE AL 4291-E, and SDG&E AL 3606-E are rejected.

Attachment 1 contains a discussion of the background, protest, response, reply, and staff's determinations. Please contact Erica Petrofsky of the Energy Division at erica.petrofsky@cpuc.ca.gov if you have any questions.

Sincerely,

Pete Skala
Interim Deputy Executive Director for Energy and Climate Policy/
Interim Director, Energy Division /

cc: Scott Murtishaw, Senior Advisor, California Solar & Storage Association
Matthew Freedman, Staff Attorney, The Utility Reform Network
R.14-07-002 Service List
R.17-07-007 Service List

Attachment 1:

Staff Review and Disposition

Background

In Decision (D.) 20-08-007, the Commission found that Pacific Gas and Electric Company's (PG&E) implementation of its general market virtual net energy metering (VNEM)[1] successor tariff as directed in D.16-01-044 differed from Southern California Edison Company's (SCE) and San Diego Gas & Electric Company's (SDG&E) implementation. The Commission stated its intent for the large electric investor-owned utilities (IOU) to implement these tariffs consistently.[2] To this end, the Commission required modifications to PG&E's and SCE's general market VNEM successor tariffs to make uniform the definition of "property" across utilities.[3]

In its decision, the Commission reviewed parties' statements regarding whether the definition of "property" in the general market VNEM tariffs prevented customer-generators from acting as load serving entities (LSE). In response to a previous petition to modify D.16-01-044 by the California Solar and Storage Association (CALSSA), PG&E had raised a concern that permitting multiple legal parcels under a single general market VNEM arrangement would enable customer-generators to serve as LSEs without having to fulfill scheduling, reliability or other LSE responsibilities.[4] In a reply to PG&E's response, CALSSA had claimed that the definition of property in the VNEM tariffs was sufficient to prevent customer-generators from acting as de facto LSEs.[5] In comments to the proposed decision, the IOUs had asserted that the requirement that an eligible property serve a common function helped prevent a customer from taking on LSE responsibilities.[6] However, the Commission noted that SCE had stated it had not identified any entity engaged in such a practice, but that SDG&E had stated that "nothing in its tariff prevents such a practice, and suggest[ed] adding a provision to the tariff to specify the requirements for an LSE."[7]

The Commission also described the IOUs' proposal to retain a requirement in PG&E's and SCE's tariffs that an eligible property serve a common function. It noted that CALSSA had questioned the necessity of this retention and raised a concern that the IOUs might interpret "common function" inconsistently.[8] As a result, the Commission allowed the IOUs to propose requirements for an LSE in their general market VNEM successor tariffs, as part of which they could propose a "common function" requirement.[9]

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[1] Virtual Net Energy Metering (VNM or VNEM) is a tariff arrangement that enables a multi-meter property owner to allocate the property's renewable energy generator's energy credits to tenants.
[2] D.20-08-007 at 8.
[3] *Id.* at 9.
[4] *Id.* at 6-7.
[5] *Id.* at 7.
[6] *Id.* at 11.
[7] *Id.* at 10.
[8] *Id.* at 11.
[9] *Id.* at 15-16 (Ordering Paragraph 5).

On September 10, 2020, the Joint IOUs submitted PG&E Advice Letter (AL) 5945-E, SCE AL 4291-E, and SDG&E AL 3606-E, "Joint Advice Letter Submission of Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company With Proposed 'Common Function' Definition Requirement for General Market Virtual Net Energy Metering Successor Tariffs Pursuant to Decision 20-08-002, Ordering Paragraph 5."

The IOUs proposed to add the following text to the general market VNEM successor tariffs:

> The accounts located on the parcels in the VNEM arrangement must serve a Common Function. "Common Function" in the context of VNEM shall mean:
>
> 1. All accounts are either Commercial or Residential, but not both (unless the mixed use is on a single parcel); AND
> 2. The accounts serve a branded single enterprise; AND
> 3. The customer of record responsible for the generator account cannot otherwise serve as a Load Serving Entity.[10]

The IOUs stated that the inclusion of the new text would help limit the applicability of the tariff and the availability of VNEM benefits that, the IOUs asserted, include a subsidy from bundled customers. They predicted adverse consequences without this requirement, "including extending the inequitable net metering cross-subsidy at a time when the Commission is preparing to fix it and introducing system reliability issues attendant to incenting large solar generators serving diverse enterprises behind the meter."[11]

Protests and Reply

CALSSA submitted a timely protest to the joint AL on September 30, 2020. The Utility Reform Network (TURN) submitted a timely response supporting the joint AL on September 30, 2020. The IOUs submitted a timely reply to CALSSA's protest on October 7, 2020.

CALSSA's Protest to the Joint AL

CALSSA objected to condition 1 (single customer type) in the IOUs' proposed "common function" definition, claiming it would require developers to construct a separate VNEM generator to serve each customer type rather than one larger generator to serve all customer types. CALSSA inferred that "[t]he underlying rationale appears to be that there is some point at which a VNEM generator is too big," but pointed out that this condition would not be an effective size limit because it would allow a single VNEM generator to serve a large, multiparcel development of one customer type. CALSSA continued, "[p]arcel sizes also vary widely, which further exacerbates the arbitrariness of the proposed restriction."[12] CALSSA questioned the need for this condition since "[t]he requirement that parcels all be under common ownership and benefitting accounts be tenants of a multitenant facility should suffice as a limitation on the scale of VNEM generators."[13]

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[10] Joint AL at 5.
[11] Joint AL at 5.
[12] CALSSA Protest at 2-3.
[13] *Id.* at 3.

CALSSA claimed that condition 2 (single branded enterprise) would be ineffective and arbitrary because, for example, "a residential development consisting of two different apartment complexes would be unable to receive NEM credits from a single generator account if the complexes have different names but would be eligible if they have the same name."[14] CALSSA also predicted implementation problems if this condition was not clarified, stating that "[d]eterminations regarding whether the branding of sub-units of a development are sufficiently similar to meet the condition will depend on individual judgement, and each utility may develop divergent norms […]."[15]

CALSSA also argued against the joint AL's claim that failing to impose a "common function" requirement would extend "the inequitable net metering cross-subsidy," instead suggesting that "to the extent the Commission determines that a cross-subsidy exists and fixes it in the new NEM proceeding, arbitrary limits that restrict VNEM arrangements to a common function will be unnecessary. The utilities presuppose the outcome of the Commission's determinations in that proceeding and imply that limiting VNEM arrangements is an indirect, second-best interim solution."[16]

Finally, CALSSA argued against the joint AL's claim that failing to impose a "common function" requirement would introduce system reliability issues. CALSSA noted that the IOUs had asserted there would be reliability issues in their comments on the proposed decision that became D.20-08-007, and CALSSA had argued in its reply comments that the assertion was unsupported, and any reliability issues should be identified and mitigated during the interconnection process.[17] The Commission did not dispose of this issue in D.20-08-007.

TURN's Response to the Joint AL

In its response, TURN summarized its understanding of the Commission's intent for general market VNEM, reviewing the Commission's language allowing VNEM to include service delivery points "at a single site" and its adoption of tariffs for PG&E and SCE requiring that accounts "serve a common function, such as a housing complex or a multi-tenant complex."[18]

In the absence of a "common function" requirement, TURN explained, "the size of the VNEM arrangement will be limited only by the common ownership and contiguous parcel criteria, where parcel may be defined as tax/assessor or legal." TURN raised concerns that this could allow an expansion of general market VNEM beyond what it believes the Commission intended,[19] "to unrelated customers of different types located on adjacent parcels or to unrelated customers who lease facilities located on property that is owned by a single enterprise."[20] Such an "inappropriate expansion of VNEM," TURN warned, "would unreasonably shift costs to non-participating customers responsible for paying the subsidies necessary to support the VNEM tariff.[21]

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[14] *Id.* at 5.
[15] *Id.* at 6.
[16] CALSSA Protest at 2.
[17] *Id.* at 2.
[18] TURN Response at 2.
[19] *Id.* at 2.
[20] *Id.* at 1.
[21] *Id.* at 1-2.

The IOUs' Reply to the Protest and Response

In their reply, the IOUs confirmed the rationale about VNEM generator size posited in CALSSA's protest, stating, "the larger the [VNEM] arrangement the more of the utility's distribution system is used to distribute the generation account energy to the benefitting" accounts. The IOUs described their previous filing about this concern, the Commission's acknowledgement of it, and the Commission's decision that the concern was mitigated by the limited scope of the VNEM program at that time.[22] Because VNEM eligibility has since been expanded, the IOUs urged the Commission to approve the joint AL's "common function" definition, or at least to allow the undefined term "common function" to be used in the definition of "property" as it originally was in PG&E's and SCE's tariffs.[23] The IOUs did not directly rebut CALSSA's assertion that condition 1 would be ineffective.

The IOUs acknowledged that condition 2 was imperfect but asserted that it would still limit VNEM arrangement size. The IOUs stated that an imperfect limitation was "probably the best that can be expected" because "no tariff language is without its ambiguity." In addition, the IOUs had discarded an alternative idea for a VNEM arrangement size limit: limiting VNEM arrangements to a single distribution circuit. The IOUs stated that these circuits "…vary in size greatly, so it is not a very good limit, which leaves only some sort of qualified geographic and/or customer-related limit." The IOUs minimized CALSSA's argument that the condition was arbitrary, stating that developers could control the branding of their projects and that any language refinements needed could occur in the new successor tariff proceeding.[24]

The IOUs also disagreed with CALSSA's assertion that the Commission should only rely on a determination that a cross-subsidy exists in the new NEM proceeding. They pointed out that under D.02-03-057, some costs of upgrades necessary for interconnection are borne by ratepayers, not just the VNEM applicant. The IOUs stated that this is inequitable for non-solar ratepayers.[25] For this reason, the IOUs advocated for the scenario CALSSA had posed as a reason to omit the proposed "common function" definition's first condition, stating that "[t]he more appropriate policy is to allow the commercial entity, such as a franchise retail establishment on the first floor of an apartment building, [to] bear the cost of installing its own NEM meter so that the VNEM arrangement solely serves the tenants […]."[26]

The IOUs confirmed CALSSA's assertion that reliability issues are identified and mitigated during the interconnection process.[27]

For the reasons described in their joint AL and reply, the IOUs disagreed with CALSSA's depiction of the "common function" definition as unnecessary or arbitrary, and urged the Commission to

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[22] IOU Reply to Protest and Response at 3.
[23] *Id.* at 4.
[24] IOU Reply to Protest and Response at 6.
[25] *Id.* at 4.
[26] *Id.* at 5-6.
[27] *Id.* at 4.

allow them to use the definition or at least allow them to use the undefined term "common function" in their definition of "property."[28]

Discussion

Energy Division has reviewed relevant previous decisions and other documents, the joint AL, CALSSA's protest of the joint AL, TURN's response to the joint AL, and the IOUs' reply. Energy Division has also requested and reviewed data from the IOUs to evaluate elements of the joint AL.

In D.20-08-007, the Commission allowed the IOUs to propose requirements for an LSE. The IOUs refrained from doing so in their joint AL, only including as condition 3 of their proposed "common function" definition, "[t]he customer of record responsible for the generator account cannot otherwise serve as a Load Serving Entity." From this fact and information previously provided by SCE, we conclude that it is not necessary at this time to specify the requirements for an LSE. The Commission previously asked if SCE's general market VNEM successor tariff prevented customer-generators from serving as an LSE without scheduling or other LSE responsibilities.[29] SCE responded that "the restrictions of land ownership, operation and use of the 'Property' (to serve a 'common purpose') as well as the sizing of the Eligible Generator ('intended primarily to offset part or all of the combined electrical requirements of all designated Benefitting Accounts') sufficiently deter entities from abusing the 'virtual NEM' arrangement as a means to act as an LSE."[30]

Regarding conditions 1 and 2 of the proposed definition of "common function," we agree with the IOUs and CALSSA that they would only be partially effective in limiting VNEM generator size, and with CALSSA that their application to different properties would be inconsistent and arbitrary. We therefore reject the proposed definition in order to prevent unfairness and the implementation problems that CALSSA predicts could occur should this definition be adopted.

The IOUs requested that, if not allowing the proposed definition, the Commission allow the undefined term "common function" to be used in the definition of "property" as originally included in PG&E's and SCE's tariffs. This raises the questions of whether a "common function" requirement comports with the Commission's intent for the general market VNEM successor tariffs and/or is needed to prevent cost shifting or system reliability issues.

The Commission described the customer types eligible for the general market VNEM tariffs as "all residential, commercial and industrial multitenant and multi-meter properties" in D.11-07-031.[31] Far from restricting usage, in D.16-01-044 it expanded general market VNEM successor tariff eligibility from one to multiple service delivery points at a site.[32] Further, it declined to cap VNEM generator capacity at 1 megawatt.[33] In D.20-08-007, the Commission reaffirmed its intent as stated in D.16-01-

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[28] *Id.* at 7.
[29] E-Mail Ruling Requiring Supplemental Information Re: Petition to Modify Decision 16-01-044 at 3.
[30] Responses on ALJ's Email Ruling Requiring Supplemental Information Regarding Petition to Modify D.16-01-044 at 3.
[31] D.11-07-031 at 16.
[32] D.16-01-044 at 99.
[33] *Id.* at 28 and 98-99.

044.[34] In contrast, the IOUs and TURN indicated that the underlying purpose of the proposed "common function" requirement was to limit the number of otherwise eligible customers who could use the general market VNEM successor tariffs and to limit the size of the VNEM arrangements. Both of these purposes contravene the direction established in the above decisions.

In permitting the IOUs to propose a definition of "common function," the Commission allowed for the possibility that further restriction of eligibility might contribute toward its intent for these tariffs. However, the IOUs did not demonstrate a need for a restriction of eligibility beyond the current definition of "property," especially the existing phrase "part of the same single multi-tenant or multi-meter facility." Moreover, the IOUs did not propose a "common function" definition that fairly and consistently delineates which properties would cause structural, economic, safety or other problems for the grid and be unacceptable, and which properties would not. They have not shown that a sensible and clear definition exists. Therefore, including an undefined term without merit could lead to unfair and ad hoc implementation. This would conflict with the Commission's intent for the general market VNEM successor tariffs to be implemented consistently across the IOUs.

The IOUs and TURN brought up cost shifts from two sources: payments to support VNEM bill credits[35] and costs of upgrades for interconnection that are socialized among ratepayers.[36] Whether the customers in a VNEM arrangement have a "common function" has no bearing on the first of these types of cost shifts. However, Energy Division staff questioned whether a "common function" requirement is needed to prevent the second type of cost shift as the IOUs claimed,[37] despite the IOUs' failure to show such a need in the joint AL or administrative record for D.20-08-007. Hence, Energy Division staff requested data from the IOUs on characteristics of VNEM arrangements that caused high distribution system upgrade costs, capacities of existing VNEM generators, characteristics of the electrical system between VNEM arrangements' generators and load, any observed reliability issues, and other questions.[38]

The IOUs responded that the full complement of information requested was not readily available for a variety of reasons including the recentness of expanded eligibility requirements, the IOUs' methods of tracking information pursuant to D.02-03-057, and/or the inability to remotely collect information about equipment.[39] From the information the IOUs did provide, Energy Division staff gathered that the IOUs had proposed the "common function" requirement preemptively, rather than due to observing consequences of not having such a requirement. As the IOUs do not track the number of parcels with mixed residential and non-residential use in VNEM arrangements, nor the distance between a VNEM arrangement's generator and benefitting accounts, they do not know whether mixed use or distance among system components are correlated with each other, higher system capacities, or distribution system upgrade costs. When asked for information on large VNEM systems, the IOUs provided distribution system upgrade and other costs mostly in the range

[34] D.20-08-007 at 9.
[35] Joint AL at 5 and TURN Response at 1-2.
[36] IOU Reply to Protest and Response at 4.
[37] Joint AL at 5.
[38] Data request to PG&E, SCE, and SDG&E, November 12, 2020.
[39] Meeting with the IOUs, December 10, 2020.

of zero to a few thousand dollars, and did not substantively describe any concerns about wheeling.[40] Overall, the IOU responses provided no policy, safety or engineering justification for a "common function" requirement in the general market VNEM successor tariffs' definition of "property."[41]

Energy Division staff also asked about any observed system reliability issues related to VNEM arrangements. The IOUs respectively responded that there were no reliability issues or that they needed more time to look for reliability issues.[42] In combination with their statement that potential reliability issues are identified and dealt with during the interconnection process,[43] this issue does not seem substantive.

Energy Division finds the proposals in the joint AL to be unsupported and inconsistent with the Commission's intent and orders in previous decisions. Therefore, we reject PG&E AL 5945-E, SCE AL 4291-E, and SDG&E AL 3606-E.

Should the IOUs observe and document the types of aforementioned problems during the implementation of the definition of "property" as adopted in D.20-08-007, *and* should they provide justification for a different restriction than, or definition of, "common function" in the future, they retain the ability to submit a new AL on their own initiative.

[40] Based on the administrative record of D.11-07-031, wheeling can be informally described as use by a customer-generator of a utility's transmission and distribution system to provide power to the customer's load and to take power produced by their generator, while not fully covering the cost of transmission and distribution services.
[41] PG&E Response to Data Request, December 15, 2020; SCE Response to Data Request, December 15, 2020; and SDG&E Response to Data Request, January 22. 2021.
[42] *Id.*
[43] IOU Reply to Protest and Response at 4.