

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

Order Instituting Rulemaking on the
Commission's Own Motion to Conduct a
Comprehensive Examination of Investor
Owned Electric Utilities' Residential Rate
Structures, the Transition to Time Varying
and Dynamic Rates, and Other Statutory
Obligations.

Rulemaking 12-06-013
(Filed June 21, 2012)

OPENING COMMENTS OF THE ALLIANCE FOR SOLAR CHOICE

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July 12, 2013

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The Alliance for Solar Choice ("TASC") submits these comments pursuant to Administrative Law Judge McKinney's March 19, 2013 *Ruling Requesting Residential Rate Design Proposals* ("March 19 Ruling") and June 24, 2013 *Ruling Confirming E-Mail Ruling Amending Procedural Schedule*.

TASC advocates for maintaining successful distributed solar energy policies throughout the United States. Founding members represent the majority of the nation's rooftop solar market and include SolarCity, Sungevity, Sunrun and Verengo. These companies are responsible for tens of thousands of residential, school and commercial solar installations in the State of California and have brought thousands of jobs and many tens of millions of dollars of investment to California's cities and towns.

TASC was formed on the belief that everyone should have the option to switch from utility power to distributed solar power and realize the financial benefits therein. The organization is committed to supporting retail net metering ("NEM"), which empowers customer choice by providing fair credit to homes, businesses, churches, schools, public agencies, and other neighborhood places when solar systems generate on-site energy. Americans' desire to

assert control over their electric bills has largely driven the rooftop solar market, and this customer empowerment should be encouraged and supported.

I. INTRODUCTION AND SUMMARY

Parties should be commended for the breadth and depth of the 15 proposals submitted to the Commission in this proceeding. TASC is pleased to be able to consider and respond to California's thought leaders on these issues.

It is essential to TASC, its customers, its employees and its contractors that any new rate design paradigm respects the "long-term investments that over 150,000 California customers have made in renewable [distributed generation ("DG").]"¹ It is indisputable that changes to rate design elements key to NEM will have an impact on the opportunity for customers to invest in on-site generation. Paradoxically, parties' proposals include opposite recommendations on a number of these rate elements, yet every party that responded to the Commission's question on NEM claims its rate structure will either be agnostic towards NEM customers or will favor them.

No party to this proceeding has more intimate knowledge of the impacts of rate design structures on NEM opportunities than TASC and its members. Sifting through the 15 different proposals reveals three rate elements that are key to NEM and that have broad support from parties: the use of time-of-use ("TOU") rates, the maintenance of tiered rate structures, and the avoidance of fixed charges in favor of volumetric rates. While not every party supports each of these three elements, and while some parties oppose their combined use, the majority of parties agree these three rate elements support the goals of an optimal rate design. Therefore, TASC believes parties' proposals provide substantial support for an informed and gradual transition to a

¹ Joint Solar Parties Proposal at 7.

default TOU rate, combined with a reduction in the complexity of inclining block rates, the avoidance of fixed customer charges, and the availability of an opt-out.

II. TASC SUPPORTS THE RATE DESIGN PRINCIPLES OUTLINED BY THE JOINT SOLAR PARTIES.

TASC agrees with the five guiding principles and five elements of residential rate design that the Commission has established thus far in this proceeding.² In addition, the Vote Solar Initiative/Solar Energy Industries Association’s (“Joint Solar Parties”) proposal set forth eleven principles altering the Commission’s goals to more clearly target California’s clean energy future.³ These principles are:

1. Rates should be based on marginal costs that emphasize a long-run perspective.
2. Rates should encourage conservation and integration of renewables.
3. Rates should reduce peak demand.
4. Rates should include the development of TOU tariffs.
5. Rates should be based on cost-causation principles.
6. Any rate design should not be discriminatory toward renewables.
7. Rates should have transparency, with enough availability of data so that the customer has predictability into what their rate should be.

² The five principles state that rates should (1) “be based on marginal costs”; (2) “be based on cost-causation principles”; (3) “encourage conservation and reduce peak demand”; (4) “provide stability, simplicity and customer choice”; and (5) “encourage economically efficient decision-making.” Order Instituting Rulemaking 12-06-013, p. 2 (June 28, 2012). The five elements in addition to the principles include: (1) “assuring low-income and medical baseline customers have access to enough electricity to ensure basic needs are met at an affordable cost”; (2) “rates should encourage reduction of both coincident and non-coincident peak demand”; (3) “rates should avoid cross-subsidies, unless the cross-subsidies appropriately support explicit state policy goals”; (4) “incentives should be explicit and transparent”; and (5) “transitions to the new rate structure should emphasize customer education and outreach that enhances customer understanding and acceptance of new rates, and minimizes and avoids the potential for rate shock.” Assigned Commissioner and Administrative Law Judge’s Ruling Inviting Comments and Scheduling Prehearing Conference, R.12-06-013, p. 7 (Sep. 20, 2012).

³ Joint Solar Parties Proposal at 4-8.

8. Any rate redesign should minimize any impact to existing customers, such as grandfathering in existing customers (no retroactivity), with the option to opt into a new rate.
9. There should be a smooth transition to a new rate structure.
10. Customer charges should be avoided.
11. Rates should encourage economically efficient decision-making.

California's past and present have established a clear path towards a future where fossil-fired generation is replaced with clean and renewable sources of electricity. As an organization with member companies that have given customers opportunities to invest in such a future, TASC endorses the Joint Solar Parties' long-term vision, which is clearly aligned with the State's energy trajectory.

In addition, TASC believes customer empowerment is an important principle of which the Commission should not lose sight. California is in the midst of a major paradigm shift, where innovative policies, financing and technological solutions are linking customers and energy sources more intimately than ever before. Customers now have the option to invest in on-site generation instead of complete reliance on utility-provided energy, and it is vital that the Commission supports this choice. The achievement of the Governor's 12 GW DG goal as well as the state's ambitious zero-net energy building targets depend on the Commission's support of rate structures enabling customers' long-term investments in distributed generation. Furthermore as TASC's comments demonstrate below, the support of NEM complements, rather than obstructs, the achievement of the Commission's goals in this proceeding.

III. PARTIES' PROPOSALS PROVIDE SUBSTANTIAL SUPPORT FOR RATE ELEMENTS THAT TARGET BOTH THE COMMISSION'S GOALS AND A ROBUST SOLAR MARKET.

TASC's comments below highlight three rate structures that most of the 15 proposals include as part of an optimal rate design structure: TOU rates, tiered rate blocks, and the avoidance of fixed customer charges. Where parties' proposals diverge, TASC emphasizes solutions that achieve the proceeding's aims, align with the State's clean energy future, and ensure customers have the empowered choice of generating their own electricity. Per Administrative Law Judge McKinney's instructions, the comments below are framed using the ten questions from the March 19 Ruling.

A. Questions 1 and 2: The Optimal Rate Design to Meet the Commission's Principles are (1) an Informed and Gradual Transition to Default TOU Rates with Opt-Outs; (2) Simplified, Tiered, Inclining Block Rates; and (3) the Avoidance of Fixed Charges.

1. There is Strong Support for a Gradual and Informed Move to Default TOU Rates with an Opt-Out.

The use of TOU periods to differentiate rates is one of the most strongly supported rate elements in the 15 proposals. Nearly every proposal suggests the use of a TOU rate of some kind, and even the two proposals from The Utility Reform Network ("TURN") and the Center for Accessible Technology ("CAT") that do not employ TOU rates give conditional support to the concept. TURN states it would support an opt-in TOU rate if it is designed "to reflect temporal differences in generation costs."⁴ CAT suggests it could also support TOU rates if appropriate exemptions, education and outreach accompany implementation.⁵

This near-unanimous support makes sense. TOU rates abide by cost causation principles by providing higher prices during peak hours in order to reflect the higher marginal costs to serve

⁴ TURN Proposal at 11.

⁵ CAT Proposal at 44-47.

customers during those times.⁶ In turn, TOU pricing provides customers with a price signal that more accurately reflects system capacity costs.⁷ Higher prices create an incentive for customers to shift load and invest in more efficient air conditioning.⁸ Thus, TOU rates reduce both coincident and non-coincident peak demand and encourage conservation and energy efficiency.⁹ In addition, as the Joint Solar Parties point out, TOU rates assist in renewables integration, “by signaling customers when it is optimal to consume power from or to place power onto the grid.”¹⁰

a. TASC Supports an Informed and Gradual Transition to a Default TOU Rate With an Opt-Out.

While parties agree that an optimal rate structure includes some TOU rate elements, there is disagreement over whether ratepayers should opt into TOU rates or whether TOU rates should be set as the default rate structure. Pacific Gas and Electric Company (“PG&E”), Southern California Electric (“SCE”), and the San Diego Consumers’ Action Network (“SDCAN”) believe an opt-in structure is preferable. However, the Joint Solar Parties, the Natural Resources Defense Council (“NRDC”), Sierra Club, the Division of Ratepayer Advocates (“DRA”), the Consumer Federation of California (“CFC”), the California Large Energy Consumers Association (“CLECA”), the Environmental Defense Fund (“EDF”), and San Diego Gas & Electric (“SDG&E”) believe TOU rates should ultimately become the default.¹¹

⁶ Joint Solar Parties Proposal at 5; PG&E Proposal at 58; DRA Proposal at 20.

⁷ SDG&E Proposal at 17; DRA Proposal at 21-22.

⁸ Sierra Club Proposal at 2; Joint Solar Parties Proposal at 5; EDF Proposal at 11-12.

⁹ PG&E Proposal at 53; SCE Proposal at 55; Joint Solar Parties Proposal at 5; DRA Proposal at 24-27.

¹⁰ Joint Solar Parties Proposal at 5.

¹¹ Joint Solar Parties Proposal at 15; Sierra Club Proposal at 3-4; DRA Proposal at 11; CFC Proposal at 25; CLECA Proposal at 5; EDF Proposal at 29; SDG&E Proposal at 17. The NRDC Proposal includes TOU rates as a default for large customers. NRDC Proposal at 12. Most parties that propose setting TOU rates as the default would also include an opt-out under certain circumstances.

SCE and PG&E representatives stated in the June 25, 2013 Workshop that the utilities oppose default TOU structures out of concern that the bill impacts from such a change would be too dramatic for customers. Notably, most parties that favor default TOU rates share the utilities' concerns but address the issue through different mechanisms such as gradual transitions, opt-outs, and strong outreach efforts. For example, the Joint Solar Parties and CLECA advocate for six-year and four-year transitions to a default TOU structure, respectively, where customers would stay on increasing block rates during the transition but be allowed to opt into TOU rates.¹² Similarly, EDF's rate proposal includes a two-phased transition where customers can opt into TOU rates during the first phase, and the second phase would offer several opt-out rates as alternatives to a default TOU rate structure.¹³ DRA, Sierra Club, the Joint Solar Parties, and CFC also propose opt-outs for TOU rates for customers, which would revert to tiered rates.¹⁴ Opt-outs can also be employed to protect vulnerable customers with inelastic demand profiles, such as medical baseline customers, for whom the higher peak prices associated with TOU rates would be burdensome.¹⁵ Moreover, every party's proposal emphasizes the importance of education and outreach during the transition from each utility's current rate structure to a new rate structure.

In addition, SCE's market research shows "that TOU pricing is already well known or understood by customers."¹⁶ The TOU concept is even familiar for customers that are not currently on TOU rates but are already shifting their loads to off-peak times. For SCE, "[a]lthough 20% of customers incorrectly assume they are on a TOU rate today, 75% of customers have attempted to shift their energy usage during different times of the day even

¹² Joint Solar Parties Proposal at 9; CLECA Proposal at 5-6.

¹³ EDF Proposal at 9.

¹⁴ Joint Solar Parties Proposal at 15; DRA Proposal at 13; CFC Proposal at 8; Sierra Club Proposal at 41.

¹⁵ DRA Proposal at 13.

¹⁶ SCE Proposal at 21.

though shifting usage to an off-peak period has no impact on bills under a tiered rate structure.”¹⁷ For PG&E, seventy-four percent of “respondents have shifted usage to try to save money on their bill,” but “only 22 percent believed they were on a TOU rate, and less than 2 percent actually are on a TOU rate.”¹⁸ As PG&E states, “[a] large group of customers think that shifting usage can save them money on their bill, but few understand that they must make an active choice for a rate plan option that rewards this behavior.”¹⁹ These findings support the proposition that customers can be made comfortable with TOU rates and ultimately adapt to a default TOU rate structure.

Given this, TASC agrees with parties advocating for an informed, gradual transition to a default TOU rate structure with an opt-out to tiered rates. TASC also agrees with the Joint Solar Parties that the existing complexity of usage-based tiers can sometimes complicate the IOUs’ residential TOU rates.²⁰ As discussed more fully below, a smooth transition to a default TOU rate will be assisted by reducing the complexity embedded in usage-based tiers.²¹ Such reduction in complexity should further address utility concerns about customer impacts.

b. TASC Supports Maintaining Existing TOU Periods Until Evidence Supports an Actual Shift in System Peak Hours.

Another point of divergence in the proposals is how the TOU periods should be set. A number of parties suggest revising the current TOU periods, shifting the existing mid-afternoon peak hours toward the evening, on account of the California Independent System Operator’s (“CAISO”) forecasts. However, there are many factors that influence electricity demand, including the health of the State’s economy, the impact of lighting efficiency improvements on evening load, the changing geographic distribution of customers and the changing weather

¹⁷

Id.

¹⁸

PG&E Proposal at 63, 66.

¹⁹

PG&E Proposal at 66.

²⁰

Joint Solar Parties Proposal at 12.

²¹

Id.

patterns from climate change. As the Joint Solar Parties point out, it is not clear the extent to which these factors will mitigate CAISO's forecast.²² Should these factors reduce the load-shifting effects of incremental solar, the consequences of shifting peak billing hours to the evening will work against the Commission's goals of peak reduction, conservation and cost causation.

While TASC understands parties' concerns, it agrees with the Joint Solar Parties that "[t]here is no crisis requiring immediate change."²³ A more prudent and less disruptive approach is to maintain the existing TOU periods until evidence demonstrates revisions are required. Should system peaks begin to shift later in the day, the Commission already has a procedural tool at its disposal to consider changes to the TOU periods. The second phase of a utility's GRC would be the natural place to consider such issues.²⁴

2. The Majority of Parties Supports the Use of Tiered Rates.

All but three proposals support the continued use of tiered rates.²⁵ Parties that support tiered rates demonstrate how such rates create important incentives for energy conservation and equity, while discussing how non-tiered rates are likely to result in increased consumption.²⁶ Moreover, tiered rates are tied to marginal cost and cost causation principles in that high-usage customers have a greater impact on capacity requirements, transmission congestion and other transmission and distribution system investments.²⁷ As NRDC extensively demonstrates, California's tiered rate structure is duplicated in many places around the world, and "tiered rates

²² *Id.* at 27-28.

²³ *Id.* at 10.

²⁴ *Id.* at 27.

²⁵ CLECA Proposal at 12-16; EDF Proposal at 9; SDG&E Proposal at 5-6.

²⁶ NRDC Proposal at 35; TURN Proposal at 36-41; Sierra Club Proposal at 2; *See* Joint Solar Parties Proposal at 5.

²⁷ Sierra Club Proposals at 2.

are the global norm.”²⁸

EDF, SDG&E and CLECA maintain that tiered rates are confusing and do not support the State’s policy goals.²⁹ The majority of parties, including PG&E, SCE, DRA, the Joint Solar Parties, TURN, Sierra Club, NRDC, and CAT, share the minority’s concerns about confused customers, but they address this confusion through proposals to simplify the tiered structure. TASC agrees that complex four and five-tier rate structures reduce customers’ ability to make rational decisions, and, therefore, reduce customer empowerment. However, instead of abandoning tiered rates, and the environmental and equity benefits they bring, TASC joins parties’ call for simplification.³⁰ TASC agrees with Sierra Club, NRDC, SDCAN, TURN and CAT that a three-tier rate structure is optimal.³¹ As SCE states, “any reduction in the number of tiers will improve customer understandability,” however, TASC believes a two-tier rate structure would be too dramatic of a change for ratepayers.³²

Another point of divergence on the use of tiered rates is whether they should be coupled with TOU rates. DRA, the Joint Solar Parties, Sierra Club, and NRDC all propose a rate structure that combines TOU rates with tiered rates.³³ PG&E, SCE and TURN maintain that any TOU schedules should be separated from tiered rates.³⁴ The main criticism for a combined approach is the same as that for tiered rates in general, namely, that customers will not able to

²⁸ NRDC Proposals at 44-50.

²⁹ CLECA Proposal at 12-16; EDF Proposal at 9; SDG&E Proposal at 5-6.

³⁰ Joint Solar Parties Proposal at 6.

³¹ Sierra Club Proposal at 3-4; NRDC Proposal at 11-14; SDCAN Proposal at 3; TURN Proposal at 45; CAT Proposal at 36 (advocating for a tiered rate structure with at least three tiers).

³² SCE Proposal at 56. *See also* PG&E Proposal at 19; Joint Solar Parties Proposal at 6.

³³ Joint Solar Parties at 12-13; DRA Proposal at 12, fn. 11; Sierra Club Proposal at 2; NRDC Proposal at 11-14 (NRDC only proposes combined rates for large customers.). While SDCAN’s proposed rate structure includes an opt-in TOU rate, it is not immediately clear if such a structure would be combined with tiered rates. SDCAN Proposal at 14.

³⁴ TURN Proposal at 11; SCE Proposal at 14; PG&E Proposal at 10.

understand TOU rates when combined with tiered rates.³⁵ However, again, TASC believes simplifying and updating the tiers can relieve this lack of understanding. Moreover, to the extent that customer confusion exists, and persists, regarding how tiered rates apply to each individual ratepayer, TASC believes a more robust and effective educational effort can succeed where previous efforts may have fallen short.

In addition, TASC agrees with Sierra Club that the combination of tiered blocks and TOU rates maximizes conservation by providing the largest incentive for households to shift energy to minimize energy bills.³⁶ Sierra Club also states such rate structures support equity principles since flattened tiers increase bills for lower income households and reduce bills for higher income households.³⁷ Finally, “combining TOU rates with tiers more closely aligns rates to the marginal cost of electricity consumption as compared to the current rate structure or a TOU-only approach.”³⁸

3. Most Parties Recognize the Need to Avoid Fixed Customer Charges.

The proposals from DRA, TURN, the Joint Solar Parties, Sierra Club, NRDC, SDCAN, CFC, CAT and the Distributed Energy Consumer Advocates (“DECA”) either oppose the use of fixed customer charges all together or employ them under limited circumstances.³⁹ Only the utilities and CLECA believe fixed charges to be justified.⁴⁰ The utilities’ support of these unavoidable charges is understandable since the larger the fixed component of a rate, when

³⁵ See, e.g., PG&E Proposal at 48.

³⁶ Sierra Club at 2.

³⁷ *Id.*

³⁸ *Id.*

³⁹ DRA Proposal at 32; TURN Proposal at 38; Joint Solar Parties Proposal at 7; Sierra Club Proposal at 2; NRDC Proposal at 29-34; SDCAN Proposal at 6-9; CFC Proposal at 8; CAT Proposal at 32-25; DECA Proposal at 10. CFC would employ a fixed customer charge only for ratepayers who opted out of TOU rates. CFC Proposal at 8. CAT would only assess a fixed monthly surcharge to non-CARE customers for consumption over a certain percentage of baseline. CAT Proposal at 32-35. DECA proposes a fixed grid charge of \$25/month for customers that fail to opt into a “per kWh adder only” rate plan. DECA Proposal at 10.

⁴⁰ SCE Proposal at 27-36; PG&E Proposal at 43-47; CLECA Proposal at 7-10.

compared with the variable component of a rate, the more assured the utility can be of realizing revenue. Thus, fixed charges reduce the utilities' revenue risk.

However, the gravity of the Commission's ratemaking goals outweighs the utilities' concerns over revenue risk. Fixed charges contradict customer choice and empowerment and "penalize the most energy-conscious customers" since ratepayers have neither a short-term nor a long-term ability to respond to fixed charges.⁴¹ Moreover, fixed customer charges have negative impacts on incentives for air conditioning upgrades and conservation and energy efficiency more generally, undermining achievement of California's environmental objectives and its efforts to fight climate change.⁴² Fixed charges also distort energy prices, and, as the Joint Solar Parties point out, the IOUs' customer surveys indicated that significant monthly fixed charges elicited the strongest negative reactions among consumers out of all possible rate design elements.⁴³

The utilities and CLECA allege further that fixed charges are justified on the basis of recovering fixed costs, addressing cross-subsidies or because such charges exist elsewhere in California and the United States.⁴⁴ However, as NRDC demonstrates extensively in its proposal, "[t]here is no economic principle that says fixed costs should be collected in fixed charges."⁴⁵ Moreover, TASC agrees with the Joint Solar Parties that nearly all fixed costs are variable when viewing utility planning from a long-term framework.⁴⁶ For example, the utilities' transmission and distribution-level infrastructure can be reconfigured to serve additional customers if average residential demand is reduced as a result of DG or other customer-side measures.⁴⁷

⁴¹ Joint Solar Parties Proposal at 13; SDCAN Proposal at 8-9.

⁴² NRDC Proposal at 31; DRA Proposal at 32; Sierra Club Proposals at 2; SDCAN Proposal at 6-7.

⁴³ NRDC Proposal at 31-32; Joint Solar Parties Proposal at 13.

⁴⁴ SCE Proposal at 27-36; PG&E Proposal at 43-47; CLECA Proposal at 7-10.

⁴⁵ NRDC Proposal at 29-34.

⁴⁶ Joint Solar Parties Proposal at 4, 7 and 13.

⁴⁷ *Id.* at 13.

Contrary to fixed charges, volumetric rates recognize that, in the long-run, all utility costs are variable.⁴⁸ Moreover, volumetric rates reduce peak demand, give the customer the greatest range of information on their energy usage, and maximize the opportunity to make long-term choices and investments that will be necessary to transition to a clean energy future.⁴⁹ TASC firmly agrees with the Joint Solar Parties' conclusion that fixed charges "should be limited, in order to minimize bill impacts on customers with low energy use, to encourage conservation and renewable DG, and to recognize that, in the long-run, few costs truly are fixed."⁵⁰

B. Question 3: The Impact of Parties' Proposals on NEM Facilities

The Interstate Renewable Energy Council, Inc., ("IREC") has focused its participation in this proceeding, in part, to respond to this question on the impacts of parties' proposals on NEM customers. IREC's preliminary findings are that (1) rate design details can have a substantial impact on the value of NEM; (2) fixed customer charges disproportionately and adversely impact the value of NEM; (3) NEM value is sensitive to TOU rate design, especially the definition of TOU periods; and (4) a deliberate transition period is necessary for respecting current and future NEM investment.⁵¹ TASC looks forward to addressing this issue further once IREC's analysis is complete.

C. Question 4: Low-Income Customers and Customers with Medical Needs

TASC supports parties' calls to retain both the baseline and CARE discounts and believes an opt-out for default TOU rates can protect vulnerable customers. TASC also believes there is substantial merit in IREC's proposal regarding cleanCARE, which would allow CARE customers to own shares in DG facilities, coupled with energy efficiency, energy storage and

⁴⁸ *Id.* at 9.

⁴⁹ *Id.* at 5, 9.

⁵⁰ *Id.* at 7.

demand response.⁵² Such a program holds the potential of better aligning the state’s approach to ensuring equitable access to energy services with its clean energy policies. Similar to community solar programs, each share of the cleanCARE program would allow customers to offset a portion of their monthly bills.⁵³ In this way, the program would increase low-income customers’ access to renewable energy while keeping electricity affordable.⁵⁴ TASC believes the cleanCARE proposal shows great promise and looks forward to working toward exploring this concept with IREC and other stakeholders.⁵⁵

D. Question 5: Unintended Consequences

As stated in numerous proposals, the unintended consequences from the default TOU rate structure outlined above can be mitigated through a gradual transition, a robust and vigorous education effort, the simplification of the increasing block rate structure, and by providing an opt-out.

E. Question 6: Available Innovative Technologies and Services

Parties’ proposals provide ample examples of innovative technologies and services to accommodate a variety of rate proposals. TASC has no further comment on this issue at this time.

F. Question 7: Transitions

California’s existing rate structures have been in place during a period of unprecedented growth in solar DG systems. TASC Members have installed tens of thousands of solar energy systems in the State of California and have brought thousands of jobs and tens of millions of dollars of investment to California’s cities and towns. These jobs and investments were

⁵² IREC Proposal at Appendix A, p. 1.
⁵³ *Id.*
⁵⁴ *Id.*
⁵⁵ *Id.*

constructed on, and continue to depend on, the persistence of stable rate structures over long-term horizons. It is essential that any transition to a new rate design paradigm be a gradual process that protects the investments of existing customer-generators and does not inadvertently up-end the significant progress that has been made to date in creating a robust solar market. It would be a Pyrrhic victory were the solar industry to become collateral damage in the Commission's efforts to reform residential rates. However, this is not an either-or proposition. Through the use of tools including multi-year transitions, grandfathering of existing customer-generators onto existing rate structures, and effective outreach, we believe the Commission can achieve its desired reforms while protecting the sizable investments the state and its citizens have made in distributed solar.

G. Question 8: Legal Barriers

The optimal rate structure provides an informed and gradual transition to a default TOU rate, combined with the simplification of inclining block rates to a three-tiered structure, the avoidance of fixed customer charges, and the availability of an opt-out. A number of parties have pointed out that any reduction in the number of tiers could increase rates for certain customers and potentially contravene Section 739.9(a) of the California Public Utilities Code. Sierra Club explains:

Under Public Utilities Code § 739.9(a), the Commission may only “increase the rates charged residential customers for electricity usage up to 130 percent of the baseline quantities ... by the annual percentage change in the Consumer Price Index from the prior year plus 1 percent, but not less than 3 percent and not more than 5 percent per year.”

Accordingly, [Sierra Club's hybrid, three-tier, three-TOU-period] proposed rate structure calls for a larger increase to Tier 2 rates than permitted under existing law. The conflict between the proposed rate design and Section 739.9 could be resolved by limiting the applicability of Section 739.9(a) to increases up to

baseline usage rather than 130% of baseline usage where a rate design also incorporates a TOU component. This would provide added flexibility to alter rate design, but make that flexibility contingent on incorporation of a combined TOU/Tiered structure.⁵⁶

Of course, a change in law would be required to accommodate this approach. In comparison, the Joint Solar Parties point out that a simplification of the existing tiered rate structure could also be implemented with no changes to existing law.⁵⁷ For example, modifying rates to raise the Tier 2 rate to a level closer to the Tier 3 rate could be done, though it would be limited to annual increases allowed by Section 739.9(a).⁵⁸

In addition, the implementation of default TOU rates would require compliance with Section 745(d) of the Public Utilities Code. SDG&E explains:

SB 695 set a schedule for when the Commission can default residential customers onto time-variant rates. Specifically, residential customers may, “in a manner consistent with the other provisions of this part,” be transitioned to:

- ∞ Mandatory or default time-variant pricing, with 1 year of bill protection, no sooner than 2013;
- ∞ Mandatory or default time-variant pricing without bill protection, no sooner than 2014; and
- ∞ Mandatory or default real-time pricing without bill protection, no sooner than 2020.⁵⁹

Accordingly, Sierra Club states that the proposed rate design must provide “residential customers ‘the option to not receive service pursuant to time-variant pricing and incur no additional charges as a result of the exercise of that option.’” TASC believes a default TOU rate, with an opt-out, can be implemented in keeping with these provisions but stresses that any transition to a new rate

⁵⁶ Sierra Club Proposal at 44.

⁵⁷ Joint Solar Parties Proposal at 27.

⁵⁸ Joint Solar Parties Proposal at 27.

⁵⁹ SDG&E Proposal at 4-5.

structure must be gradual, include grandfathering under existing tariffs for existing NEM systems and effectively educate ratepayers.

Finally, TASC supports parties' calls to retain both the baseline and CARE discounts. Such retention would mean that no part of Section 739.1(b) of the Public Utilities Code would need to be revised.

H. Question 9: Rate Design Flexibility

As discussed in further detail above, the periods in a default TOU structure can be shifted to target peak hours as load shapes and/or marginal electricity costs shift. There are many factors that influence electricity demand, including the health of the State's economy, the impact of lighting efficiency improvements on evening load, the changing geographic distribution of customers and the changing weather patterns from climate change. Should these factors work to reduce the load-shifting effects of incremental solar, the consequences of shifting peak billing hours to the evening too soon will work against the Commission's goals of peak reduction, conservation and cost causation.

If TOU periods need to be revised over time, the second phase of each utility's general rate case can be used to better target on-peak rates to reduce customers' coincident peak demand. This inherent flexibility in TOU rates allows the Commission to wait to see evidence of shifting peaks to ensure any revision to the TOU periods will be productive in achieving ratemaking goals.

I. Question 10: Safety

A rate structure that prioritizes DG can be accomplished in a manner that maintains the Commission's safety goals. The Federal interconnection tariffs and the State's newly revised Rule 21 tariffs are aimed at the efficient, cost-effective and transparent interconnection of DG

facilities without sacrificing power quality, reliability and, most importantly, safety.⁶⁰ Thus, rate structures that empower customers to generate their own electricity are in keeping with the Commission's on-going mission to prioritize safety.

IV. Conclusion

Parties' proposals provide substantial support for an informed and gradual transition to a default TOU rate with three tiers, no fixed customer charges, and an opt-out. This rate structure will meet the Commission's objectives while ensuring a healthy and robust market for solar DG that empowers customer choice and facilitates the state's environmental and economic objectives.

Respectfully submitted,



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July 12, 2013

⁶⁰ *Motion for Approval of Settlement Agreement Revising Distribution Level Interconnection Rules and Regulations*, California Public Utilities Commission, R.11 -09-011, p. 5 (Mar. 16, 2012).