

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

Order Instituting Rulemaking Regarding
Microgrids Pursuant to Senate Bill 1339 and
Resiliency Strategies.

Rulemaking 19-09-009

JOINT PARTIES MOTION TO AMEND TRACK 5 PROCESS AND SCHEDULE

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December 22, 2023

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Pursuant to Rule 11.1 of the California Public Utilities Commission’s (“Commission”) Rules of Practice and Procedure, The Climate Center, the Center for Biological Diversity (“CBD”), the Local Government Sustainable Energy Coalition (“LGSEC”), the Green Power Institute (“GPI”), and the Microgrid Resources Coalition (“MRC”) (collectively, “Joint Parties”) respectfully submit this motion to amend the schedule in the Assigned Commissioner’s July 18, 2023, Track Five Scoping Memo and Ruling, as modified by the Administrative Law Judge’s November 7, 2023, Email Ruling Granting in Part, and Denying in Part, the October 31, 2023, Motion Filed by the Center for Biological Diversity, et al. (“November 2023 Ruling”) in Track 5 of the above captioned proceeding.

From the start of this proceeding in 2019, many parties have urged the Commission to conduct a robust stakeholder process to formulate a microgrid multi-property tariff (“Tariff”) to unleash the enormous potential for commercial development of microgrids for the benefit of all communities in California. Such a Tariff is essential for fulfilling the directive of Senate Bill 1339 of 2018 (“SB 1339”) to commercialize microgrids, which will be a critical element in achieving the state’s goals for energy-system decarbonization, community resilience and energy

equity. The December 17, 2021, Assigned Commissioner’s Amended Scoping Memo and Ruling Resetting Track 4 (“2021 Ruling”) specified an effective stakeholder process for developing the needed Tariff, but the Commission never implemented that process. Moreover, the Commission gave no explanation for not implementing the 2021 Ruling and remained silent on the subject of the needed Tariff until it issued the July 17, 2023, Assigned Commissioner’s Scoping Memo and Ruling (“July 2023 Ruling”).

The July 2023 Ruling opened Track 5 of this proceeding to address the needed Tariff, but unfortunately and without explanation omitted most of the stakeholder participation provisions that were in the 2021 Ruling. In particular, the July 2023 Ruling definitively embraced the Community Microgrid Enablement Tariff (“CMET”) originally proffered by PG&E and provided no opportunity for stakeholders to participate in developing guiding principles or to submit alternative Tariff proposals. Thus, the July 2023 Ruling sent a strong message that the Commission had already decided to adopt the CMET and had no interest in entertaining alternatives.

Following the July 2023 Ruling, some of the parties filing the present Joint Parties Motion filed two earlier motions to urge the Commission to restore as much as possible of the process specified in the 2021 Ruling.¹ The Commission’s responses to these motions denied most of what we requested, but the November 2023 Ruling did modify the Track 5 process to allow an opportunity for stakeholders to submit alternative Tariff proposals by December 15, 2023, and specify dates for parties to file comments and reply comments on the stakeholder proposals.

¹ See Joint Parties Motions filed in this proceeding on October 6, 2023 and October 31, 2023.

Unfortunately, the remainder of the Track 5 process as specified in the November 2023 Ruling is still seriously flawed. As we explain below, unless amended the process will not allow robust, informed discussion and comparative assessment of the six stakeholder Tariff proposals² filed on the record on December 15, 2023, and the IOU Tariff proposals filed on October 9, 2023. The Joint Parties believe that these flaws can be corrected without extending the Commission's timetable for a Track 5 decision, and to that end we offer specific recommendations.

I. Description of Joint Parties.

The Climate Center is a non-profit organization working to rapidly reduce climate pollution at scale. The Climate Center's Community Energy Resilience Program is working to accelerate development of clean energy resilience in disadvantaged communities that suffer the most from air pollution and power outages.

The Center for Biological Diversity is a non-profit membership organization advancing the conservation of endangered species and the protection of their habitats against the climate emergency. As part of that mission, the Center for Biological Diversity strives to reduce the environmental impacts of energy policy and development, including greenhouse gas emissions and harm to imperiled plants and wildlife. The Center for Biological Diversity's Energy Justice Program advocates for and educates the public about renewable energy, including the need to maximize distributed energy resources and other aspects of the transition from fossil fuels.

The Local Government Sustainable Energy Coalition represents 17 cities and 23 counties, jurisdictions that govern almost three-quarters of the state's population, and close to two-thirds

² The following parties filed stakeholder Tariff proposals: Applied Medical Resources; Clean Coalition; Green Power Institute (GPI); Microgrid Resources Coalition (MRC); PearlX Infrastructure; and Sunnova Community Microgrids California.

of California's electricity demands. LGSEC members serve as administrators, designers and lead implementers of a host of community choice aggregation, energy efficiency, demand response, building decarbonization, transportation electrification and other energy supply, demand, and management programs.

The Green Power Institute is the renewable energy program of the Pacific Institute for Studies in Development, Environment, and Security, a non-profit environmental and social advocacy group. Under the direction of Dr. Gregory Morris, the Green Power Institute performs research and provides advocacy on behalf of renewable energy systems and the contribution they make to reducing the environmental impacts of fossil-based energy systems.

The Microgrid Resources Coalition is a national association of leading microgrid owners, operators, developers, suppliers, and investors formed to promote microgrids as energy resources by advocating for policy and regulatory reforms that recognize and appropriately value the services that microgrids offer, while ensuring non-discriminatory access to the grid for various microgrid configurations and business models. The MRC works for the empowerment of energy customers and communities.

II. Motion to Amend Schedule.

The Joint Parties acknowledge and appreciate the opportunity provided by the Commission in the November 2023 Ruling for stakeholders in the proceeding to file *pro-forma* microgrid multi-property tariffs into the record by December 15, 2023. Given the responses to this opportunity — six parties filed *pro-forma* microgrid multi-property tariffs as of the due date — we are concerned that the sequence and timing of remaining activities in this Track 5, as specified in the November 2023 Ruling, will not provide sufficient opportunity for parties to understand the stakeholder filings and develop informed comments. As a result, the remaining

activities specified in the November 2023 Ruling will not provide an adequate record to enable the Commission to fully evaluate the options in developing its decision.

We call attention to two specific problems with the Track 5 schedule laid out in the November 2023 Ruling. First, the Ruling requires parties to submit comments and reply comments on the submitted tariffs *before* any public workshop is held for parties to engage with the authors of the tariff proposals, ask clarifying questions and discuss the issues and details in a public setting. When the Ruling does finally offer a public workshop in March 2024, there is no opportunity for parties to offer comments *after* the workshop, even though such comments would clearly be much better informed after open engagement with the authors of the proposals.

Second, the Ruling limits opening comments to 20 pages and reply comments to 10 pages. We note that these are the same page limits that applied to comments and reply comments on the IOUs’ tariff filings, which were quite similar due to the Commission’s directive to the IOUs to base their filings on the CMET. With six tariff proposals submitted by parties to the proceeding, the 20-page limit translates to just over three pages per proposal. The Joint Parties believe that these page limit constraints will severely limit the ability of parties to articulate and argue their views on the submitted stakeholder tariff proposals.

Fortunately, these two problems can be addressed without delaying the overall schedule for this proceeding. To this end, the Joint Parties propose the following modifications to the process specified in the Ruling.

| Activity | November 7 Ruling Date | Joint Parties Proposed Date |
|--|-------------------------------|---|
| 1. Voluntary activity: Stakeholder Pro-Forma Standard Microgrid Multi-Property Tariff, into the Record, filed and served | December 15, 2023 | No Change |
| 2. Opening comments, limited to 20 pages, <i>for parties to submit questions to tariff proposal</i> | January 12, 2024 | Change to the purpose of these comments, but no change to the submission date |

| | | |
|---|--|---|
| <i>authors, into the Record, for workshop discussion</i> | | |
| 3. Energy Division Public Workshop(s) on Stakeholder Proposals for Microgrid Multi-Property Tariffs | March 2024 | Early February 2024 |
| 4. Post-workshop opening comments, filed and served | N/A | Early March 2024 |
| 5. Post-workshop reply comments, filed and served | N/A | 14 days after due date for opening comments |
| 6. Proposed decision | Within 90 days from submission of Track 5 record | No Change |
| | | |

The Joint Parties offer the following details on the proposed activities and timeline.

Line 2: We intend these initial comments to be an opportunity for parties to the proceeding to pose questions to the authors of the stakeholder proposals, for discussion at the public workshops. These questions will help the authors prepare for the workshops and make best use of the workshop time. We believe a 20-page limit should be sufficient for this purpose.

Line 3: The public workshop should allow at least one full hour for each stakeholder proposal. With six filed stakeholder proposals, it may be best to structure the workshops as two four-hour sessions on consecutive days. Additional time should be allotted if IOU presentations will be included in the workshops.

Line 4: Page limits for opening comments should be no less than 10 pages per stakeholder proposal.

Line 5: Page limits for reply comments should be no less than 5 pages per stakeholder proposal.

As the Commission is aware, parties to this proceeding recognize the need to facilitate the growth of commercial microgrids of various types and scales to achieve California’s urgent and ambitious goals for decarbonization, energy resilience and energy justice. This recognition

is inherent in the commercialization directive of SB 1339. Multi-property microgrids will become a key component of the decarbonized, equitable future electricity system in California and elsewhere, but only if the policy and regulatory framework enables these microgrids to be commercially viable, to be accessible to all communities without requiring ratepayer or large grant funding, and without extending the utility monopoly into what can and should be a vibrant, innovative arena for communities, local governments, tribes and diverse industry participants. Absent such a framework, multi-property microgrids will be a luxury good accessible only to businesses with deep pockets and affluent residential customers.

With that need in mind, during the course of R.19-09-009, many parties have urged the Commission to provide the opportunity to participate in developing an effective microgrid multi-property tariff. As some parties have commented on the IOU filings, the only tariff currently under consideration by the Commission thus far, the CMET, which is the basis of the IOU filings in October, places problematic and unnecessary restrictions on microgrids that will undermine their commercial viability.³ Now that the Commission has provided an opportunity for stakeholders to submit alternative tariff proposals, and six proposals have been submitted, the Joint Parties urge the Commission to adopt the modifications we propose to the remainder of the Track 5 schedule to enable all parties to fully engage with, understand and discuss the submitted proposals, and then provide fully informed written comments and reply comments. We believe that the process and schedule we propose in this Motion are necessary to enable a robust discussion of alternatives and provide a more complete proceeding record to support a more fully

³ See e.g. R.19-09-009 Joint Comments of The Climate Center, Center for Biological Diversity, Green Power Institute, and 350 Bay Area on the October 9, 2023 Joint IOUs' Filing of the Community Microgrid Enablement Tariff (October 27, 2023) at 3-7 ("The CMET will not catalyze 'commercialization' of microgrids.")

informed Commission decision, with no adverse impact on the Track 5 schedule previously set in the November 2023 Ruling.

III. Conclusion

For the foregoing reasons, the Joint Parties respectfully request that the Commission grant this Motion.

Dated: December 22, 2023

Respectfully submitted,

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