

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE



April 1, 2020

Advice Letter 5476-E

Erik Jacobson
Director, Regulatory Relations
Pacific Gas and Electric Company
77 Beale Street, Mail Code B10C
P.O. Box 770000
San Francisco, CA 94177

**SUBJECT: PG&E Seeking Clarification of the Eligibility Requirements for TOU
Period Grandfathering (D.17-01-006 and D.17-10-018) for Customers with
Behind-the-Meter Solar who Added Solar Capacity to their Previously
Approved System.**

Dear Mr. Jacobson:

Advice Letter 5476-E is approved as of February 27, 2020, per resolution E-5053 Ordering Paragraphs.

Sincerely,

A handwritten signature in cursive script that reads "Edward Randolph".

Edward Randolph
Deputy Executive Director for Energy and Climate Policy/
Director, Energy Division

January 31, 2019

Advice 5476-E

(Pacific Gas and Electric Company ID U 39 E)

Public Utilities Commission of the State of California

Subject: Pacific Gas and Electric Company Seeking Clarification of the Eligibility Requirements For TOU Period Grandfathering (Decision 17-01-006 and Decision 17-10-018) for Customers with Behind-the-Meter Solar Who Added Solar Capacity to Their Previously Approved System

Purpose

Pacific Gas and Electric Company (“PG&E”) respectfully submits this Tier 3 Advice Letter (AL) seeking clarification regarding the Time-of-Use (TOU) Period Grandfathering eligibility requirements for Behind-the-Meter Solar Customers. This AL seeks confirmation of the eligibility rules for Customers with approved solar systems who requested to modify¹ their already approved system around the time of the issuance of Decision (D.) 17-01-006 (revised by D.17-02-017) and D.17-10-018.

Background

On January 23, 2017, the California Public Utilities Commission (Commission or CPUC) issued D.17-01-006, which “adopts a framework, including guiding principles, for designing, implementing, and modifying the time intervals reflected in time-of-use (TOU) rates.”²

On February 14, 2017, the Commission issued a second decision, D.17-02-017 to correct inadvertent errors after it “learned that several references to the grandfathering eligibility grace period in the body of the final decision were not updated to reflect the ordering paragraphs approved by the Commissioners.”

PG&E submitted AL 5039-E on March 30, 2017 to comply with Ordering Paragraph 5 of

¹ “Modify” should be understood as any change to either the generating capacity (addition/subtraction) or the operating characteristics of an existing the solar system that had previously been approved for operation by PG&E (i.e. received permission to operate).

² D.17-01-006, Page 1, *Summary*.

D.17-01-006 (revised by D.17-02-017). It proposed changes to the applicability provisions of PG&E's various TOU rate schedules, proposed new definitions related to TOU to Electric Rule 1, and first clarified that TOU Period Grandfathering commences from the date of the first Permission to Operate (PTO).³ Additional changes were made to the advice letter via substitute sheets on July 3, 2017.

On November 1, 2017⁴, the Commission issued a third decision, D.17-10-018 to address a Petition for Modification of D.17-01-006 filed by Solar Energy Industries Association and California Solar Energy Industries Association⁵. D.17-10-018 modified the original decision to extend the interconnection-on-file date for public agencies to December 31, 2017, which was 60 days after D.17-10-018 was issued; and it eliminated the requirement that construction be completed by the dates specified in D.17-01-006.⁶

PG&E submitted AL 5188-E⁷ on November 22, 2017, pursuant to Ordering Paragraph 5 of D.17-10-018, revising the applicability and effective date, and seeking approval for proposed administrative procedures for customers with behind-the-meter solar generation, in compliance with D.17-01-006. PG&E again clarified that TOU Period Grandfathering commences from the date of the first PTO.⁸ The advice letter was approved by Energy Division on July 24, 2018, effective as of November 1, 2017.

On June 11, 2018, PG&E received an email from Energy Division requesting PG&E to submit a supplemental advice letter to AL 5039-E with clarification on what "minor changes" PG&E will allow to a pending interconnection application for the project to remain in compliance with Electric Rule 21 and therefore be eligible for TOU period grandfathering once PTO is issued. PG&E submitted AL 5039-E-A⁹ on June 20, 2018, outlining the minor changes.

On August 10, 2018, the Commission issued draft Resolution E-4946, which would approve AL 5039-E/5039-E-A without modification. On August 16, 2018, a customer who

³ "For the purposes of TOU Period Grandfathering, Permission to Operate (PTO) refers to the original permission to operate date as issued by PG&E for the Eligible System. Any subsequent requests to modify that previously approved system do not restart the Transition Mitigation Period once the new PTO is issued nor can any changes alter its original TOU grandfathering eligibility." (AL 5039-E/5039-E-A, Appendix 1, E. Eligible System).

⁴ Effective October 26, 2017.

⁵ Currently known as California Solar & Storage Association (CALSSA).

⁶ Schools by December 31, 2017; all others by July 31, 2017.

⁷ https://www.pge.com/tariffs/assets/pdf/adviceletter/ELEC_5188-E.pdf.

⁸ AL 5188-E, Definitions Section of Electric Rule No. 1, E. *Eligible System*.

⁹ https://www.pge.com/tariffs/assets/pdf/adviceletter/ELEC_5039-E-A.pdf.

had previously contacted¹⁰ PG&E with questions related to TOU Period Grandfathering stated that, based on their interpretation of the draft Resolution, TOU Period Grandfathering restarted with the new application because the request to modify the system met the applicable submittal timeline. PG&E clarified again that per approved AL 5188-E, subsequent PTOs do not restart the TOU Period Grandfathering.

On October 11, 2018, the Commission issued Resolution E-4946,¹¹ which approved AL 5039-E and its substitute sheet (AL 5039-E-A).

Discussion

Decision 17-01-006 directed each investor-owned utility (IOU) to “ensure that customers with existing behind-the-meter solar be permitted to maintain TOU rate periods for five to ten years”¹² and, with D.17-10-018, set forth the eligibility requirements by which customers could become eligible for TOU Period Grandfathering, commencing from the “issuance of a permission to operate.”¹³ Based on OP 5 of D. 17-01-006, PG&E clarified in AL 5039-E/5039-E-A and AL 5188-E that TOU Period Grandfathering commences from the original PTO date.

However, the customer argued that Commission Resolution E-4946 indicates that for previously approved solar systems, the TOU Period Grandfathering can in fact be restarted if the request to modify the previously approved solar system is received “before the applicable deadline.”¹⁴ Page 17 of Resolution E-4946 states the following:

“...The grandfathering period will continue to be based on the system’s original PTO date. **As a point of clarification, we note that this proposal addressing grandfathering eligibility does not apply to an applicant’s new interconnection request received...before the applicable deadline¹⁵ to effect certain changes to an existing generating facility that is interconnected with a distribution provider’s distribution or transmission system...**”

¹⁰ PG&E received the original inquiry from the customer on March 1, 2018. The customer was seeking to modify a solar system that was previously approved in 2009 and was told by the developer that due to the TOU Period Grandfathering decisions and PG&E’s pending advice letters, the customer’s TOU Period Grandfathering would expire in 2019. The customer requested that PG&E make an exception. PG&E confirmed that it had no authority of itself to modify tariffs or Commission Decisions. After PG&E received approval of AL-5188E and issuance of the draft Resolution E-4946, the customer escalated the issue to the Energy Division.

¹¹ <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M232/K456/232456895.PDF>.

¹² Ordering Paragraph (OP) 5 of Decision 17-01-006.

¹³ *Ibid.*

¹⁴ Resolution E-4946, p. 17, Discussion Section, “SCE’s Implementation of OP 5 in D.17-01-006”.

¹⁵ The Resolution included a footnote here, stating “Per D.17-10-018, December 31, 2017 for Public Agencies; January 31, 2017 for all customers.”

The customer argued that the quoted text from the Resolution means that the TOU Period Grandfathering commencing from the system's original PTO "does not apply" if an Applicant submitted a new interconnection request before the deadlines to make changes to (i.e. modify) an "existing" generating facility *already* interconnected. In other words, if an Applicant submitted a request to modify a previously approved solar system by the applicable deadlines,¹⁶ they would be eligible to restart their TOU Period Grandfathering from the date of the issuance of the *new* PTO because the *new* request was submitted by the applicable deadlines, despite the fact that the request is to modify a previously approved system.

If that is accurate, then by extension, all *modified* solar systems would commence their TOU Period Grandfathering as of the latest PTO (assuming that the subsequent request to modify the solar system was received by the applicable deadlines) instead of from the issuance of the first PTO. For example, per PG&E's current advice letters, if a non-residential solar project was given a PTO in 2012 and then received another PTO in 2017 for additional solar capacity after submitting a request by January 31, 2017 to modify their previously approved system, their TOU Period Grandfathering would be scheduled to end as of 2022. However, if the rules were updated to restart the TOU Period Grandfathering for modified solar systems, this same customer would receive an additional 5 years of TOU Period Grandfathering until 2027.

With that said, since neither TOU Period Grandfathering decision specifically addressed modifications to previously approved solar systems, and because PG&E's advice letters were not approved until 2018, there was ambiguity regarding who the TOU Period Grandfathering decision referred to. This ambiguity may have caused some existing solar customers reviewing the Decisions in 2017 to contract for additional solar capacity under the assumption that their previously approved system would restart its TOU Period Grandfathering as of the new PTO. At the same time, D.17-01-006 confirms that the Commission's intent is to limit "unreasonably long" grandfathering because it "prolongs the period during which such customers receive less accurate, and less cost-based, TOU pricing signals".¹⁷ Restarting TOU Period Grandfathering for all solar customers who may have modified their solar systems at any time (i.e. prior to the issuance of the TOU Period grandfathering decisions) seems contrary to this intent.

After talks with the Energy Division, PG&E recognizes that due to the ambiguity of the Decisions, the aforementioned customer could have reasonably contracted for additional solar capacity assuming that their TOU period grandfathering would start with the new

¹⁶ Per D.17-10-018, December 31, 2017 for Public Agencies; January 31, 2017 for all customers.

¹⁷ "Unreasonably long grandfathering prolongs the period during which such customers receive less accurate, and less cost-based, TOU pricing signals. As a result, the intended goals of setting more accurate TOU pricing signals will not be achieved. Also, administering a grandfathering program could be more complex as groups of customers on different timetables transition to the new TOU time periods. Maintaining multiple sets of TOU time periods for different groups of individual customers (i.e. vintaging) could also potentially be costly and confusing for at least some customers." (D.17-01-006, p. 58, "3.3.3.2 Implementation of Legacy TOU Periods.")

PTO date. Therefore, if the Commission intended to update the TOU Period Grandfathering eligibility rules for modification to previously approved solar systems via Resolution E-4946, PG&E recommends providing a limited assistance to similarly-situated customers.

Proposal

Based on the above, there are two possible positions that the Commission could take:

Position A—Allow customers' TOU Period Grandfathering to commence as of the date of their newest PTO date if they requested the addition of additional solar capacity during the Applicability Period,¹⁸ (if that was intended in E-4946).

Position B—Confirm customers' TOU Period Grandfathering commences from the date of the issuance of the first PTO for solar installations (as indicated in D.17-01-006 and D.17-10-018, and approved in both AL 5039-E/5039-E-A and AL 5188-E).

If the Commission intended Position A, PG&E believes it should *only* apply to customers who submitted modifications to a previously approved solar system during the timelines connected to the Decisions. Other existing solar customers who submitted an interconnection application to add additional solar capacity before the TOU Period Grandfathering decisions (i.e. before January 23, 2017) were not impacted by this ambiguity since their submission was not tied to the Decisions specifically.

If the Commission were to adopt Position A, PG&E would update the "Eligible System" section in Electric Rule 1 with the following footnote:

"Any subsequent request submitted between January 23, 2017 and January 31, 2017 (non-Public Agencies), or between January 23, 2017 and December 31, 2017 (Public Agencies), to modify a previously approved generating facility with solar technology, and whose interconnection application remains in compliance with Electric Rule 21 for the duration of the application and receives Permission to Operate (PTO), will commence their TOU Period Grandfathering as of the issuance date of the PTO for that subsequent request."

PG&E respectfully requests the Commission provide clarity for this limited customer group who expanded their existing solar systems around the time of the Decision by approving Position A. If the Commission prefers, instead, to confirm that TOU Period Grandfathering commences at the first PTO only, PG&E suggests Position B, which would also provide clarity for these customers.

¹⁸ Between January 23, 2017 and January 31, 2017 (non-Public Agencies) or between January 23, 2017 and December 31, 2017 (Public Agencies).

Protests

Anyone wishing to protest this filing may do so by letter sent via U.S. mail, facsimile or E-mail, no later than February 20, 2019, which is 20 days after the date of this filing. Protests must be submitted to:

CPUC Energy Division
ED Tariff Unit
505 Van Ness Avenue, 4th Floor
San Francisco, California 94102

Facsimile: (415) 703-2200
E-mail: EDTariffUnit@cpuc.ca.gov

Copies of protests also should be mailed to the attention of the Director, Energy Division, Room 4004, at the address shown above.

The protest shall also be sent to PG&E either via E-mail or U.S. mail (and by facsimile, if possible) at the address shown below on the same date it is mailed or delivered to the Commission:

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

Facsimile: (415) 973-3582
E-mail: PGETariffs@pge.com

Any person (including individuals, groups, or organizations) may protest or respond to an advice letter (General Order 96-B, Section 7.4). The protest shall contain the following information: specification of the advice letter protested; grounds for the protest; supporting factual information or legal argument; name, telephone number, postal address, and (where appropriate) e-mail address of the protestant; and statement that the protest was sent to the utility no later than the day on which the protest was submitted to the reviewing Industry Division (General Order 96-B, Section 3.11).

Effective Date

PG&E requests that this Tier 3 advice filing become effective upon Commission approval.

Notice

In accordance with General Order 96-B, Section IV, a copy of this advice letter is being sent electronically and via U.S. mail to parties shown on the attached list and the parties on the service lists for R.15-12-012, (R.) 12-06-013, (R.) 14-07-002, (R.) 12-11-005, and A.16-06-013. Address changes to the General Order 96-B service list should be directed to PG&E at email address PGETariffs@pge.com. For changes to any other service list, please contact the Commission's Process Office at (415) 703-2021 or at Process_Office@cpuc.ca.gov. Send all electronic approvals to PGETariffs@pge.com. Advice letter filings can also be accessed electronically at: <http://www.pge.com/tariffs/>.

_____/S/

Erik Jacobson
Director, Regulatory Relations

cc: Service Lists (R.) 15-12-012, (R.) 12-06-013, (R.) 14-07-002, (R.) 12-11-005, and A.16-06-013



ADVICE LETTER SUMMARY

ENERGY UTILITY



MUST BE COMPLETED BY UTILITY (Attach additional pages as needed)

Company name/CPUC Utility No.: Pacific Gas and Electric Company (ID U39E)

Utility type:

- ELC GAS WATER
 PLC HEAT

Contact Person: Yvonne Yang

Phone #: (415)973-2094

E-mail: PGETariffs@pge.com

E-mail Disposition Notice to: Yvonne.Yang@pge.com

EXPLANATION OF UTILITY TYPE

ELC = Electric GAS = Gas WATER = Water
 PLC = Pipeline HEAT = Heat

(Date Submitted / Received Stamp by CPUC)

Advice Letter (AL) #: 5476-E

Tier Designation: 3

Subject of AL: Pacific Gas and Electric Company Seeking Clarification of the Eligibility Requirements For TOU Period Grandfathering (Decision 17-01-006 and Decision 17-10-018) for Customers with Behind-the-Meter Solar Who Added Solar Capacity to Their Previously Approved System

Keywords (choose from CPUC listing): Compliance

AL Type: Monthly Quarterly Annual One-Time Other:

If AL submitted in compliance with a Commission order, indicate relevant Decision/Resolution #: D.17-01-006 and D.17-10-018

Does AL replace a withdrawn or rejected AL? If so, identify the prior AL: No

Summarize differences between the AL and the prior withdrawn or rejected AL:

Confidential treatment requested? Yes No

If yes, specification of confidential information:

Confidential information will be made available to appropriate parties who execute a nondisclosure agreement. Name and contact information to request nondisclosure agreement/ access to confidential information:

Resolution required? Yes No

Requested effective date:

No. of tariff sheets: N/A

Estimated system annual revenue effect (%): N/A

Estimated system average rate effect (%): N/A

When rates are affected by AL, include attachment in AL showing average rate effects on customer classes (residential, small commercial, large C/I, agricultural, lighting).

Tariff schedules affected: N/A

Service affected and changes proposed¹: N/A

Pending advice letters that revise the same tariff sheets: N/A

¹Discuss in AL if more space is needed.

Protests and all other correspondence regarding this AL are due no later than 20 days after the date of this submittal, unless otherwise authorized by the Commission, and shall be sent to:

CPUC, Energy Division
Attention: Tariff Unit
505 Van Ness Avenue
San Francisco, CA 94102
Email: EDTariffUnit@cpuc.ca.gov

Name: Erik Jacobson, c/o Megan Lawson
Title: Director, Regulatory Relations
Utility Name: Pacific Gas and Electric Company
Address: 77 Beale Street, Mail Code B13U
City: San Francisco, CA 94177
State: California Zip: 94177
Telephone (xxx) xxx-xxxx: (415)973-2093
Facsimile (xxx) xxx-xxxx: (415)973-3582
Email: PGETariffs@pge.com

Name:
Title:
Utility Name:
Address:
City:
State: District of Columbia Zip:
Telephone (xxx) xxx-xxxx:
Facsimile (xxx) xxx-xxxx:
Email:

**PG&E Gas and Electric
Advice Filing List
General Order 96-B, Section IV**

| | | |
|------------------------------------------|-------------------------------------|-----------------------------------------|
| AT&T | Downey & Brand | Pioneer Community Energy |
| Albion Power Company | East Bay Community Energy | Praxair |
| Alcantar & Kahl LLP | Ellison Schneider & Harris LLP | Regulatory & Cogeneration Service, Inc. |
| | Energy Management Service | SCD Energy Solutions |
| Alta Power Group, LLC | Evaluation + Strategy for Social | |
| Anderson & Poole | Innovation | |
| | GenOn Energy, Inc. | SCE |
| Atlas ReFuel | Goodin, MacBride, Squeri, Schlotz & | SDG&E and SoCalGas |
| BART | Ritchie | |
| | Green Charge Networks | SPURR |
| Barkovich & Yap, Inc. | Green Power Institute | San Francisco Water Power and Sewer |
| P.C. CalCom Solar | Hanna & Morton | Seattle City Light |
| California Cotton Ginners & Growers Assn | ICF | Sempra Utilities |
| California Energy Commission | International Power Technology | Southern California Edison Company |
| California Public Utilities Commission | Intestate Gas Services, Inc. | Southern California Gas Company |
| California State Association of Counties | Kelly Group | Spark Energy |
| Calpine | Ken Bohn Consulting | Sun Light & Power |
| | Keyes & Fox LLP | Sunshine Design |
| Cameron-Daniel, P.C. | Leviton Manufacturing Co., Inc. | Tecogen, Inc. |
| Casner, Steve | Linde | TerraVerde Renewable Partners |
| Cenergy Power | Los Angeles County Integrated Waste | Tiger Natural Gas, Inc. |
| Center for Biological Diversity | Management Task Force | |
| City of Palo Alto | Los Angeles Dept of Water & Power | TransCanada |
| | MRW & Associates | Troutman Sanders LLP |
| City of San Jose | Manatt Phelps Phillips | Utility Cost Management |
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| Commercial Energy | | |
| County of Tehama - Department of Public | Modesto Irrigation District | Verizon |
| Works | Morgan Stanley | Water and Energy Consulting |
| Crossborder Energy | NLine Energy, Inc. | Wellhead Electric Company |
| Crown Road Energy, LLC | NRG Solar | Western Manufactured Housing |
| Davis Wright Tremaine LLP | | Communities Association (WMA) |
| Day Carter Murphy | Office of Ratepayer Advocates | Yep Energy |
| | OnGrid Solar | |
| Dept of General Services | Pacific Gas and Electric Company | |
| Don Pickett & Associates, Inc. | | |
| Douglass & Liddell | | |