

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

Order Instituting Rulemaking to Assess
Peak Electricity Usage Patterns and
Consider Appropriate Time Periods for
Future Time-of-Use Rates and Energy
Resource Contract Payments.

Rulemaking 15-12-012
(Filed December 17, 2015)

**PETITION FOR MODIFICATION OF DECISION 17-01-006
BY THE SOLAR ENERGY INDUSTRIES ASSOCIATION AND
THE CALIFORNIA SOLAR ENERGY INDUSTRIES ASSOCIATION**

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Pursuant to Rule 16.4 of the California Public Utilities Commission’s (Commission) Rules of Practice and Procedure, the Solar Energy Industries Association (SEIA) and the California Solar Energy Industries Association (CALSEIA) submit this Petition for Modification (Petition) of Decision (D.)17-01-006, *Decision Adopting Policy Guidelines to Assess Time Periods for Future Time-of-Use Rates and Energy Resource Contract Payments* (Decision) as amended by D.17-02-017, *Order Correcting Errors in Decision 17-01-006*.

I. Introduction

SEIA and CALSEIA submit this Petition to address the harmful impacts the Decision’s grandfathering provisions are currently having on California’s commercial solar market. The Decision has created a gap in time-of-use (TOU) period certainty that will extend until new TOU periods are approved. Even though the Decision was published on January 19, 2017, as written, solar customers must have submitted their initial interconnection application by January 31, 2017, just 8 days after the Decision was published, and complete interconnection by July 31, 2017 (December 31, 2017 for schools) to qualify for grandfathering under current TOU periods. The Decision has left prospective solar customers, including many customers who were proceeding

with contracting for solar installations but could not submit their initial interconnection application by January 31, 2017, unable to accurately assess the value of installing solar until the investor-owned utilities' (IOUs or utilities) new TOU periods are established. Commercial customers, therefore, are left with the anticipation of potentially major changes in commercial rate design with complete uncertainty about what those rates will be and therefore uncertainty regarding the economics of solar investments. Although rate uncertainty is always a factor in customer decisions on solar investments, the magnitude of the proposed changes is far greater than previous or likely future rate structure changes. With the possibility of peak periods shifting up to five hours later in the day, customers will naturally suspend consideration of solar projects until greater certainty exists. The solar industry serving commercial customers is already experiencing a halt in new sales. The consequences of the Decision's grandfathering provisions already are real and substantial. Changing the mid-day TOU peak to late afternoon or evening TOU peak without a sufficient transition is not good policy.

If the Decision is allowed to remain unchanged, the negative impact on the commercial solar market will impede the progress, effort and expense California has put toward developing commercial solar. Solar company layoffs caused by the uncertainty about TOU periods and the resulting reduction in project development will likely lead to reductions in the efficiencies that have been gained through years of diligent effort.

Moreover, the Decision's grandfathering provisions are inconsistent with clear statements of California law and policy regarding the reduction of carbon emissions, the growth of renewable energy and the important role that customer-sited resources are expected to play in achieving those aims. In order to harmonize the Decision with State law and policy it is

therefore necessary to modify the Decision’s grandfathering provisions to ensure a smooth transition to new TOU periods.

As a result, SEIA and CALSEIA are proposing simple changes to the Decision, which are offered in Section III.E. We recommend that the date of the final decision adopting each utility’s TOU periods be used to establish grandfathering eligibility. Therefore, all customers who submit initial interconnection applications prior to the effective date of the Commission’s final decision approving their specific utility’s TOU periods would be grandfathered under current TOU periods and would have a six-month grace period (12-month grace period for schools) after that date to submit their final interconnection application materials.

II. Background

The purpose of this proceeding was to develop “high-level policy guidelines to apply in the consideration, development, and implementation of specific changes in TOU time periods applicable to the major California investor-owned electric utilities.”¹ The Decision “adopts a framework, including guiding principles, for designing, implementing, and modifying the time intervals reflected in time-of-use (TOU) rates.”²

The Decision provides for 10-year grandfathering of non-residential customers on current TOU periods.³ In order to qualify for grandfathering, customers must have submitted their initial interconnection application by January 31, 2017.⁴ They will then have a “grace period” until July 31, 2017 in which to pass local design review, install the system, obtain a final building

¹ D.17-01-006 at p. 76.

² *Ibid.* at p. 2.

³ *Ibid.* at p. 64.

⁴ *Ibid.* at p. 63.

permit, and submit their final interconnection application.⁵ School customers have until December 31, 2017 to submit their final interconnection application, but like other non-residential customers, are required to have submitted their initial interconnection application by January 31, 2017.⁶

Under the Decision, commercial customers who were already in the process of contracting for a solar project, but were not sufficiently far along in the process to submit an initial interconnection application by January 31, 2017, are ineligible for TOU period grandfathering and instead will be placed on the IOUs' forthcoming TOU periods, which are currently being considered in other proceedings, as soon as those periods are implemented. The Commission anticipates it will not issue a decision on Pacific Gas and Electric Company's (PG&E) and Southern California Edison's (SCE) rates until the end of 2017, with a decision on San Diego Gas & Electric Company's (SDG&E) rates issued sooner, in May 2017.⁷ These dates are only estimates and it is reasonable to expect that the conclusion of these rate cases could be later. Therefore, given that the IOUs' TOU periods, in the cases of PG&E and SCE, will not be determined for perhaps as long as one year from now, solar providers are unable to define reliably the economic value of these planned solar projects. The Decision creates a significant gap between when customers are eligible for grandfathering on the current periods and when new periods are expected in the aforementioned rate cases.

⁵ *Ibid.*

⁶ *Ibid.*

⁷ *See* D.17-01-006, Appendix 3, at p. 1-2.

III. Discussion

A. The Decision has already created a gap in TOU period certainty that will extend until new TOU periods are approved.

The gap in certainty regarding TOU periods for prospective commercial solar customers that began on January 31, 2017, threatens to have a severe impact on the development of commercial-sited solar. These impacts are already being felt, as stated in the attached declarations.⁸ Under the Decision, a commercial solar customer who did not submit their initial interconnection application by January 31, 2017 will not be grandfathered onto existing TOU rates periods but instead will be placed on the IOUs' forthcoming TOU periods as soon as they are implemented.⁹ However, because these periods have yet to be approved, any customer submitting their initial interconnection application between January 31, 2017 and the date of the final decisions approving the utilities' TOU periods can only speculate as to the periods under which they will ultimately receive service. It is therefore far more difficult than under normal conditions for these customers to assess with any degree of certainty the economic viability of installing a solar photovoltaic (PV) system.

As the Decision acknowledges, "One downside to this proposal is that it leaves a gap of uncertain TOU periods for prospective solar customers."¹⁰ The Decision views this gap as beginning on July 31, 2017, the point at which the six-month grace period will end.¹¹ As the Commission stated "we allow a grace period of six months so that customers who are in the process of installing a solar facility can be eligible for grandfathering of the TOU periods that

⁸ Declarations supportive of factual statements set forth in this Petition are attached to the Petition in Appendix B.

⁹ *Ibid.* at p. 63.

¹⁰ *Ibid.* at p. 62.

¹¹ *Ibid.*

were in place prior to issuance of today's decision."¹² However, the six-month grace period only extends to customers who were able to submit their initial interconnection application by January 31, 2107. Because the Decision was issued on January 23, 2017, customers in the process of contracting for a solar installation had little more than one week to submit their initial interconnection application.¹³ In many instances, customers and installers had already expended significant resources negotiating over potential projects, but were not at a point where an interconnection application could be filed by January 31, 2017. As a result, for many customers, this brief period offered a grossly insufficient timeframe to submit an initial interconnection application. Consequently, as shown in the declarations attached to this Petition, many customers who were proceeding with contracting for solar installations have now decided to place their projects on hold and will not be able to accurately assess the value of installing solar until the IOUs' new TOU periods are established.

The Commission must recognize that getting approval from local jurisdictions for purposes of design review and building permits and from utilities for purposes of interconnection can be painfully slow processes that require customers to commit time and money. The ability of customers to follow through on projects under development without turning the economic prospects upside down is a major consumer protection issue.

B. The Decision's harmful impacts are already being experienced as planned commercial solar projects are being put on hold.

The harmful impacts of the gap in TOU certainty and the IOUs' proposed TOU periods are already being experienced. The immense uncertainty created by the Decision has resulted in customers who were already in the process of contracting for solar placing those projects on

¹² *Ibid.*

¹³ This includes the electrical design of the system, which involves significant engineering time.

hold. Other customers with projects long under development will be unable to meet the interconnection deadlines imposed by the Decision because of circumstances beyond their control, such as delays in permitting processes or in the utilities performing required distribution upgrades. The Decision fails to consider customers who have responded to existing TOU periods and taken the precise actions those TOU period signals were designed to encourage.

The Decision states that while there is uncertainty created by its grandfathering provisions, “at this time, with new TOU periods pending for all three IOUs, we believe there is sufficient information regarding *likely changes* to TOU periods for customers to make reasonable decisions on investments.”¹⁴ [emphasis added] However, there is too much uncertainty associated with that information. While the IOUs have proposed TOU period changes in their rate case filings, other parties have (or will) make alternative proposals. There is no way for solar providers to “handicap” for customers the odds of one proposal being adopted over another. For the Commission in the TOU decision to refer to the utility proposals in other proceedings as “likely changes” is a prejudgment of the outcomes of those proceedings.

The negative impacts from such uncertainty were predicted¹⁵ and are already occurring, as shown in the declarations attached to this Petition. It is unsurprising that, given the gap in TOU period certainty posed by the Decision’s grandfathering provisions as well as the looming

¹⁴ D.17-01-006 at p. 62.

¹⁵ For instance, in a letter to Commissioners Martha Guzman Aceves and Clifford Rechtschaffen, CALSEIA noted that, “[C]ustomers considering investments in solar – particularly those with long lead times like commercial, agricultural and school customers – need some amount of certainty that their current rate will be available when their system is interconnected. If that certainty does not exist, those customers are unlikely to proceed with the decision to go solar.” (Letter from Brad Heavner, CALSEIA, to Commissioners Guzman Aceves and Cliff Rechtschaffen, Jan. 6, 2017, at p. 1.)

specter of the IOUs' proposed TOU periods, we are already seeing planned commercial solar projects placed on hold.

C. The negative impact on the commercial solar market would squander the effort and expense that California has invested in its development.

The growth of the commercial solar market in California has been encouraged by a number of programs and efforts. The Commission in particular has led in this arena through the California Solar Initiative (CSI) and the Self-Generation Incentive Program (SGIP) before that.¹⁶ Countless hours have been expended by California employees, officials and stakeholders to steadily advance the growth of the commercial solar market in the State. Without a more gradual transition to new TOU periods, continued progress in the commercial solar industry is at risk.

The solar industry cannot retain staff through the next year and a half of substantially reduced sales. The industry will be forced to make layoffs. Furthermore, even once TOU period certainty is restored, assuming that the periods and associated rates adopted allow for the continued growth of commercial solar, workforce rebuilding would be slow. The efficiencies that would be lost by a gap in customer activity cannot be turned back on like a switch.

We can also expect that some prospective commercial customers, particularly those who have had to sideline their current solar plans, will lose confidence in their ability to effectively evaluate the economics of a solar investment given the potential for future rate design uncertainty. As a result, even if this Petition is approved, the Decision will have caused damage that will be difficult to recover from. The Decision, therefore, represents a grave lost opportunity and a significant undercutting of the effort expended by the Commission to date to encourage the

¹⁶ See, e.g., CPUC, California Solar Initiative (CSI), <http://www.cpuc.ca.gov/General.aspx?id=6043>; *Order Instituting Rulemaking Regarding Policies, Procedures and Rules for the California Solar Initiative, the Self-Generation Incentive Program and Other Distributed Generation Issues*, R.12-11-005 (Nov. 11, 2012), at pp. 2-4.

growth of California’s commercial solar market.

D. The Decision’s grandfathering provisions conflict with California law and policy goals regarding encouraging renewables and combating climate change.

In his recent State of the State Address, Governor Brown declared that, “our state is known the world over for the actions we have taken to encourage renewable energy and combat climate change.”¹⁷ Unfortunately, the Decision’s grandfathering provisions are inconsistent with this reputation and stand in stark contrast with clear statements of California law and policy regarding the reduction of carbon emissions, the growth of renewable energy, and the important role that customer-sited resources are expected to play in achieving those aims.

For example, in framing the development of the net energy metering (NEM) successor tariff, the California Legislature directed the Commission to “ensure that customer-sited renewable distributed generation continues to grow sustainably.”¹⁸ In order to achieve this directive, the Commission determined it was necessary to preserve the existing NEM structure with some modifications.¹⁹ Because NEM and rate structure are inextricably linked, however, the Commission must also consider proposed changes to rate structure in the context of the NEM tariff and the legislative intent for continued growth of customer-sited renewable distributed generation in California.

In D.16-01-044, the Commission determined that, in order to provide SDG&E’s residential customers greater certainty and a reasonable transition, customers who completed their interconnection application prior to 120 days after SDG&E’s TOU rates going into effect

¹⁷ Transcript available at: <https://www.gov.ca.gov/news.php?id=19669>.

¹⁸ Cal. Pub. Util. Code § 2827.1(b)(1); D.16-01-044 at p. 50.

¹⁹ D.16-01-044, Conclusion of Law 1, at p. 113.

could maintain their tiered rates for up to five years.²⁰ The Decision's requirement that commercial customers who could not submit their initial interconnection application by January 31, 2017 be subject to as-of-yet-undetermined future TOU periods is inconsistent with the Commission's reasoning in the NEM successor decision, where it saw fit to provide certainty and ensure a smooth transition to new rates by allowing customers who submitted applications prior to the approval of new TOU rates to remain on the existing rates.

Additionally, California has been consistent in setting aggressive emissions targets. Currently, the State has a goal of reducing greenhouse gas (GHG) emissions to 40% below 1990 levels by 2030.²¹ As one strategy to achieve GHG emissions reductions, SB 350 directs the utilities to procure 50% of their electricity from renewable sources by 2030.²² The California Air Resources Board (CARB), in its 2017 Climate Change Scoping Plan Update, proposes a comprehensive strategy for achieving the State's 2030 GHG target established in SB 32. The plan states, "Moving forward, California's climate strategy will require contributions from all sectors of the economy, including the land base, and will include enhanced focus on zero- and near-zero emission (ZE/NZE) vehicle technologies; continued investment in renewables, ***including solar roofs***, wind, and other distributed generation."²³ (emphasis added) Additionally, CARB provides, in its range of estimated GHG and pollution reductions for different policy measures, an assessment of the reductions offered by a "60% RPS and additional 10 GW behind-

²⁰ D.16-01-044, Conclusions of Law 18 and 19, at p. 116.

²¹ SB 32 (as codified in Cal. Health and Safety Code § 38566).

²² SB 350 (as codified in Cal. Pub. Util. Code § 399.15(b)(2)(B)).

²³ California Air Resources Board, 2017 Climate Change Scoping Plan Update, at p. 6 (emphasis added).

the-meter solar PV.”²⁴ This enhanced RPS and behind-the-meter solar measure is one of the highest carbon-reducing measures identified and indicates the important role customer-sited, behind-the-meter resources are expected to play in reducing GHG emissions. It is especially important for behind-the-meter solar to continue to grow in concert with vehicle electrification.

Achieving California’s laudable GHG emissions goals therefore clearly requires a strong shift toward renewable resources, including customer-sited resources. This position is consistently reflected throughout California law and policy pronouncements. The question then is whether California can achieve these goals while discouraging the growth of the commercial solar market. The clear answer is that it cannot. The Decision’s grandfathering provisions therefore represent a marked divergence from California’s otherwise consistent and unequivocal policies in support of the important role that renewable resources, particularly customer-sited resources, must play in achieving the State’s climate goals.

E. The modifications requested would fix the problem and are straightforward, and provided in Appendix A.

SEIA and CALSEIA recommend an approach to grandfathering that fully addresses the harm to the commercial industry posed by the Decision while ensuring a timely transition to the new TOU periods. SEIA and CALSEIA recommend the date of the final decisions adopting the utilities’ TOU periods be used to establish the end of the grandfathering eligibility. Therefore, all customers who submit initial interconnection applications prior to the date of the Commission approving a final decision on their utility’s TOU periods would be grandfathered under current TOU periods. As with the Decision,²⁵ these customers should have a six-month grace period after that date to submit their final interconnection application (a 12-month grace period for

²⁴ *Ibid.* at p. 57, Table III-1.

²⁵ *See* D.17-01-006 at p. 63.

schools).²⁶ The Decision established clear limits for the duration of TOU period grandfathering of “ten years after issuance of a permission to operate. In no event shall the duration continue beyond December 31, 2027 (for schools) or July 31, 2027 (for all other non-residential).”²⁷

In order to implement these proposed modifications, SEIA and CALSEIA offer redline edits to the Decision, provided herein as Appendix A. We propose to remove statements on page 55 indicating the Commission believes the IOUs’ TOU proposals offer sufficient information regarding likely TOU periods to allow customers to make reasonable investment decisions and that PG&E’s grandfathering proposal strikes the right balance between mitigation and certainty for customers and the IOUs. On page 56, we offer changes to the grace period end dates, changing those dates from July 31, 2017 (December 31, 2017 for schools) to six months following the decision approving the IOUs’ TOU periods (one year for schools). Additionally, we propose language changing the last date for submission of an initial interconnection application in order to be eligible for grandfathering from January 31, 2017 to the date of the final decision approving the IOUs’ TOU periods. We also offer changes to Findings of Fact 31 and 32 and Conclusions of Law 5 and 6, as amended by D.17-02-017, replacing the January 31, 2017 initial interconnection application date with the date of the final decision approving the IOU’s TOU periods. Finally, we propose changes to Ordering Paragraph 5 that reflect these date changes.

²⁶ This approach is similar to the one used by the Arizona Corporation Commission (ACC) in adopting changes to their value of distributed generation (DG) methodology. The ACC determined that the DG export rate that the utilities would adopt based on the new value of DG methodology would only apply to customers who submitted interconnection applications after the effective date of the decision issued in that utility’s rate case adopting the new export rate. Ariz. Corp. Comm’n, Decision No. 75859, Docket No. E-00000J-14-0023 (Jan. 3, 2017), at p. 156; Ariz. Corp. Comm’n, Decision No. 75932, E-00000J-14-0023 (Jan. 13, 2017), at pp. 3-5.

²⁷ D.17-01-006 at p. 80.

IV. Conclusion

For the foregoing reasons, SEIA and CALSEIA respectfully request the Commission adopt the proposed modifications to the grandfathering provisions of D.17-01-006.

Respectfully submitted this March 2, 2017, at San Francisco, California.

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²⁸ In accordance with Rule 1.8(d), SEIA's representative is authorized to sign these Comments on behalf of CalSEIA.

APPENDIX A

**PROPOSED CHANGES TO DECISION 17-01-006
AS AMENDED BY DECISION 17-02-017**

Appendix A

Pursuant to Rule 16.4(b), SEIA and CALSEIA offer the following proposed modifications to Decision 17-01-006 as amended by D.17-02-017.

Pages 55-56:

One downside to this proposal is that it leaves a gap of uncertain TOU periods for prospective solar customers. This gap would start at the end date for grandfathering eligibility and continue until new TOU periods are approved by the Commission. ~~However, at this time, with new TOU periods pending for all three IOUs, we believe there is sufficient information regarding likely changes to TOU periods for customers to make reasonable decisions on investments.~~

~~While we acknowledge that PG&E's proposal is not a perfect solution, we find that it sets the right balance of mitigation and certainty for customers and the IOUs. We therefore adopt this approach for all three IOUs.~~

We therefore believe the best approach is to extend the end date for grandfathering eligibility to the date of the final decision approving each IOU's respective TOU periods.

We allow a grace period of six months so that customers who are in the process of installing a solar facility can be eligible for grandfathering of the TOU periods that were in place prior to issuance of today's decision. In comments on the proposed decision, parties expressed concern regarding whether a six-month grace period is sufficient. In public comment, many school districts argued that because of the extended time for schools to develop solar facilities, six months is insufficient. In light of this, we have extended the grace period for schools ~~to the end of 2017~~ to one year. We recognize that there will still be customers in the process of contract for or installing solar facilities that do not qualify for the grace period deadlines.

In light of comments on the PD, we have also made some clarifying changes and set some additional limits/specifications for the legacy periods.

3.3.3.3 Terms of Legacy TOU Periods Adopted in this Decision

The following terms and conditions apply to the grandfathering measures adopted in this decision.

- Customer Eligibility: Applies to (a) residential customers with on-site solar systems, who opt-in to a TOU tariff prior to the Grace Period End Date as defined in the next bullet and (b) non-residential customers. This transition does not apply to customers who are already permitted to stay on a TOU rate for five years pursuant to D.16-01-044.
- Eligibility Grace Period End Date:
 - Schools: **One year after approval of the final decision approving the customer's IOU's TOU periods**~~December 31, 2017~~
 - All Others: **Six months after approval of the final decision approving the customer's IOU's TOU periods**~~July 31, 2017~~
- System Eligibility: A system for which (i) an initial interconnection application is filed no later than ~~January 31, 2017~~**the date of the final decision approving the customer's IOU's TOU periods** and (ii) the interconnection applications, including final building inspection, is completed at any time prior to the Grace Period End Date is eligible. The system must be designed to offset at least 15% of the customer's current annual load.
- Duration:
 - For residential systems, this transition mitigation measure continues for 5 years after issuance of a permission to operate. In no event shall the duration continue beyond July 31, 2022.
 - For non-residential systems, this transition mitigation measure continues for ten years after issuance of a permission to operate. In no event shall the duration continue beyond December 31, 2027 (for schools) or July 31, 2027 (for all other non-residential).
- Attributes: This transition mitigation measure allows the customer to maintain the same TOU periods for the duration. Other changes in rate design, including allocating marginal costs to TOU periods and setting specific rate levels, will be litigated in utility-specific rate proceedings.
- For administrative efficiency, IOUs may reduce the number of transition dates by consolidating customers into groups. This and any other administrative efficiencies should be established through the Tier 3 Advice Letter process.

Finding of Fact 31, as amended by D.17-02-017:

Based on the treatment previously accorded residential NEM customers in D.15-07-001 and D.16-01-044, a reasonable balance may be achieved by adopting a limited grandfathering period of five years for residential NEM customers who opt in to existing TOU rates if the system interconnection application is submitted no later than **the date of the final decision approving the customer's IOU's TOU periods January 31, 2017**, and the system interconnection application (including final building inspection) is completed any time prior to the Grace Period End Date as described further in Ordering Paragraph 5 of this decision.

Finding of Fact 32, as amended by D.17-02-017:

A ten-year grandfathering period for non-residential customers is reasonable for customers: (i) who submit the system interconnection application no later than **the date of the final decision approving the customer's IOU's TOU periods January 31, 2017**, and (ii) who complete the system interconnection application (including final building inspection) any time prior to the Grace Period End Date as described further in Ordering Paragraph 5 of this decision.

Conclusion of Law 5, as amended by D.17-02-017:

A five-year grandfathering period is reasonable for residential customers who opt in to existing TOU rates if the system interconnection application is submitted no later than **the date of the final decision approving the customer's IOU's TOU periods January 31, 2017**, and the system interconnection application (including final building inspection) is completed any time prior to the Grace Period End Date as described further in Ordering Paragraph 5 of this decision.

Conclusion of Law 6, as amended by D.17-02-017:

A ten-year grandfathering period is reasonable for non-residential customers: (i) who submit the system interconnection application no later than **the date of the final decision approving the customer's IOU's TOU periods January 31, 2017**, and (ii) who complete the system interconnection application (including final building inspection) any time prior to the Grace Period End Date as described further Ordering Paragraph 5 of this decision.

Ordering Paragraph 5:

Each of Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E) shall ensure that customers with existing behind-the-meter solar be permitted to maintain time-of-use (TOU) rate periods for five to ten years. This period for retaining TOU periods applies only to qualified customers on the terms and conditions set forth below. Each investor-owned utility (IOU) is permitted to structure an alternative but equivalent mitigation measure for these customers, but any such alternative must be approved by the Commission. To minimize the administrative burden of retaining time periods for these customers, each IOU should propose procedures, such as setting a limited number of dates each year on which to migrate these customers to new TOU periods, that will ease administration. Each IOU, or the IOUs collectively, shall meet with parties to consider administrative procedures and each IOU shall file its own Tier 3 Advice Letter with specific administrative procedures no later than March 31, 2017. The terms and conditions are as follows:

- Customer Eligibility: Applies to (a) residential customers with on-site solar systems, who opt-in to a TOU tariff prior to the Grace Period End Date as defined in the next bullet and (b) non-residential customers. This transition does not apply to customers who are already permitted to stay on a TOU rate for five years pursuant to Decision 16-01-044.
- Eligibility Grace Period End Date:
 - Schools: **One year after approval of the final decision approving the customer's IOU's TOU periods**~~December 31, 2017~~
 - All Others: **Six months after approval of the final decision approving the customer's IOU's TOU periods**~~July 31, 2017~~
- System Eligibility: A system for which (i) an initial interconnection application is filed no later than **the date of the final decision approving the customer's IOU's TOU periods**~~January 31, 2017~~ and (ii) the interconnection applications, including final building inspection, is completed at any time prior to the Grace Period End Date is eligible. The system must be designed to offset at least 15% of the customer's current annual load.

- Duration:
 - For residential systems, this transition mitigation measure continues for five years after issuance of a permission to operate. In no event shall the duration continue beyond July 31, 2022.
 - For non-residential systems, this transition mitigation measure continues for ten years after issuance of a permission to operate. In no event shall the duration continue beyond December 31, 2027 (for schools) or July 31, 2027 (for all other non-residential).
- Attributes: This transition mitigation measure allows the customer to maintain the same TOU periods for the duration. Other changes in rate design, including allocating marginal costs to TOU periods and setting specific rate levels, will be litigated in utility-specific rate proceedings.

APPENDIX B

**DECLARATIONS IN SUPPORT OF
PETITION FOR MODIFICATION OF DECISION 17-01-006
BY THE SOLAR ENERGY INDUSTRIES ASSOCIATION
AND THE CALIFORNIA SOLAR ENERGY INDUSTRIES ASSOCIATION**

R.15-12-012

**Petition for Modification of Decision 17-01-006 by the Solar Energy Industries Association and the California Solar Energy Industries Association
Attachment B-1**

**Declaration of Emily Douglas of Opterra Energy Services
March 2, 2017**

1. A special district in PG&E territory has been discussing a solar project with us since March 2016. They selected us as their partner in May 2016 and we have been engineering and lining up financing since then, including a required CEQA process. We put in their interconnection application before the January 31 deadline, but it will take at least two to three more months for them to arrange financing. They are nearly ready to let the construction contract to us, but if their funding is not available until May or June, there is no way we can complete construction before the end of July. If we run the risk of missing the July deadline, their savings will be reduced below the point where it pays for the financing. They are caught between taking the time through May to arrange the lowest cost financing and risking their savings with delay. They will not proceed without low-cost financing, because it is the most fiscally responsible choice, but the July deadline for TOU grandfathering could overwhelm the financing savings they gain.

2. For a school district in PG&E territory, we designed a project that would fund the much-needed addition of air conditioning at multiple school sites through solar savings. The project was nearly ready to go to contract when they had to pause for their own internal process and to determine the scope and capital support for HVAC. Because we had to submit interconnection applications before the energy services contract and final engineering, we have already been forced to lock in some design decisions that may hamper the eventual savings or pose constructability issues. The district would prefer to conduct a detailed, third-party analysis of potential solar project savings now, but that will push their selection and energy services contract into at least April or May. Although we submitted interconnection applications for them, it will be a challenge to complete construction by the end of the year due to timelines of the Division of State Architects (DSA). We estimate their savings will decline by \$2-4 million over the life of the project. If there is not sufficient savings to pay for AC, the district is unlikely to do the project.

3. We have been meeting with a large high school district in PG&E territory since 2013. Next month, they will be ready to sign a development agreement for district-wide solar and energy efficiency. We completed interconnection applications in January, at our risk to preserve their savings, but board approval of the development agreement has been delayed since their first January meeting because of interest in how related STEM education programming will also benefit students in the district. If the development agreement is approved in March, we might be able to reach an implementation contract by June, but the December deadline to complete system construction will be very challenging, given DSA approvals, the need to get community input on solar locations, and avoiding disruption of school operations with construction. Because of school board summer meeting schedules, any delay in our project development or financing process

could cause their contract approval to slip into August, which would make it impossible to procure and build the project by the end of the year.

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Emily Douglas

Emily Douglas
Program Development Manager
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R.15-12-012

**Petition for Modification of Decision 17-01-006 by the Solar Energy Industries Association and the California Solar Energy Industries Association
Attachment B-2**

**Declaration of Tom Williard of Sage Renewables
March 2, 2017**

1. A Northern California public high school district commissioned a solar PV Feasibility Study of six sites mid 2016. Early results looked promising and the District expanded the study to all school sites. The modeling was updated in January/February of 2017 to account for reduced grandfathering expectations. In February 2017, the District Board met and, after seeing significantly reduced financial performance with 15+ year payback using three different types of financing, decided to shelve the project indefinitely. (System size: 1.98 MW minimum; Sites: 9)

2. A Northern California County Board of Supervisors approved moving forward with a project approach in 2015. In late 2016, the first TOU period and associated rate tariffs proposed by PG&E reduced the energy value by approximately 50%, making the project nonviable if proposed rates are required in year one. The January 2017 TOU decision left too much risk due to reduced expectations of a transition period to new rate structure. In February 2017, the project was tabled indefinitely. (System size: 5.0 MW; Sites: 1 generating account, ~20 benefiting accounts)

3. A Northern California public K-8 district commissioned a solar PV Feasibility Study of six sites in late 2015. Early results looked promising. The solar PV project was integrated with Prop 39 funding to maximize benefits during 2016. Modeling was updated in November 2016 and January/February of 2017 to account for TOU shift/grandfathering and proposed rate tariff changes. In February 2017, the District Board is reconsidering the solar PV portion of the project due to rapidly eroding project economics. (System size: 771 kW; Sites: 6)

4. Many districts are still figuring out what to do and have not decided to shelve projects yet. I expect this will get more acute in the coming months.

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Tom Williard

Tom Williard
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R.15-12-012

**Petition for Modification of Decision 17-01-006 by the Solar Energy Industries Association and the California Solar Energy Industries Association
Attachment B-3**

**Declaration of Jonathan Whelan of Optony
March 2, 2017**

1. A major city in Northern California has been pursuing solar at five of their facilities for nearly three years.
2. After many months of price and contract negotiations, they were coming close to a resolution to proceed.
3. Two of their projects were submitted for interconnection application in 2016 and would be grandfathered into current TOU periods if they can be built by July 31. One of the projects will not be built by that time. The timeline for the other is exceedingly unlikely given the City's complex contracting process, plus normal design iterations, steel fabrication, installation, and inspection.
4. The other three projects did not have applications submitted before 1/31/2017.
5. The three projects look significantly worse economically when modeled under proposed PG&E rates without a transition period. There is a high likelihood the customer will not go forward.
6. If all five projects can take advantage of the current TOU periods for ten years, the portfolio is barely cost-effective. The City may proceed on all the projects if they qualify for grandfathering.
7. If the 7/31 deadline cannot be met for any of the projects, the City is unlikely to proceed on those projects.

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Jonathan Whelan

Jonathan Whelan
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R.15-12-012

**Petition for Modification of Decision 17-01-006 by the Solar Energy Industries Association and the California Solar Energy Industries Association
Attachment B-4**

**Declaration Of Bill Kelly of SunPower
March 2, 2017**

1. CPUC Decision 17-01-006, issued on January 23, 2017, has caused a virtual halt in new SunPower commercial customer solar sales. Because the Decision renders projects for which an initial interconnection application is filed after January 31, 2017 ineligible for a defined transition from current utility time-of-use (TOU) periods, commercial customers with projects in development are left with the expectation of major changes in TOU periods with complete uncertainty about what those periods will be and therefore uncertainty regarding the economics of their planned solar investments. These customers will naturally halt consideration of their solar projects until greater certainty exists.
2. SunPower, a market leader in non-residential solar installations, is already experiencing a halt in new solar system sales to commercial customers. As of this date, more than 50% of planned commercial solar projects have been put on indefinite hold. This will result in a dramatic reduction in commercial solar system installations in the second half of 2017 and into 2018.
3. The SunPower customers who have delayed solar project investments as a result of Decision 17-01-006 include manufacturing, agricultural, retail, local government and public schools.

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Bill Kelly

Bill Kelly
Vice President, Commercial Americas
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R.15-12-012

**Petition for Modification of Decision 17-01-006 by the Solar Energy Industries Association and the California Solar Energy Industries Association
Attachment B-5**

**Declaration of Rick Brown of TerraVerde Renewable Partners
March 2, 2017**

1. The recent CPUC decision creating guidelines for the transition to new TOU periods will negatively impact the viability of behind the meter solar PV for California school districts.
2. One example is a district in southern California that has reversed a previous decision to go forward with a 3 MW solar project at 13 school sites. The district has spent \$27,500 to date on analysis, site evaluation, and design. If they qualify for the 10 year TOU grandfathering, at year 11 the project will barely break even, even assuming that SCE rates increase an average of 4% per year over that period. The concern is that they are unlikely to be able to complete the project by the current December 31, 2017 deadline. If they do not qualify for the ten year grandfathering, i.e., only secure a 5 year “transitional benefit,” the project will be significantly cashflow negative for many years. As a result of the TOU decision, the District Board has decided not to move forward with the project at this time.
3. This is only one of a number of examples of schools that, faced with these risks, are currently considering cancelling solar projects.

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Rick Brown

Rick Brown, PhD
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R.15-12-012

**Petition for Modification of Decision 17-01-006 by the Solar Energy Industries Association and the California Solar Energy Industries Association
Attachment B-6**

**Declaration of Norm Nielsen, CEO of Chico Electric
March 2, 2017**

1. We submitted an interconnection application in March 2016 for a hulling and drying facility in Glenn County. PG&E has completed their review and approved the project. Now the customer is waiting on a determination from the Army Corp of Engineers on the level of protected wetlands where the array is proposed. This determination has to be made before a permit is issued. We expect the Army to approve the project within the next six months. However, this would push construction past July and we expect the customer will not move forward if they do not qualify for grandfathering. They have put a lot of time into the project and we have invested engineering resources that would be wasted if the project is not built due to tariff issues.

2. We submitted an interconnection application for a farmer in Tehama County in November 2015. PG&E is requiring us to wait for interconnection until a substation upgrade is performed next year. We can build the project to qualify for grandfathering and wait some amount of time before powering up the system, but if that period of time is greater than a few months it is not worth it to the customer because they would begin payments for the cost of the system without any reduction in their utility bill. We do not believe the customer will move forward with the project if they do not qualify for grandfathering.

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Norm Nielsen

Norm Nielsen
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R.15-12-012

**Petition for Modification of Decision 17-01-006 by the Solar Energy Industries Association
and the California Solar Energy Industries Association
Attachment B-7**

**Declaration of Eva Pauly-Bowles of Ciel & Terre USA
March 2, 2017**

1. For many months, we have been working with a public sector customer that is considering a large solar project. After engineering and design review, the customer would like to move forward at this time. However, at the PPA price we are able to offer, the customer would not have sufficient savings to motivate the project if PG&E's rates are approved as they were proposed and the customer is forced to begin using those rates next year. If we lower our PPA price to incorporate this risk the margin on our end is so tight that it is not worth building the project due to the risk of unexpected costs during construction. This significantly impacts our business because we expect much of our current pipeline of projects to encounter this difficulty.
2. We had previously expected that any major rate changes would include a lengthy transition period, but that now seems to be questionable. Being more conservative with our expectations will likely put most of our projects under development on hold.

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Eva Pauly-Bowles

Eva Pauly-Bowles
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