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STATE OF CALIFORNIA
BEFORE THE CALIFORNIA ENERGY COMMISSION

In the matter of:	)	Docket No. 21-OIR-03
	)	
Load Management Rulemaking	)	SMUD Comments Re:
	)	Load Management Standard Proposed
	)	Regulatory Language
	)	
	)	February 7, 2022
	)	

Comments of SACRAMENTO MUNICIPAL UTILITIES DISTRICT on Load Management Standard Proposed Regulatory Language

The Sacramento Municipal Utility District (SMUD) appreciates the opportunity to provide comments to the California Energy Commission (CEC) on the Load Management Standard (LMS) proposed regulatory language published on December 22, 2021.

SMUD strongly supports the state's decarbonizing efforts to reduce greenhouse gas (GHG) emissions by promoting transportation and building electrification and increasing the development of renewable resources. We take a holistic approach to climate change, and we do everything we can to cost-effectively reduce GHG emissions in the region. Time dependent, marginal cost-based rates are a key component of achieving SMUD's carbon reduction goals.

SMUD began implementing Time-of-Use (TOU) rates for commercial and industrial customers in 1993. By 2012, all commercial customers were transitioned from tiered rates to TOU rates. Throughout 2012-2013, SMUD implemented a Smart Pricing Options Pilot Program which provided the basis for California's transition to time-of-use rates as the default for utility customers. SMUD began implementing Time-of-Day (TOD) rates for residential customers in 2018 and completed the transition in 2019. After the first full summer, 98% of our eligible customers remained on the TOD rate, with only 2% opting out for a flat rate.

In July 2020, our Board of Directors declared a climate emergency and adopted a resolution calling for SMUD to take significant and consequential actions to become carbon neutral (net zero carbon) by 2030. In April 2021, SMUD's Board adopted our 2030 Zero Carbon Plan (SMUD's Plan). The goal is to reach zero carbon emissions in our power supply by 2030 while maintaining reliability, safety and affordable rates, doing it all with an eye toward equity for underserved communities.

Proven clean technologies and reimagining our natural gas power plants will reduce our carbon emissions by about 90% by 2030. Emerging technologies, including load flexibility, play a critical role in SMUD's Plan, specifically to eliminate the remaining 10% of carbon emissions. We hope to scale our flexible demand programs as a lower cost alternative to large solutions such as utility-scale battery storage. Customers will have options to participate in programs that leverage the advanced and automation capabilities of their own devices, such as thermostats and electric vehicles, for deeper bill and carbon savings. We expect to develop about 165 MW of flexible load programs by 2030, and possibly more as our programs continue to evolve and leverage advancing technology.

SMUD is strongly committed to continue exploring advanced time-varying rates and incentive structures coupled with appropriate load flexibility and automation programs that could benefit our customers. While SMUD agrees that load management is an important and crucial objective, we respectfully submit the following comments on the proposed load management standard regulatory language.

POU Governing Bodies are their Rate-Making Authorities.

The CEC's regulations must recognize the limits of the CEC's authority to mandate specific rates or rate structures.

The California Municipal Utility Association (CMUA) submitted comments on March 16, 2020, and again on April 23, 2021, regarding the limits of the CEC's authority over the ratemaking processes of publicly owned electric utilities (POUs) such as SMUD. These comments were filed to the LMS pre-rulemaking docket.[1] As CMUA explained in its comments, while the CEC has authority and legislative directive to make recommendations on standard rate structures, the CEC does *not* have the authority to dictate specific rates or rate structures. SMUD agrees with CMUA and other commenters that, notwithstanding Staff's recognition that the POU governing boards may elect not to approve the required rates, the Load Management Standard amendments as currently proposed go beyond the intent of the authorizing statute and would significantly infringe on the rate-making authority of the POU governing boards.

The Initial Statement of Reasons states that the purpose of the Load Management "Tariff" Standard is to establish "requirements for developing marginal cost rates…necessary for each utility to…successfully get it approved by their governing body." (p.9). Staff's attempt in the Final Staff Report to distinguish these "requirements" from the actual adoption of rate by noting that the proposed regulation leaves the "detailed mechanics" to the utility rate-making body (p.17) falls short of the recognized discretion allotted by the California Constitution and Legislature to the POU governing bodies.[2]

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[1] CMUA Comments dated March 16, 2020 (TN232433_20200316T162250_California Municipal Utilities Association Comments - on Draft Tariff Stand.pdf)

CMUA Comments dated April 23, 2021 (TN237543_20210423T164310_California Municipal Utilities Association Comments - on Draft Staff Report (1).pdf)

2 Initial Statement of Reasons for LMS Regulation dated December 22, 2021 (https://efiling.energy.ca.gov/GetDocument.aspx?tn=241064&DocumentContentId=74901).

SMUD Supports Revisions to the Proposed Regulatory Language to Align with the CEC's Authorities and Provide a Path for Successful Implementation of the Updated Load Management Standard.

SMUD joins CMUA and other stakeholders in urging the Commission to adopt the attached redlines to § 1621. General Provisions and § 1623. Load Management Tariff Standard of the proposed regulatory language.

1. **The Load Management Standard and time variant rate mandates must allow POUs flexibility to design and adopt rates that implement policies adopted by the POU governing board in a cost-effective way adapted to the individual POU's customer base.**

    a. **SMUD appreciates inclusion of a program option in § 1623. Load Management Tariff Standard (d) (2)**

SMUD recommended in previous comments filed in the pre-rulemaking that utilities be allowed the option of applying for *either* a rate or a program.[3] This flexibility will allow the utilities to move forward with dynamic pricing options in a measured and cost-effective manner designed to achieve the highest levels of customer adoption and success. It will also allow utilities to build on existing policies and processes.

Additionally, carefully designed and tested programs could deliver load flexibility benefits without resulting in complex tariffs. SMUD is actively piloting program designs that decouple the economic load management signals from the customer incentive structure. Simple incentive programs may capture most of the benefit of a marginal cost signal while increasing customer value and adoption. The automation technology can respond to a dynamic signal, while the customer savings are provided through simple, understandable messages and fixed compensation mechanisms like subscription or bundled credits.

    b. **Developing hourly rates for all customer classes is a concern.**

In the CEC cost effectiveness analysis, residential thermostats were the only devices that were included, because thermostats meet the minimum statutory requirement. Utilities also have rates for other customers classes such as agriculture, street lighting, and various levels of commercial classes. Utilities should have full discretion to determine which customer classes would benefit from a dynamic pricing tariff, and utilities should take into consideration the enabling technologies appropriate for that customer class and be able to opt-out of creating hourly/sub-hourly prices for customer classes when such rate structures would not be feasible and cost-effective.

3 SMUD Comments dated April 27, 2020 (https://efiling.energy.ca.gov/GetDocument.aspx?tn=237562&DocumentContentId=70771).

2. SMUD seeks clarification that (1) marginal cost rates refer to the volumetric portion of the retail rate; and (2) utilities are not precluded from including fixed costs to avoid cost shift issues.

SMUD recommends that § 1623 be modified to clarify that utilities are required to develop marginal cost-*based* rates and offer the following edits:

(a) Marginal Cost Rates. This standard requires that a utility develop marginal cost-*based* rates…

(a) (2) Within one year of the effective date of these regulations, each utility shall apply to its rate-approving body for approval of at least one marginal cost-*based* rate, in accordance with 1623(a)(1), for each customer class.

3. **SMUD welcomes Commission review and recommendations on their Load Management Standard plans.**

SMUD strongly recommends the Commission adopt the proposed revisions to sections 1621(d)(2) and 1621(e)(4) of the attached redline. These revisions would establish a regulatory structure that (1) requires utilities to provide periodic reports to the Commission, and (2) allows the Commission to propose revisions to utility plans and applications. This process respects utilities' constitutional and statutory authority, has precedents in state law, and mirrors other regulatory review structures that successfully balance local decision making with regulatory oversight. For example, under state law, the CEC's review of select POU Integrated Resource Plans (IRPs) vests the authority to develop and update IRPs entirely with the POU and its governing board. *See* Cal. Pub. Util. Code § 9621. In addition, the CEC has the complementary authority to review and recommend revisions to the IRPs, and it may seek additional information regarding the IRPs to facilitate that process. *See id.* § 9622.

4. SMUD supports a clear and neutral exemption process in narrow circumstances to ensure implementation of rates and programs that protect the reliability, safety and equity of electric service.

Emerging technologies, including load flexibility, play a critical role in SMUD's Plan, specifically to eliminate the remaining 10% of carbon emissions. Nevertheless, we support the inclusion of a narrowly defined exemption process as defined in § 1621 (e) to ensure continued reliability, safety and affordability of electric systems and service.

Conclusion

As California moves toward a zero-carbon future, coordination between utilities and regulators becomes ever more important, and innovation will be vital to ensuring we reach the state's goals at the lowest levelized cost to consumers. Load Management is a complex issue and will necessitate a delicate balance between the CEC's recommendations on rate design and recognition of the autonomy of publicly owned utilities to administer independent rate-structuring decisions within their service territories. Pilots are critical to successful rollout of new rates. Likewise, real-time pricing structures must be carefully vetted and sensibly implemented to avoid impacts to reliability and to support the state's broader environmental goals.

SMUD appreciates the opportunity to provide these comments and looks forward to continuing to work with staff in this proceeding.

/s/

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cc: Corporate Files (LEG 2022-0018)

ATTACHMENT A

Joint Proposed Modifications to
45-Day Language Amendments to
Load Management Standard Regulations

Joint Proposed Modifications to 45-Day Language Amendments to Load Management Standard Regulations

45-Day Language Proposed Amendments: <u>Additions</u> ~~Deletions~~

Joint Proposed Modifications: Additions~~Deletions~~

§ 1621. General Provisions.

(c) Definitions. In this article, the following definitions apply:

(9) "Rate-approving body" means the California Public Utilities Commission in the case of investor-owned utilities, ~~such as the San Diego Gas and Electric Company, the Southern California Edison Company, and the Pacific Gas and Electric Company. It means~~ or the governing body of CCAs or publicly owned utilities ~~such as the Los Angeles Department of Water and Power, and the Sacramento Municipal Utility District~~provided that the Board of Water and Power Commissioners of the City of Los Angeles shall be the rate-approving body in this article for the Los Angeles Department of Water and Power.

(12) "Tariff" means a pricing schedule or rate plan that a utility offers to customers~~the contract between the utility and customer that specifies the components of the customer's electricity bill~~.

(d) Utility Plans to Comply with Load Management Standards

(1) Each utility shall submit a plan to comply with Sections 1621 and 1623 of thisarticle to the utility's rate-approving body~~Executive Director~~ no later than six (6) months after the effective date of these standards. Such rate-approving body shall either approve the plan or return the plan to the utility for further revisions.

(2) ~~The Executive Director shall review the plans and either return them to the utility for revision or submit them to the Commission for review and potential approval. The Executive Director may recommend, and the Commission mayapprove, a submittal on condition that the utility make specified changes or additions to the submittal, within a reasonable period of time set by the Commission. A conditionally-approved plan shall not become effective until the utility makes the specified changes or additions to the submittal under review. The Commission shall approve submittals which are consistent with these regulations and which show a good faith effort to plan to meet programgoals for the standards.~~ Upon adoption of a plan by a utility's rate-approving body, the utility shall submit the plan to the Commission for review. If the Commission determines that the plan is inconsistent with the requirements of Section 1621 or 1623, the Commission shall provide recommendations to correct the deficiencies. In reviewing a plan, ~~the Executive Director and~~ the Commission may request additional information consistent with Sections 1621 and 1623.

~~(3) All proposed plan revisions must be submitted to the Executive Director for review. The Executive Director may approve plan revisions that do not affectcompliance with the requirements of Sections 1621 or 1623. The Executive Director shall submit all other plan revisions to the Commission for approval.~~

(3~~4~~) Utilities shall submit to the Commission~~Executive Director~~ annual reports demonstrating their implementation of plans approved pursuant to this section. The reports shall be submitted one year after plans are approved pursuant to subsection (1)~~(2)~~ and annually thereafter. An application for modification may include an adjustment to the calculations and computations described in Section 1623(a)(1).

(e) Exemptions, Delays, or Modifications

(1) Utilities may apply to the utility's rate-approving body ~~Executive Director~~ for an exemption from the requirements of Sections 1621 and 1623 of this article, to delay compliance with its requirements, or to modify a load management standard compliance plan. ~~The Commission may, by resolution, order a utility to modify its approved load management standard plan. Upon such order by the Commission, a utility shall submit an application to modify its plan within 90 days of the Commission's order.~~

(2) Applications for exemptions or delays in compliance with Sections 1621 and/or 1623 shall set forth the requested period during which the exemption or delay would apply and indicate when the utility reasonably believes the exemption or delay will no longer be needed. Applications for exemptions or delays shall include one or more of the following findings, which must be adopted by the utility's rate-approving body~~The application further shall demonstrate one or more of the following~~:

(a) that despite a utility's good faith efforts to comply, requiring timely compliance with the requirements of this article would result in extremehardship to the utility or result in inequities to any subgroup of utility customers, including, but not limited to, low-income residential customers or residential customers located in disadvantaged communities;~~,~~

(b) requiring timely compliance with the requirements of this article would result in reduced system reliability, ~~and~~ efficiency, or safety; or

(c) requiring timely compliance with the requirements of this article would not be technologically feasible or cost-effective for the utility to implement.

(3) Applications for modifications to a utility plan approved pursuant to Section 1621(d) shall demonstrate that despite the utility's good faith efforts to implement its load management standard plan, the plan must be modified to provide a more technologically feasible or cost-effective way to achieve the requirements of this article or the plan's goals. An application for modification may include an adjustment to the calculations and computations described in Section 1623(a)(1).

(4) Upon approval of an application for modification, exemption, or delay by a utility's rate-approving body, the utility shall submit the application and approval document to the Commission for review. The Commission~~Executive Director~~ shall review application and approval documents ~~for exemptions, delays, and modifications~~ and make a~~n initial~~ determination of whether an application demonstrates the requirements of either subsection (2) or (3) above. If the Commission determines that the approved application is inconsistent with the requirements of this subdivision (e) of Section 1621, then the Commission shall provide recommendations to correct any such deficiencies. ~~The Executive Director shall then submit the application to the Commission with a recommendation of whether to approve or reject the application based on their initial determination.~~ In reviewing these applications, ~~the Executive Director and~~ the Commission may request additional information or revisions of the application from a utility consistent with Sections 1621 and 1623. ~~If a utility fails to provide information or revisions by a deadline established by theExecutive Director or the Commission, the Commission may deny the application on that basis.~~

(f) Enforcement. The Executive Director may, after reviewing the matter with the utility, file a complaint with the Commission following the process set forth in Sections 1233.1 to 1233.4 or seek injunctive relief if a utility:

~~(1) Fails to adhere to its approved load management standard plan,~~

~~(2) Modifies its approved load management standard plan without approval,~~

~~(3)~~(1) Does not provide information by a deadline reasonably established by the Executive Director or the Commission, or

~~(4) Fails to make requested revisions to its approved load management standardplan by the deadline established by the Executive Director or the Commission, or~~

~~(5)~~(2) Violates the provisions of this article.

§ 1623. Load Management Tariff Standard.

(a) Marginal Cost Rates. This standard requires that a utility develop marginal cost-based rates, which seek to recover the full cost associated with the fulfillment of this standard~~, using a recommended methodology or the methodology approved by its rate-approving body, when it prepares rate applications for retail services,~~ and that the utility submit such rates to its rate-approving body.

(1) Total marginal cost shall be calculated as the sum of the marginal energy cost, the marginal capacity cost (such as generation, transmission, and distribution), and any other ~~appropriate~~ time and location dependent marginal costs on a time interval of no more than one hour. Energy cost computations shall reflect locational marginal cost pricing as determined by the associated balancing authority, such as the California Independent System Operator, the BalancingAuthority of Northern California, or other balancing authority. Marginal capacity cost computations shall reflect the variations in the probability and value of system reliability of each component (generation, transmission, and distribution). Social cost computations shall reflect, at a minimum, the locational marginal cost of associated greenhouse gas emissions.

(2) By the deadline set forth in the utility plan adopted pursuant to Section 1621(d)~~Within one year of the effective date of these regulations~~, each utility shall apply to its rate-approving body for approval of ~~at least one~~ marginal cost-based rates~~, in accordance with 1623(a)(1),~~ for each customer class identified in the utility's plan.

(3) Utilities shall provide the Commission with informational copies of tariff applications when they are submitted to their rate-approving bodies.

(b) Publication of Machine-Readable Electricity Rates. Each utility shall upload its composite time-dependent rates applicable to its customers to the Commission's Market Informed Demand Automation Server (MIDAS) database upon each ofthe following circumstances:

(1) no later than three (3) months after the effective date of these standards,

(2) each time a rate is approved by the rate-approving body, and

(3) each time a rate changes.

The composite time dependent rates uploaded to the MIDAS database shall include all applicable time dependent cost components, including, but not limited to, generation, distribution, and transmission. The Commission maintains public access to the MIDAS database through an Application Programming Interface (API) that, provided a Rate Identification Number (RIN), returns information sufficient to enable automated response to marginal grid signals including price, emergency events, and greenhouse gas emissions. Each customer shall be ableto access all rate information applicable to the customer with a single RIN assigned by the utility.

~~Marginal Cost Methodologies and Rates. Within six months after the Marginal Cost Pricing Project Task Force (which is jointly sponsored by the CEC and CPUC under an agreement with the Federal Department of Energy) makes its final report available to the public, and the Commission approves it by resolution,a utility submitting a general rate filing to its rate-approving body shall include marginal cost based rates in such filing which have been developed by using at least one methodology recommended by the Task Force, except that if a utility's rate-approving body has approved a marginal cost methodology, a utility may substitute the approved methodology for one recommended by the Task Force.~~

~~If at any time subsequent to the Commission's approval of the Task Force report,the utility's rate-approving body approves a marginal cost methodology which is substantially different from any of the methodologies recommended by the Task Force, the utility shall so inform the Commission, and shall explain the nature of and the reasons for these differences.~~

~~In addition to marginal cost- based rates which it develops using a methodology recommended by the Task Force report for that utility or approved by its rate- approving body, the utility may also submit marginal~~ cost-based rates which it ~~develops using any alternative methodology that it deems appropriate.~~

~~The utility may also submit other rates or tariffs which it deems appropriate.~~

~~Nothing in this section shall prevent the Commission from recommending the approval of marginal cost methodologies different from those used by a utility to any rate-approving body.~~

(c) Support Customer Ability to Link Devices to Electricity Rates.

(1) Third-party Access. The utilities shall develop a single statewide standard toolfor authorized rate data access by third parties that is compatible with each utility's system. The tool shall:

(A) Provide the RIN(s) applicable to the customer's premise(s) to third partiesauthorized and selected by the customer;

(B) Provide any RINs, to which the customer is eligible to be switched, to thirdparties authorized and selected by the customer;

(C) Provide estimated average or annual bill amount(s) based on the customer's current rate and any other eligible rate(s) if the utility has an existing rate calculation tool and the customer is eligible for multiple ratestructures;

(D) Enable the authorized third party to, upon the direction and consent of thecustomer, modify the customer's applicable rate to be reflected in the nextbilling cycle according to the utility's standard procedures;

(E) ~~Ensure~~Incorporate reasonable cybersecurity measures; and

(F) Minimize enrollment barriers.

(2) The utilities shall submit the single statewide standard tool developed pursuant to Section 1623(c)(1) to the Commission for approval at a BusinessMeeting.

(A) The tool must be submitted within a year of the effective date of these regulations.

(B) The Executive Director may extend this deadline upon a showing of goodcause.

(3) Upon Commission approval the utilities shall implement and maintain the tooldeveloped in Section 1623(c)(1).

(4) Customer Access. No later than nine (9) months after the effective date of these standards, each utility shall provide customers access to their RIN(s) oncustomer billing statements and online accounts using both text and quick response (QR) or similar machine-readable digital code.

(d) ~~(c)~~ Public ~~Information~~ Programs. Utilities shall encourage mass-market automation of load management through information and programs. ~~As soon as a utility's rate-approving body has adopted a tariff in accordance with a recommended or approved marginal cost methodology, the utility shall conduct apublic information program which shall inform the affected customers why marginal cost based tariffs are needed, exactly how they will be used and how these tariffs can save the customer money.~~

(1) No later than eighteen (18) months after the effective date of these standards,each utility shall submit to the Executive Director a list of load flexibility programs deemed cost-effective by the utility. The portfolio of identified programs shall provide any customer with at least one option for automating response to MIDAS signals indicating marginal prices, marginal greenhouse gas emissions, or other ~~Commission-approved~~ marginal signal(s) approved by the respective rate-making body that enable automated end-use response.

(2) Within three (3) years of the effective date of these regulations, each utility shall offer to each of its electricity customers voluntary participation in a marginal cost rate developed according to Section 1623(a) ~~if such rate is approved by the utility's rate-approving body~~, or a cost-effective program ~~identified according to Section 1623(d)(1) if such rate is not yet~~ in accordance with the utility plan approved by the utility's rate-approving body pursuant to Section 1621(d).

(3) Each utility shall conduct a public information program to inform and educatethe affected customers why marginal cost-based rates and automation are needed, how they will be used, and how these rates can save the customer money.

~~(d) Compliance. A utility shall be in compliance with this standard if all of the utility's rate applications are prepared in accordance with the provisions of subsection (b)above, and the utility provides informational copies of its applications to the Commission.~~

Note: Authority cited: Sections 25132, 25213, ~~and~~ 25218(e), and 25403.5, Public Resources Code. Reference: Sections 25132 and 25403.5, Public Resources Code.