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NCPA Comments on Load Management Tariff Standard Section 1623 Mark-up

Additional submitted attachment is included below.

BEFORE THE CALIFORNIA ENERGY COMMISSION

In the matter of: **Load Management Rulemaking**	**Docket No. 19-OIR-01**

NORTHERN CALIFORNIA POWER AGENCY COMMENTS ON DRAFT LOAD MANAGEMENT TARIFF STANDARD SECTION 1623 MARKUP

The Northern California Power Agency[1] (NCPA) offers the following comments to the California Energy Commission (CEC or Commission) on the draft amendments to the California Code of Regulations Title 20 Section 1623 Load Management Tariff Standard, submitted February 21, 2020 (Draft Changes), and the March 2, 2020 Staff Workshop.

I. INTRODUCTION

The Draft Changes to the load management tariff standard in section 1623 would require "retail electricity providers" to develop rates based on marginal costs, and then submit those rates to its rate-approving body and the CEC. These rates must be publicly available for access by customers and their devices, and the purpose is "to provide granular economic signals that enable increased demand flexibility through customer automation of loads, with the goal of moving electric demand away from system load peaks, and toward times of surplus renewable power." NCPA fully supports the objectives of the proposed load management tariff standard. NCPA and its member agencies employ a range of measures and programs to address load demand, encourage shifts in usage, and optimize the use of renewable energy and low-carbon resources. Creating options that allow consumers, and manufacturers of consumer products, the ability to make decisions based on economic signals, and alter consumption patterns away from peak demands and towards times where the carbon-intensity of the fuels are lower will go far

[1] NCPA's members are the Cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Redding, Roseville, Santa Clara, Shasta Lake, and Ukiah, Plumas-Sierra Rural Electric Cooperative, Port of Oakland, San Francisco Bay Area Rapid Transit (BART), and Truckee Donner Public Utility District. Collectively, these publicly-owned utilities, rural electric cooperative, port authority, public transit district, and public utility district provide reliable and affordable electricity to approximately 700,000 electric customers in central and northern California.

towards helping the state meet its clean energy and climate policy goals. However, as drafted, NCPA is concerned that the proposed standard is ambiguous as to applicability, exceeds the Commission's ratemaking authority, and could be costly to implement and deploy. As more fully addressed herein, NCPA urges the Commission to clarify key terms and provisions used in the proposed tariff standards, and to clarify the CEC's limitations over utility ratemaking.

II. COMMENTS ON THE SECTION 1623 DRAFT CHANGES

A. The Regulations Should Define "Retail Electricity Providers"

The Draft Changes replaces the term "utility" with "retail electricity providers" but does not define the new term. Pursuant to section 1621, the existing load management standards apply to the state's five largest utilities as set forth in section 1621(b) and defined in section 1621(c)(1). While Commission staff stated during the March 2 Workshop its intent to have the new provisions apply to the same utilities, the regulatory language must also reflect this. Without clearly defining the applicable utilities, the proposed new standards could be deemed applicable to all "retail electricity providers" in the state, notwithstanding the limited applicability set forth in existing section 1621(b). Any amendments to the regulation should define the applicability of the requirements and clearly delineate such applicability to the state's largest five utilities already set forth in section 1621(b). Corresponding amendments clarifying the term "retail electricity providers" should also be reflected in Section 1621.

B. The Commission Must Look at the Relative Costs of Implementing the Standard on the Affected Utilities

Implementation of load management tariff standards should not be viewed as a one-size-fits-all approach to moving customer loads away from peak usage periods to times where lower-carbon intensive fuels can be used for electricity generation. The retail electricity providers in California vary greatly in size and resources, and a determination that the load management tariff standard is cost-effective and technologically feasible for one of the state's largest five utilities will not necessarily be true of such a standard for a smaller utility. For example, the relative cost of implementing the provisions of section 1623, including the requirement to use a specific platform for publication of rates (*see* section 1623(c)(2)), will be substantially different for the City of Gridley's publicly owned utility (POU), than it would be for one of the state's large investor owned utilities (IOU) like PG&E. Further, even if the standard is intended to be fully

voluntary for customers, the utility would have to undergo the same costs associated with developing and implementing the tariff, as well as establishing a public campaign (per section 1623(c)(3)) regardless of the number of customers that sign up for the tariff rate. As such, any assessment of the technological feasibility and cost-effectiveness of the standards should also take into account the relative likelihood of adoption within any given service territory. Even as the goal of the load management tariff standard is laudable, there may be more cost-effective ways to reach the stated objectives in different utility service territories. Each utility must be allowed to maximize programs that capitalize on its own specific customer base, geographic features, and socio-economic demographic. Smaller POUs, for example, may be better able to work directly with customers on specific demand response or load management programs or measures that achieve the same level of savings and targeted emission reductions as the tariff standard, but which would be less costly to implement and deploy. For that reason, the Commission should not make the provisions of section 1623 applicable to all of the state's retail electricity providers. Doing so would not achieve the stated intent of the standard in all cases, and indeed, could result in the needless expenditure of resources without any real benefits to the utility, the customers, or the environment.

C. The Regulations Must Clarify the Commission's Role Relative to Utility Ratemaking Authority

The regulation must clearly recognize local POU governing board ratemaking autonomy. As proposed, section 1623 could be construed as providing the CEC with a role in approving utility rates where the Commission has no such authority. After developing the rates based on marginal costs, the proposed section 1623(a) would require retail electricity providers to "submit such rates to its rate-approving body and to the CEC." Where section 1623 had originally provided that the utility develop rates "using a recommended methodology or the *methodology approved by its rate-approving body*" (emphasis added), the Commission would now require that the rate be based on a single methodology prescribed by the Commission and not the rate-approving body. Such a change fundamentally alters the role of the CEC vis-à-vis utility rate design.

Further, the Draft Changes would require the utility to submit its rate to the CEC, rather than just the rate-approving body with ratemaking authority over the utility. While submitting

the rates to the CEC alone does not interfere with the exclusive ratemaking authority of the POUs' governing bodies, when read in conjunction with the Draft Changes to section 1623(d), the Commission appears to set up dual approval processes for utility load management tariffs that exceeds its statutory authority and impinges on the exclusive ratemaking authority of the POU governing boards. Section 1623(d) of the Draft Changes provides that "review and approval of submitted tariffs and data shall be carried out in accordance with the provisions of § 1621(d)." Currently, Section 1621(d) provides, in pertinent part, that "[t]hese load management standards require utilities to submit various plans to the Executive Director. All such submittals shall be reviewed by the Executive Director, and shall be subject to approval by the full Commission." As drafted, it appears that the Commission is asserting ratemaking authority over the utilities subject to the load management tariff standard. Ratemaking is a complex and multi-faced process, contingent upon myriad factors specific to the individual utility. The Commission does not have such ratemaking authority, and a CEC proceeding is not the proper place to address utility rate design. As Public Resource Code section 25403.5 specifically notes, while the CEC can consider "adjustments in rate structure to encourage use of electrical energy at off-peak hours or to encourage control of daily electric load," when adopting load management standards, as it pertains to the IOUs for example, "[c]ompliance with those adjustments *in rate structure* shall be subject to the approval of the Public Utilities Commission in a proceeding to change rates or service." (Pub. Res. section 25403.5(a)(1), emphasis added) Similarly, the local governing board of POUs would have the sole authority to approve such "adjustments in rate structure" for their respective utilities.

Any amendments to the regulations must clearly delineate the distinction between the CEC's role in recommending appropriate parameters for load management tariff standards, and the exclusive ratemaking authority of the rate-approving bodies of the retail electricity providers to set and approve those tariffs.

D. Marginal Costs Must be More Clearly Defined

"Marginal costs" are currently defined in section 1621 of the regulations (section 1621(c)(7)), and further explained in section 1623(b) of the Draft Changes. As was noted during the workshop, the current definitions may not allow utilities to recover their actual costs. As currently set forth, the definition may not cover all of the costs associated with "serving the next

increment of electricity demand," as some of those costs may not be volumetric charges. More work is needed to fully address this concern. Further, the definition must ensure that the "relevant load area" is clearly defined and specific to the utility providing the rate.

III. CONCLUSION

NCPA looks forward to working with the Commission and stakeholders on measures and programs that help the state meet its clean energy and demand response goals. Together, we can ensure that all such measures can be successful, cost effective, and technologically feasible. Please do not hesitate to contact the undersigned or Scott Tomashefsky at 916-781-4291 or scott.tomashefsky@ncpa.com with any questions.

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Respectfully submitted,

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