

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

Order Instituting Rulemaking to Develop a
Successor to Existing Net Energy Metering
Tariffs Pursuant to Public Utilities Code
Section 2827.1, and to Address Other
Issues Related to Net Energy Metering.

Rulemaking 14-07-002
(Filed July 10, 2014)

**CLEAN COALITION COMMENTS ON ADMINISTRATIVE LAW JUDGE'S RULING
ON POLICY ISSUES ASSOCIATED WITH DEVELOPMENT OF NET ENERGY
METERING SUCCESSOR STANDARD CONTRACT OR TARIFF**

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I. INTRODUCTION

Through Rulemaking 14-07-002, the California Public Utilities Commission (“Commission”) will develop a successor to the existing net energy metering (“NEM”) tariff for eligible customer-generators. On February 23, 2015, Administrative Law Judge Simon issued a ruling seeking comment on policy issues of the successor standard contract or tariff—encompassing both the statutory requirements set out in Pub. Util. Code 2827.1(b) and additional elements that are part of the overall administration of the program. Below, the Clean Coalition responds to a number of questions raised by the ruling.

The Clean Coalition is a nonprofit organization whose mission is to accelerate the transition to renewable energy and a modern grid through technical, policy, and project development expertise. The Clean Coalition drives policy innovation to remove barriers to procurement and interconnection of distributed energy resources (“DER”)—such as local renewables, advanced inverters, demand response, and energy storage—and we establish market mechanisms that realize the full potential of integrating these solutions. The Clean Coalition also collaborates with utilities and municipalities to create near-term deployment opportunities that prove the technical and financial viability of local renewables and other DER.

II. COMMENTS ON POLICY ISSUES

1. *The form of the successor to the NEM tariff is described by the statute as a “standard contract or tariff.”*

d. *Should the Commission consider adopting more than one standard contract or tariff? For example, should the standard contract/tariff be differentiated by project size, customer class, technology, or eligible technologies coupled with qualified energy storage? Why or why not? Provide specific rationales for each variation discussed.*

While the fundamental terms of the contract or tariff should consistently reflect the goals of the program and common principles applicable to all customers in a non-discriminatory manner, the terms of a common tariff or standard contract can reflect differential value realized by the utility in the qualities associated with the delivered energy. These qualities may include time of delivery and other impacts on the operation of the distribution system, both beneficial and detrimental.

It is appropriate for the contract to emphasize simplicity and accessibility for ordinary customers, capturing the typical values associated with the energy they provide while still incenting customers to both offer and capture the maximum value of their resource to the utility. Larger customers may benefit from a less simplified contract and more precise monitoring and compensation for the value they can offer—values that may require additional investment that would not be cost effective from smaller sources. Functionally consistent but more detailed contracts may appropriately be made available to all customers as an option, and required of customers meeting objective pre-established thresholds associated with their impact on the grid—thresholds that are predictable prior to submission of an application. Where such a requirement is considered, its benefits should be weighed against the burden it will impose upon customers relative to a simplified contract, and any associated reduction in the development of renewable resources.

2. *Section 2827.1(b)(1) directs the Commission to ensure that customer-sited renewable DG “continues to grow sustainably.”*

a. *What measure or measures should the Commission use to determine sustainable growth of customer-sited renewable DG, and over what time period?*

Overall, the definition of “sustainable growth” must seek to avoid boom and bust cycles in order to encourage long-term growth of the market. Any definition must also incorporate California’s energy goals. First, the metric used must be able to meet the state’s 33% Renewable Portfolio Standard (“RPS”) by 2020,¹ as well as Governor Brown’s call for a 50% RPS by 2030.² Second, the metric should account for the Governor’s 12,000 MW renewable distributed generation (“DG”) goal³ and the Go Solar California campaign calling for 3,000 MW of solar by 2018.⁴ Lastly, the metric should incorporate the state’s Zero Net Energy (“ZNE”) goals—requiring that all new residential and commercial construction be ZNE by 2020 and 2030 respectively.⁵ In meeting this last goal, the level of “sustainable growth” in the long-term should be defined so as to allow for the integration of renewable DG on all existing buildings within their lifetimes.

Discrimination against a DG customer through the application of fees, charges, or rate structures to which they would not otherwise be subject except merely for their status as a DG customer is contrary to sustainable growth of this sector. Likewise, fees, charges, and rates should not be structured so as to disproportionately affect the DG customer class as a class rather than to evenhandedly and cost effectively reward behavior that is beneficial to ratepayers at large. While the electric system may have limits in the rate and degree to which it can absorb energy exports to the grid from all sources, policies should

¹ SB 2 (1X) (Simitian), Cal. Stats. 2011, ch.1.

² Gov. Edmund G. Brown Jr., Inaugural Address (Jan. 5, 2015), *available at* <http://gov.ca.gov/news.php?id=18828>.

³ Gov. Edmund G. Brown Jr., Clean Energy Jobs Plan, *available at* http://gov.ca.gov/docs/Clean_Energy_Plan.pdf.

⁴ SB 1, Cal. Stats. 2006.

⁵ D.07-10-032; *see also* CAL. ENERGY COMM’N, 2013 INTEGRATED ENERGY POLICY REPORT (2013), *available at* <http://www.energy.ca.gov/2013publications/CEC-100-2013-001/CEC-100-2013-001-CMF.pdf>.

not discriminate against DG as a source of energy, but allow growth of this supply sector at least in proportion to the demand served by the electrical system and the replacement of resources required to meet that demand. At the same time, any limits on the total level of energy exported to the grid to serve loads should be considered separate and distinct from the use of DG to reduce real-time demand on the state's electric system. Growth in the reduction of customer demand should be allowed to continually meet customer's needs to the degree that this is cost effective for the individual customer, as cost effectiveness is a key determination of economically sustainable growth.

Finally, application of the definition of "sustainable growth" to various elements of customer-sited DG should not favor certain technologies. As stated above, the successor contract/tariff should simply pay the market rate for the energy delivered. Any additional incentives for particular technologies that the Commission deems worthwhile should be applied through a separate mechanism.

3. *Section 2827.1(b)(1) directs the Commission to ensure that the standard contract or tariff includes "specific alternatives designed for growth among residential customers in disadvantaged communities."*
 - a. *How should "disadvantaged communities" be defined for purposes of the successor standard contract/tariff? If the proposed definition is already in use, provide a citation to its source and publicly available examples of its use. If the proposed definition is not already in use, provide a rationale for selecting it.*

The Clean Coalition suggests using a modified version of the CalEnviroScreen tool to define "disadvantaged communities." Created by the California Environmental Protection Agency and the Office of Environmental Health Hazard Assessment, CalEnviroScreen "is a screening methodology that can be used to help identify California communities that are disproportionately burdened by multiple sources of pollution."⁶ The

⁶ Cal. Office of Env'tl. Health Hazard Assessment, CalEnviroScreen 1.1, <http://oehha.ca.gov/ej/ces11.html>.

Clean Coalition urges the Commission to adopt a regionally based ranking of disadvantaged communities. A regional component could be added to CalEnviroScreen by ranking census tracts within counties or congressional districts and weighting those results in the final ranking. For example, 20 percent of the most disadvantaged census tracts in a given county could receive extra weight in the tool's final output. Additionally, the results of the tool should take into consideration race and ethnicity.

Alternatively, the Green Tariff Shared Renewables (“GTSR”) proceeding has adopted a similar approach that regionally ranks the results by using the utilities’ service territories. This method is instructional, but it fails to take regional considerations into account as well as the method described above. The implementing statute, SB 43, mandates that 100 MW from the GTSR program be reserved for facilities that “are located in areas previously identified by the California Environmental Protection Agency as the most important disadvantaged communities.”⁷ SB 43 further describes the selection of the EJ Reservation:

These communities shall be identified by census tract, and shall be determined to be the most impacted 20 percent based on results from the best available cumulative impact screening methodology designed to identify each of the following:

- (i) Areas disproportionately affected by environmental pollution and other hazards that can lead to negative public health effects, exposure, or environmental degradation.
- (ii) Areas with socioeconomic vulnerability.⁸

SB 43 charges the Commission and the utilities to select the “most impacted 20 percent” of communities, but it does not specify whether that selection should be from a statewide grouping of communities, or from another grouping of communities. D.15-01-051 directed the utilities to use the CalEnviroScreen tool to select census tracts for the EJ Reservation. In a section of D.15-01-051 titled “Allocation of 100 MW [Environmental Justice (‘EJ’)] Reservation Among Utilities,” the Commission discussed how the communities designated for the EJ Reservation should be selected. Each utility’s allocation of the EJ Reservation is proportionate to retail sales. The Commission

⁷ Cal Pub. Util. Code § 2833(d)(1)(A).

⁸ *Id.* § 2833(d)(1)(A).

determined that the EJ Reservation eligible census tracts should be determined on a service territory basis rather than a statewide basis.⁹

- e. Should the specific alternatives designed for growth among residential customers in disadvantaged communities be considered as a part of the more general statutory direction that the Commission should ensure that customer-sited renewable DG “continues to grow sustainably?” Why or why not?*

The Clean Coalition urges the Commission to adopt a less constricted definition of growth in disadvantaged communities than that applied by the more general statutory direction that the Commission ensures that customer-sited renewable DG “continues to grow sustainably.” Disadvantaged communities have not proportionally benefited from the NEM program in the past. The successor standard contract/tariff should therefore not merely sustain historic levels of growth in these communities, but seek to achieve levels of sustained growth that will allow these communities to at least catch up with the level of participation and benefit realized statewide over a reasonable period, such as ten years.

- 7. Section 2827.1(b)(5) directs the Commission to allow, in the successor NEM program, projects larger than one megawatt (MW) that do not have a significant impact on the distribution grid, are sized to onsite load, and are subject to reasonable interconnection charges established pursuant to Rule 21 and applicable state and federal requirements.*

- a. How should “significant impact on the distribution grid” be defined?*

In defining “significant impact on the distribution grid” the Commission can borrow from lessons learned in the Rule 21 proceeding.¹⁰ The utilities proposed thresholds in the Rule 21 proceeding for Independent Study Process projects—those

⁹ D.15-01-051 at 55.

¹⁰ R.11-09-011.

projects requiring more in depth review that are not eligible for Fast Track—that should be offered a fixed price for interconnection.¹¹

Additionally, any project that qualifies for the Fast Track interconnection process should not be considered to have a significant impact on the distribution grid. All projects that mitigate projected impacts to a level proportionately comparable with other allowable projects should not be considered to have a significant impact on the distribution grid. Finally, if costs are higher than the proposed thresholds and a customer-generator agrees to pay for the grid improvements, then the project by definition should not be considered to have a significant impact on the distribution grid.

b. How should “significant impact on the distribution grid” be measured? Please provide specific examples.

In line with the proposals above, one simple means of measuring “significant impact on the distribution grid” is to use the cost of distribution upgrades required for interconnection.

c. How should the requirement to be “sized to onsite load” be measured?

The “sized to onsite load” requirement should use an annual load measurement. Under the successor NEM program, compensation for energy produced should be based on the actual value of the energy fed into the grid. In this way, measuring load annually will allow projects to be built to maximize the available value. If a project causes upgrade issues because it was designed improperly, then the project would need to mitigate or pay to remedy those issues, and the value of maximizing project size would be correspondingly reduced. However, if compensation is paid in the form of a one-to-one bill credit per kWh and a project has a negative impact on the distribution grid, then an hourly or monthly measurement may be warranted. But if a lesser increment is applied, a

¹¹ Joint Proposals of Pacific Gas and Electric Company (U 39-E), Southern California Edison Company (U 338-E), and San Diego Gas and Electric Company (U 902-E) for the Workshops Regarding the Staff Reports on Cost Certainty, R.11-09-011 (filed Nov. 3, 2014) (slides available at <http://www.cpuc.ca.gov/NR/rdonlyres/555C2642-6C37-4B71-9AB1-ED34E9027506/0/Us.pdf>).

roll-over or true-up should be applied.

d. How should the size requirement be enforced? By whom?

The functional requirement relates to the impact of the facility on the grid, which is associated with its maximum export to the grid and the timing of its exports and load variability impacts. These factors can be monitored by metering, inverter operation, or alternate devices from which the utility can receive data or reports of recorded operation—allowing reliable prevention and enforcement of violations. If the successor NEM program compensates energy produced at the actual market value, then projects already have an incentive to be sized to match the distribution grid’s needs in any given area. Further, any energy exported beyond that initially modeled should not be compensated—providing another incentive to size projects appropriately. If excess energy were fed onto the grid in violation of contract terms, then a monetary penalty would be appropriate. The utilities could then enforce this penalty by offering metered evidence of the backfeeding to the Commission and requiring the project to pay the contractually agreed upon penalty. Finally, the Clean Coalition urges the Commission to base all size requirements on projected energy usage.

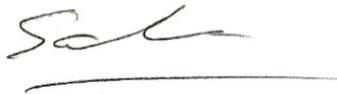
III. CONCLUSION

The Clean Coalition appreciates this opportunity to comment on policy issues associated with development of the NEM successor standard contract/tariff.

Respectfully submitted,

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