

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

Brian Korpics
Policy Manager

Kenneth Sahn White
Director of Economic and Policy Analysis

Clean Coalition
16 Palm Ct
Menlo Park, CA 94025
(708) 704-4598
brian@clean-coalition.org

March 30, 2015

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

I. INTRODUCTION

Through Rulemaking 14-07-002, the California Public Utilities Commission (“Commission”) is developing 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. The Clean Coalition submitted responses to a number of questions raised by the ruling and now submits these reply comments responding to other organizations’ proposals.

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. REPLY COMMENTS ON POLICY ISSUES

2. *Section 2827.1(b)(1) directs the Commission to ensure that customer-sited renewable distributed generation (“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?*

The Clean Coalition respectfully urges the Commission to consider the full suite of California’s energy goals when developing a metric for sustainable growth of customer-sited renewable DG in order for the state to continue growing a robust clean energy sector.¹ The Clean Coalition also strongly supports Sierra Club’s proposal to base sustainable growth on the current rate of growth.² This proposal is firmly rooted in the statutory text of Section 2827.1(b)(1), which mandates that the Commission “ensure that renewable distributed generation *continues* to grow sustainably.”³ The language proves that the legislature views the existing rate of growth of customer-sited renewable DG as sustainable, and that the successor NEM standard contract/tariff should be structured so as to continue this rate of growth. Further, the Clean Coalition agrees with the proposal of Alliance for Solar Choice, the Solar Energy Industries Association, the California Solar Energy Industries Association, and Vote Solar (“Joint Solar Parties”) that customer adoption of rooftop solar has not come close to reaching its full technical potential, and it is therefore reasonable to assume that we are in the early years of E3’s projected S-curve.⁴

¹ See Opening Comments of Clean Coalition at 3, R.14-07-002 (Mar. 16, 2015).

² Opening Comments of Sierra Club at 1–2, R.14-07-002 (Mar. 16, 2015).

³ PUB. UTIL. CODE § 2827.1(b)(1) (emphasis added).

⁴ Opening Comments of Joint Solar Parties at 6, R.14-07-002 (Mar. 16, 2015).

The IOUs' proposals focus less on growth of customer-sited renewable DG and instead urge the Commission to eliminate incentives in order to prove that the market can maintain its own viability. Although, the Clean Coalition agrees that this might be an appropriate long-term goal—along with ensuring that all incentives are transparent—it is premature to do so at this time. As discussed above, the market still has not reached maturity, and removing all incentives from the NEM program would negatively affect growth of the future program. Removing all incentives would also disrupt the marketplace, which requires stability and predictability in order to continue growing sustainably.

b. 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.”

i. 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 agrees with the approach supported by a number of parties to use the CalEnviroScreen tool to identify the most disadvantaged census tracts. The parties have put forth various suggestions for a threshold of qualifying census tracts. The Clean Coalition supports TURN's suggestion that 25 percent is too low because more than 30 percent of customers are currently served under CARE.⁵ We respectfully urge the Commission to adopt at least a 30 percent threshold.

Further, the Clean Coalition supports IREC's CleanCARE proposal.⁶ Whereas CalEnviroScreen identifies disadvantaged census tracts, CleanCARE concentrates on

⁵ Opening Comments of TURN at 4 (Mar. 16, 2015); *see also* Opening Comments of PG&E at 13 (Mar. 16, 2015) (suggesting that 25 percent may be too low of a threshold).

⁶ *See* Opening Comments of IREC at Attachment 1, R.14-07-002 (Mar. 16, 2015).

individual ratepayers. This is an important distinction to make because strictly defining “disadvantaged communities” based on geography unfairly limits eligibility based on location rather than on the degree of disadvantage, thereby excluding many disadvantaged customers while potentially including all customers in identified areas regardless of individual need. Instead, the Clean Coalition recommends defining CARE customers as constituting an identified disadvantaged community.

The Clean Coalition additionally proposes that CARE eligibility could be factored into the disadvantaged communities determination. CARE eligibility could be a necessary component of meeting the definition of disadvantaged community, and the results of the CalEnviroScreen analysis could then be used as an adder. Preference would then be given to those individuals eligible for CARE and living in communities disproportionately impacted by pollution as identified by the CalEnviroScreen.

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.” These communities have seen a lower level of growth than residential customers as a whole, and it is clearly not the intention of the Legislature to maintain this imbalance. The Clean Coalition supports the Joint Solar Parties’ proposal that 30% baseline annual growth over the next several years for the successor tariff in these communities.⁷ This level of growth would help to remedy the fact that disadvantaged communities have not proportionately benefitted under the current NEM program—helping them catch up with the degree of benefit realized by other customers.

⁷ Opening Comments of Joint Solar Parties at 11, R.14-07-002 (Mar.16, 2015).

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?*

The Clean Coalition reinforces its claim that if interconnection costs are higher than the proposed cost waiver 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. This proposal was also supported by IREC.⁸ Once a customer-generator pays for any necessary distribution system upgrades, the project will no longer have any significant negative impact on the grid.

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

A “significant impact” should be measured by the resultant need for system upgrades required to accommodate the interconnection. Distribution Upgrades are defined in Rule 21 § C as:

The additions, modifications, and upgrades to Distribution Provider's Distribution System at or beyond the Point of Interconnection to facilitate interconnection of the Generating Facility and render the Distribution Service. Distribution Upgrades do not include Interconnection Facilities.

Where no upgrades are required, or the upgrades are de minimis, a project should be considered to have no significant impact on the distribution grid. De minimis upgrades may be defined as those, in total, not exceeding the adopted cost waiver threshold for interconnections under the NEM successor tariff. While the need for upgrades may, to some degree, rely upon “engineering judgment”, the screens and studies defined in the

⁸ Opening Comments of IREC at 18, R.14-07-002 (Mar. 16, 2015).

Rule 21 Tariff are the most objective measure currently available and are subject to approved dispute resolution processes where needed.

The Clean Coalition further notes that some distribution facilities currently in use already exceed their design capacity and are due for upgrade regardless of an applicant's interconnection request, and, as such, these upgrades should not be considered to constitute significant impacts associated with the interconnection in question. Further, as the Distribution Resource Planning process is implemented, a clear understanding of planned upgrades will be available. Upgrades already planned that are reasonably expected to occur regardless of a specific interconnection application should not be attributed to that application.

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, which the IOUs all supported.⁹

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

The Clean Coalition supports the view put forth by SCE that the enforcement mechanism under the current NEM program will be adequate for the successor standard contract/tariff.¹⁰ First, for projects with existing data on energy usage, the customer's proposed project size and estimated energy output should be compared with the customer's historical energy usage. Second, for new construction, the IOUs should conduct an engineering evaluation to measure the projected energy load or utilize a standard calculation method. Third, for customers with anticipated load growth, the customers should submit load justification to the IOUs with supporting documentation. If a customer does not comply with the terms of the interconnection agreement, then the IOU may terminate the NEM agreement for noncompliance. Alternatively, and

⁹ Opening Comments of SCE at 16, R.14-07-002 (Mar. 16, 2015); Opening Comments of PG&E at 27 (Mar. 16, 2015); Opening Comments of SDG&E at 10 (Mar. 16, 2015).

¹⁰ Opening Comments of SCE at 16–17 (Mar. 16, 2015).

preferably, the IOU may offer metered evidence of the excess generation to the Commission and require the project to pay a contractually agreed upon penalty.

8. *What, if any, issues may arise with the interconnection of projects described in § 2827.1(b)(5) under the rules and charges established in Rule 21? Please be specific about any potential issues you identify, including descriptions of current practices or rules. What specific actions could reduce or eliminate the possible issues you have identified?*

A critical feature in the success of the current NEM program has been the streamlined interconnection process—driven largely by the interconnection cost waiver—that has allowed hundreds of thousands of interconnection agreements to be quickly processed simply by initial screening. This has avoided the need to study each application in order to assign individual unique cost allocation to customers, mirroring the process by which customers are granted load service. This predictability has made it practical for customer-sited generation to grow effectively because an applicant can determine in advance of an interconnection application whether a project’s costs warrant an application.

In contrast, applications submitted under Rule 21 outside of the NEM process are dramatically more likely to be later withdrawn after both the applicant and the utility have invested time, effort, and expense. A review of the interconnection queues and recently quarterly reports posted by the major utilities clearly demonstrate the very high level of application withdrawal and much longer timeframes required to achieve interconnection agreements outside of the streamlined NEM process even under Fast Track review.¹¹ Detailed individual cost assignment is time consuming and burdensome on all parties, and is impractical and unwarranted when addressing thousands of similar interconnection requests each month. Burdening applicants and utility staff with these processes within the NEM successor tariff would not be compatible with sustaining the growth and development of this market segment.

¹¹ See, e.g., SCE, WDAT & Rule 21 Current Interconnection Queue (Nov. 25, 2014), http://www.sce.com/nrc/aboutsce/regulatory/openaccess/wdat/wdat_queue.xls; PG&E, Rule 21 Quarterly Data Request (Apr. 30, 2014), <http://www.cpuc.ca.gov/NR/rdonlyres/0ABF5DC2-77C7-4C6F-B569-6943DBE148FE/0/Q22014CPUCDataReport.pdf>

The Clean Coalition recognizes that the choice between a complete cost waiver or a predetermined fixed or proportional charge for interconnection is a broader policy question rather than a practical question, and we do not advocate for one option over the other at this time. However, we do strongly recommend some form of predetermined standard interconnection cost schedule be retained in any successor NEM tariff, recognizing the fundamental fairness and practicality of affording customers equal access to interconnection and associated services from the grid.

9. *Section 2827.1(b)(7) states that any fixed charges for residential customer generators that differ from the fixed charges allowed pursuant to subdivision (f) of Section 739.9 shall be authorized only in a rulemaking proceeding involving every large electrical corporation, and that the commission shall ensure customer generators are provided electric service at rates that are just and reasonable.*

a. *Should this proceeding include consideration of developing fixed charges for residential customer-generators that may differ from any fixed charges that may be set for all residential customers as a result of a decision in the pending residential rate design proceeding, Rulemaking 12-06-013? Why or why not?*

The Clean Coalition respectfully urges the Commission not to consider developing fixed charges in this proceeding for residential-customers that would differ from those for all residential customers. As IREC importantly noted, differing fixed charges for NEM customers are rare, and no compelling evidence exists to prove that the charges are needed or are based on actual costs and benefits of NEM customers.¹² Unless the IOUs are able to offer a cost-of-service analysis that proves there are different costs for the ongoing service of NEM customers as compared to non-NEM customers, then fixed charges should not be considered at this time.¹³ The IOUs have failed to do so in their opening comments. The Commission should require the IOUs to offer substantial evidence for differential fixed charges in order to meet their obligation to provide service

¹² Opening Comments of IREC at 24–25 (Mar. 16, 2015).

¹³ See Opening Comments of Sierra Club at 9 (Mar. 16, 2015).

to all customers at “just and reasonable” rates.¹⁴ In doing so, it will be necessary to demonstrate how a customer with onsite generation creates different costs than a customer without onsite generation who exhibits the same load profile to the utility, as each would presumptively place comparable demands on the grid. At the very least separate fixed charges should not apply to customer-generators in disadvantaged communities, as CEJA and the Greenlining Institute suggest.¹⁵ Finally, fixed charges for NEM customers are detrimental because they would reduce conservation incentives and disproportionately impact smaller users and low-income customers.

The Clean Coalition continues to advocate for a hybrid NEM/Feed-in-Tariff (“FIT”) approach where a customer-generator is billed at the retail rate for energy drawn from the grid and credited a FIT rate for energy exported to the grid. As TURN notes, under a Value of Solar approach, NEM customers could pay their full costs of being served by the utility through the applicable charges assessed on gross consumption from the utility under a standard retail rate, and the bill credit could be wholly based on the value provided by the onsite renewable DG.¹⁶ This approach would remedy all potential concerns the IOUs have expressed related to NEM customers not paying their proportional share of service costs.

11. The current NEM program includes several variations within the NEM tariffs themselves, including virtual net energy metering (“VNEM”), multi-family affordable solar housing (“MASH”) VNM, and NEM aggregation.

a. Should any of these elements of the current NEM program be ended when the successor standard contract/tariff is implemented? Why or why not? Please respond specifically as to each element. Please provide quantitative examples, if relevant.

¹⁴ See Opening Comments of Joint Solar Parties at 28–30 (Mar. 16, 2015).

¹⁵ Opening Comments of CEJA and the Greenlining Institute at 28–30 (Mar. 16, 2015).

¹⁶ Opening comments of TURN at 13 (Mar. 16, 2015).

The Clean Coalition stands behind the broadly supported view that all NEM variants should be continued under the successor program.¹⁷ The rationale for creating the various programs continues to exist. As IREC’s proposal indicates, there is room for improvement within the NEM variants; however, this is not a reason to wholly abandon the programs.¹⁸ As the Sierra Club noted, NEM variants that enable additional customer segments to access the program should continue under the Commission’s mandate to ensure that customer-sited renewable DG “continues to grow sustainably.”¹⁹ Finally, PG&E’s suggestion that NEM variants be examined in a separate proceeding would unnecessarily prolong the process and inject unneeded uncertainty into the program, which would have disruptive effects on the market.

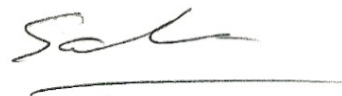
III. CONCLUSION

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

Respectfully submitted,

/s/ Brian Korpics _____

Brian Korpics
Policy Manager



Kenneth Sahm White
Economics & Policy Analysis Director

Clean Coalition
16 Palm Ct
Menlo Park, CA 94025

Dated: March 30, 2015

¹⁷ See Opening Comments of IREC at 27–30 (Mar. 16, 2015); Opening Comments of CEJA and the Greenlining Institute at 33–34 (Mar. 16, 2015); Opening Comments of Joint Solar Parties at 31–33 (Mar. 16, 2015).

¹⁸ Opening Comments of IREC at 27–30 (Mar. 16, 2015).

¹⁹ Opening Comments of Sierra Club at 10 (Mar. 16, 2015); PUB. UTIL. CODE § 2827.1(c)(1).