

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

Order Instituting Rulemaking to Create a
Consistent Regulatory Framework for the
Guidance, Planning and Evaluation of
Integrated Distributed Energy Resources.

Rulemaking 14-10-003
(Filed October 2, 2014)

**CLEAN COALITION COMMENTS ON REVISED
REGULATORY INCENTIVE MECHANISM PILOT PROPOSAL**

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I. INTRODUCTION

Pursuant to the *Amended Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge*, issued by the California Public Utilities Commission (“Commission”) on September 1, 2016, the Clean Coalition respectfully submits these comments on the revised regulatory incentive mechanism pilot proposal (“Revised Proposal”). The Revised Proposal is an important first step in seeking to align the investor-owned utilities’ investments with both shareholder and ratepayer interests, while working towards California’s climate and energy goals. The comments below generally support the Revised Proposal and the Commission’s continued work on the matter. However, multiple aspects warrant further attention, including the evolving utility business environment, appropriate business models to align incentives with ratepayer interests, and other public policy goals.

The Revised Proposal should be only one piece of the much broader policy framework that is required to promote the widespread utilization of cost-effective distributed energy resources (“DER”). In summary, the Clean Coalition supports the Commission’s implementation of the Revised Proposal and recommends creation of the following in parallel with the pilot:

- 1) A roadmap describing the Commission’s planned process for comprehensive business model reform, including possible outcomes;
- 2) A working group tasked with analyzing and providing the Commission with recommendations on the process of identifying distribution projects that can be

deferred or displaced by DER procurement; and

- 3) A working group tasked with investigating the feasibility of and providing the Commission with recommendations on “DER deferral procurement plans.”

Further, the Clean Coalition recommends refining the Independent Professional Engineer (“IPE”) selection and contracting process to address potential conflicts of interest. These additional efforts would ensure that the pilot is not carried out in isolation and that the findings from the pilot inform the larger conversation surrounding reforms to utility business models.

II. DESCRIPTION OF THE PARTY

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 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.

III. COMMENTS

- 1) *Would the attached pilot proposal accomplish its stated purpose, to test how an earnings opportunity affects the utilities’ distributed energy resources sourcing behavior?*

The Clean Coalition supports the Commission’s modestly sized pilot and the proposed incentive level. Although the Commission should implement the pilot expeditiously, the pilot’s stated purpose—to test how an earnings opportunity affects the utilities’ DER sourcing behavior—will be difficult or impossible to test under the circumstances.

The Commission recognizes the drawbacks of simply directing the investor-owned utilities (“IOUs”) to deploy DERs when they are more cost-effective than

traditional distribution infrastructure investments, but the pilot itself is structured as a mandate.¹ The Commission cannot test the utilities' sourcing behavior in this limited instance where each utility *must* identify at least two projects. Because of both the requirement and the limited number of projects, the pilot will not provide any meaningful indication of how the utilities will respond to the same or a different incentive level in the future. The pilot might prove to be more useful if the Commission did not set either a minimum or a maximum number of projects that the utilities would be required to pilot.

The pilot appears designed to test the competitive solicitation framework rather than examining the full decision-making process of utility deployment of DER. Because the pilot mandates the number of potential projects for the utilities to identify, it ignores a central issue in the larger question of how to alter the utilities' sourcing behavior. Namely, the Revised Proposal must also investigate how and how often the utilities identify potential projects where deployment of DERs could displace or defer the need for capital expenditures on traditional distribution infrastructure. For this reason, the Clean Coalition recommends creating a working group focused on the initial identification of target areas. The Commission should task this working group with identifying and analyzing any issues surrounding the identification of potential projects.

Further, the Distribution Planning Advisory Group ("DPAG") should have a more significant role in identifying distribution deferral needs in the future. The Revised Proposal only requires the DPAG "to review and provide feedback to each IOU on distribution projects which can be deferred or displaced by DER procurement."² The DPAG's activities, therefore, begin only after the utilities have identified potential projects. The Clean Coalition and other parties have recommended a greater role for the DPAG and allowing third parties to participate in the process of identifying target areas.³ The working group should investigate whether and how this expanded process could

¹ *Revised Assigned Commissioner Proposal for Distributed Energy Resource Incentives* at 5 (Sept. 1, 2016) [hereinafter Revised Proposal].

² *Id.* at 9.

³ See, e.g., *Comments of Robert Bosch LLC, The Solar Energy Industries Association and SolarCity Corporation on the Assigned Commissioner's Draft Regulatory Incentives Proposal* at 16–17 (May 9, 2016); *Vote Solar Responses to the Joint Assigned Commissioner and Administrative Law Judge's Ruling Requesting Responses to Questions* at 16 (May 9, 2016).

occur. The working group should report to the Commission on what information could be made available to third parties and the most efficient method of disseminating the information. Parties may argue that this issue should be scoped within the Distribution Resources Plan (“DRP”) proceeding. The Clean Coalition agrees that there is overlap with the DRP proceeding, but because this issue is central to the investigation of the utilities’ sourcing behavior, it must be explored concurrently with this pilot.

Though the pilot may not serve the primary purpose articulated by the Revised Proposal, it will importantly work towards overcoming a multitude of other previously identified barriers to the deployment of DER. The Commission cites a number of these barriers, including “the ease and familiarity of traditional approaches, the perceived risks of DERs, institutional barriers, cultural inertia and conservatism, historical expertise, the need for new staff competencies and internal processes, engineering and operational uncertainties, lack of control, and general anxiety toward change.”⁴ The Revised Proposal ensures that these concerns will begin to be addressed through the operation of the pilot.

Finally, numerous parties have voiced the general concern that the proposed earnings opportunity is not itself sufficient to provide an adequate financial signal to encourage utility investment in cost-effective DER solutions over traditional investments.⁵ To address this concern, the Clean Coalition and other parties respectfully urged the Commission to release an IDER roadmap in tandem with this pilot.⁶ The

⁴ Revised Proposal at 4.

⁵ See *Reply Comments of the Natural Resources Defense Council (NRDC) on Assigned Commissioner’s Ruling Introducing a Draft Regulatory Incentives Proposal for Discussion and Comment* at 2 (May 23, 2016) (citing general agreement in opening comments of Robert Bosch LLC, Solar Energy Industries Association, SolarCity, Southern California Regional Energy Network, Clean Coalition, Vote Solar, California Energy Storage Alliance, NRG Energy, Marin Clean Energy, and the California Solar Energy Industries Association).

⁶ See, e.g., *Comments of Clean Coalition on Assigned Commissioner’s Ruling Introducing a Draft Regulatory Incentives Proposal* at 4, 8–9 (May 9, 2016); *Vote Solar Responses to the Joint Assigned Commissioner and Administrative Law Judge’s Ruling Requesting Responses to Questions* at 5 (May 9, 2016); *Reply Comments of the Natural Resources Defense Council (NRDC) on Assigned Commissioner’s Ruling Introducing a Draft Regulatory Incentives Proposal for Discussion and Comment* at 2 (May 23, 2016); *Opening Comments of Environmental Defense Fund on the Assigned Commissioner’s Ruling Introducing a Draft Regulatory Incentives Proposal for Discussion and Comment* at 3 (May 9, 2016) (proposing the Commission conduct a literature review and host a workshop on other potential mechanisms that could incentivize the utilities to deploy DER).

roadmap would provide clarity and guidance on the Commission’s intended process related to investigating and testing alternative utility business models. Further, the roadmap would ensure that the results of the pilot are not viewed in a vacuum, but rather inform larger questions of utility business models and alternative DER sourcing mechanisms.

- 2) *Would an incentive program such as that described in the attached proposal achieve the objective of promoting the cost-effective deployment of distributed energy resources? If not, why not?*

The incentive program in the Revised Proposal is specifically structured to achieve the objective of promoting cost-effective deployment of DER. As long as the expenses for the DER deployment plus the cost of the utility incentive is less than the cost of the avoided or deferred traditional utility capital investment, the DER deployment would be cost-effective and ratepayers would benefit. The Locational Net Benefits Analysis (“LNBA”) will act as a safeguard to ensure this result. As the Revised Proposal notes, “[t]he development of the LNBA, currently within scope of the DRP, is central to this effort, limiting the active deployment of DER to locations where the benefits exceed the cost.”⁷

To further ensure that the pilot promotes the cost-effective deployment of DER, the Clean Coalition proposes that the LNBA play a more substantial role in future iterations of the pilot. As described above in response to Question 1, the process of identifying areas where DER can defer or displace traditional distribution grid investments is central to the operation and success of the pilot, and the LNBA should inform this initial process. Rather than simply serving as a post hoc justification for an action the utility has already decided—or been directed—to undertake, the LNBA should serve to initially identify areas where the utilities should pursue cost-effective DER. The more areas identified as ripe for DER deployment, the greater the ratepayer savings that will result.

The Clean Coalition recommends that the proposed working group described above in Question 1 also examine an increased role for the LNBA in the sourcing

⁷ Revised Proposal at 6.

process. Development of the LNBA is occurring within a working group in the DRP proceeding, but through the newly proposed working group, the Commission should further test the LNBA to ensure that it is sufficiently robust to serve as the foundation for grid investment planning and sourcing activities.

Additionally, the Clean Coalition recommends the Commission create a second working group that would evaluate the feasibility of utilizing a “DER deferral procurement plan” with near-term planning horizons—similar to the Bundled Procurement Plan. Because the “DER deferral procurement plan” utilizes a more efficient oversight process, this second working group would also work towards the goal of ensuring that future iterations of the pilot promote cost-effective deployment of DER. Southern California Edison first presented this concept in the Competitive Solicitation Framework Working Group (“CSFWG”).⁸ The Commission should direct the working group to develop and vet up-front standards for this mechanism. This working group could also begin laying the foundation for the Commission to investigate other sourcing mechanisms (e.g., tariffs and programs), which the Commission has indicated it intends to move forward with at a later stage of this proceeding.⁹

- 3) *Does the attached proposal appropriately balance the need to execute the pilot on a reasonable schedule and provide adequate oversight of implied cost to ratepayers?*

The Clean Coalition believes the Revised Proposal appropriately balances the need to implement the pilot on an expedited schedule while ensuring adequate oversight

⁸ *Competitive Solicitation Framework Working Group Final Report Filed by Southern California Edison Company (U 338-E), Pacific Gas and Electric Company (U 39-M), San Diego Gas & Electric Company (U 902-E), and Southern California Gas Company (U 904-G) at 37 (Aug. 1, 2016) [hereinafter CSFWG Report].*

⁹ Parties have generally argued that competitive solicitations are not the most cost-effective or efficient method of procuring DERs, and the Commission should explore these alternative sourcing mechanisms as soon as possible. *See, e.g., Comments of Clean Coalition on Assigned Commissioner’s Ruling Introducing a Draft Regulatory Incentives Proposal at 8 (May 9, 2016); Comments of Advanced Energy Economy (AEE) on the April 4, 2016 Assigned Commissioner’s Ruling Introducing a Draft Regulatory Incentives Proposal for Discussion and Comment at 3 (May 9, 2016); Comments of the California Energy Storage Alliance on the Assigned Commissioner’s Ruling Introducing a Draft Regulatory Incentives Proposal for Discussion and Comment at 3-4 (May 9, 2016); Comments of the California Solar Energy Industries Association on the Proposal for Regulatory Incentives at 6 (May 9, 2016).*

of ratepayer costs. The LNBA, DPAG, IPE, and the Tier 3 Advice Letter process together provide a review framework that is both sufficient and not overly burdensome. As described in the responses to Questions 1, 2, and 4, the Commission should refine the application of the LNBA, DPAG, and IPE in future iterations of the pilot to further ensure adequate oversight and ratepayer benefits.

4) *Does the pilot proposal effectively complement and leverage recommendations made by the Competitive Solicitation Framework Working Group's August 1, 2016 Report and the Distribution Resource Plan Demonstration C in Rulemaking 14-08-013?*

Leveraging recommendations made by the CSFWG's August 1, 2016 Report, the Revised Proposal sets forth the process for each IOU to establish a DPAG.¹⁰ The Commission tasked the DPAG with reviewing and providing feedback to the IOUs on distribution projects that can be deferred or displaced by DER procurement. Further, the Revised Proposal creates an IPE to advise DPAG participants on the merits of distribution projects identified by the IOUs for deferral or displacement.

The CSFWG Report indicated that parties mostly reached consensus with regard to the IPE's role.¹¹ However, disagreement existed regarding the contracting and selection process. Some parties recommended that Energy Division contract directly with the IPEs, while other parties recommended that the IOUs contract with the IPEs and recover costs through appropriate ratemaking. The Revised Proposal requires that the IPE "be retained in a manner consistent with the rules and practices for retaining an Independent Evaluator [(“IE”)], as set forth in relevant Commission decisions.”

However, the direction provided by the Revised Proposal does not take into account an issue noted in the CSFWG Report and a prior Commission decision recognizing potential conflicts of interest within the IE contracting and selection process. In a 2007 decision, the Commission reasoned that its current process of appointing and funding IEs was not sufficient to guarantee the independence of the position:

As discussed in D.04-12-048, the initial IE mandate was intended as an interim approach that was to be refined based upon further experience.

¹⁰ Revised Proposal at 9.

¹¹ CSFWG Report at 35.

Based on the record in this proceeding it is reasonable to find that the IE process, while deemed beneficial by most involved, requires further refinement in order to maximize benefit to all involved parties. The Commission recognizes the need to develop a fair and transparent process for IOUs to use in selecting the IE for each RFO process. We acknowledge that ensuring the independence of the IE is of the utmost importance and that *the current hiring and selection process may not adequately ensure, or at least appear to ensure, such independence. . . .* At this time, it is not practical to transfer the IE contracting authority to the Commission; however, we will continue to explore ways in which to do so in the future.¹²

The Clean Coalition recommends that the Commission address these issues and grant Energy Division sole authority to contract and select IPEs—both the selection required to develop of a pool of IPEs and the selection of individual IPEs for specific projects.¹³ This process would ensure that the IOUs do not directly or indirectly exert influence over IPE decision-making. Further, this would prevent IPEs from viewing themselves as utility employees or contractors who have an interest in providing favorable reviews in order to guarantee future contracting opportunities. The Commission has recognized this issue in the context of the IEs, and it should not import the same flawed process for IPE hiring and selection.

The Clean Coalition also recognizes the Commission’s expedited timeline in the Revised Proposal. For the purposes of this pilot, the Clean Coalition recommends that Energy Division have sole authority to select an IPE for the IOUs, but the IOUs may submit recommendations to Energy Division. Then, to bypass onerous state contracting requirements, the Commission could allow the IOUs to contract with the IPE and recover costs through the Energy Resource Recovery Account (“ERRA”). Additionally, Energy Division should be copied on all communications between the IOUs and the IE. Beyond the first phase of the pilot, the Commission should begin moving towards a process where Energy Division is given sole authority to hire and select IPEs—thereby preventing any appearance of undue utility influence.

¹² D.07-12-052 at 136 (Dec. 21, 2007) (emphasis added).

¹³ Although outside of the scope of the current proceeding, the Clean Coalition further recommends that the Commission revisit its IE selection and contracting requirements in order to address the concerns above and to align the process with that adopted for the IPEs.

5) *Are there changes to the attached proposal that you see as essential and without which you would not support adoption of the proposal?*

No, the Clean Coalition supports the Revised Proposal and the Commission's continued work to address barriers to increased DER deployment.

IV. CONCLUSION

The Clean Coalition appreciates this opportunity to provide comments and supports the Commission's continued work on the pilot.

Respectfully submitted,



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