

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

Application of Pacific Gas And Electric  
Company (U39E) for Review of the  
Disadvantaged Communities – Green Tariff,  
Community Solar Green Tariff and Green  
Tariff Shared Renewables Programs.

Application 22-05-022  
(Filed December 2, 2022)

And Related Matters

Application 22-05-023  
Application 22-05-024

**CLEAN COALITION REPLY COMMENTS ON PROPOSED DECISION MODIFYING  
GREEN ACCESS PROGRAM TARIFFS AND ADOPTING A COMMUNITY  
RENEWABLE ENERGY PROGRAM**

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### **Recommended Changes**

- The Commission should reject the CREP as unable to result in a successful Community Solar program or to meet the requirements of AB 2316. The CREP will not serve low-income customers in a robust fashion, does not comply with the Title 24 Building Standards, and does not make maximum use of state and federal funds.
- The Commission should note consensus that the NVBT does not represent a wholesale transaction and choose to adopt the NVBT.
- The Commission should properly value the benefits from Infill Solar, including by adopting a brownfield adder.
- The Commission should adopt far more capacity for the DAC-GT program, to effectively serve low-income customers and to promote a robust Community Solar program in California.
- The Commission should update the cost containment cap in a transparent manner with accountability via stakeholder engagement, rather than in an opaque manner.

**TABLE OF AUTHORITIES**

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**I. INTRODUCTION**

Pursuant to Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), the Clean Coalition respectfully submits these reply comments in response to the *Proposed Decision (“PD”) Modifying Green Access Program Tariffs and Adopting a Community Renewable Energy Program*, issued on March 4, 2024.

**II. COMMENTS**

**A. The Community Renewable Energy Program (“CREP”) cannot be successful and will not meet the requirements of AB 2316.**

We agree with Powerflex Inc. that the Commission’s standard for achieving the goals of AB 2316 should be the development of a viable Community Solar market<sup>1</sup> and reiterate the need to promote a flourishing Infill Solar segment. Parties are very clear in opening comments that the CREP will not result in a successful program<sup>2</sup>, with SEIA describing the tariff as “dead on arrival”<sup>3</sup> and TURN explaining that it is “fatally flawed, cannot be scaled to meet customer demand, is not sustainable over any multi-year duration, and will not induce participation by renewable energy project developers.”<sup>4</sup> Even with additional non-ratepayer funds, the compensation is far too low and the PD fails to justify how \$33 million, “will transform existing

<sup>1</sup> Powerflex Inc. (“Powerflex”) Opening Comments on PD, at p. 2.

<sup>2</sup> See Opening Comments on PD of: Cypress Creek Renewables, Inc (“Cypress Creek”) at p. 10, Arcadia Power Inc at p. 9, Center for Biological Diversity (“CBD”) at p. 2, Natural Resources Defense Council (“NRDC”)/Vote Solar/California Environmental Justice Alliance (“CEJA”) at p. 3, Dimension Renewable Energy at p. 3, Renewable Properties at p. 3, Solar Energy Industries Association (“SEIA”) at p. 11, Coalition for Community Solar Access (“CCSA”) at p. 2, The Utility Reform Network (“TURN”) at p. 1-2, and Valta Energy at p. 12.

<sup>3</sup> Opening Comments of SEIA on PD, at p. 1.

<sup>4</sup> Opening Comments of TURN on PD, at p. 1-2.

tariffs with minimal uptake into a program that will result in new projects being built and low-income subscribers receiving savings.”<sup>5</sup> The main pitfall in the PD is insufficient compensation,<sup>6</sup> which Cypress Creek describes as not including, “all the benefits of distributed generation through a cost-effective program that benefits all ratepayers.”<sup>7</sup> For example, Infill Solar projects avoid the use of transmission and distribution, promote reliability and resiliency, avoid use of pristine natural lands, limit local air pollution benefits—none of which is valued—and also provide capacity like larger projects. These projects should be properly valued for capacity, which is a losing proposition under a PURPA framework.<sup>8</sup> Beyond compensation that is disproportionately low compared to the value created by an Infill Solar project, the CREP does not have streamlined interconnection, contains onerous requirements, and the profit margin is not sufficient for a shared savings model. The PD provides no evidence that the CREP will be more successful than the underlying programs (ReMAT and the SOC), which is to say not at all.<sup>9</sup> TURN explains that ReMAT has had 12.5 MW deployed since 2017 and the SOC has led to one 20 MW solar deployment in the last five years.<sup>10</sup> The Commission should not view additional funds as sufficient to overcome the flaws of these existing programs. After factoring in all the additional non-ratepayer funds available for a new Community Solar program, the Clean Coalition’s opening comments demonstrate that the CREP will result in less than 70 MW deployed, at best.<sup>11</sup> Thus, the PD fails to meet the requirements of AB 2316. The CREP will not achieve robust participation amongst low-income customers, is not compliant with Title 24 requirements, and does not make maximum use of state and federal funds.

i. PURPA compensation for capacity is far less than Resource Adequacy (“RA”)

One of the key indicators of just how insufficient PURPA pricing is for a Community Solar is the valuation of capacity. A PURPA framework provides a project with far less than a wholesale project would receive via the Integrated Resource Plan (“IRP”), meaning that the Commission is comparing the size of a distribution-level project with a utility-scale project while effectively compensating it at a lower rate.<sup>12</sup> With a five-year rolling average, the capacity price

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<sup>5</sup> Opening Comments of Renewable Properties, at p. 4.

<sup>6</sup> *Ibid*, at p. 3.

<sup>7</sup> Opening Comments of Cypress Creek on PD, at p. 1-2.

<sup>8</sup> Comments of Arcadia Power on PD, at Appendix A.

<sup>9</sup> Opening Comments of SEIA on PD, at p. 13,

<sup>10</sup> Opening Comments of TURN on PD, at p. 3-4.

<sup>11</sup> Opening Comments of the Clean Coalition on PD, at p. 3.

<sup>12</sup> Opening Comments of Arcadia Power on PD, at p. 4.

for a project taking service under the SOC is \$7/kW-month, far less than a standard contract for RA, which has increased to between \$60/kW month and \$82/kW-month.<sup>13</sup> A 5 MW Community Solar project would lose between \$0.35 million and \$1.56 million per year using PURPA as compared to RA.<sup>14</sup> Utilizing the CEC’s load modifier framework or allowing long-term RA contracts would be far more valuable than a PURPA framework, which “reflects a price which virtually no projects are willing to accept and therefore does not represent the cost of developing similar resources under an alternative tariff.”<sup>15</sup> We urge the Commission to examine these options further, rather than adopting a PURPA compensation framework.

ii. The CREP does not meet Title 24 requirements.

The California Coalition of Utility Employees (“CUE”)<sup>16</sup> describes what is needed to comply with the Title 24 Building Standards, clearly demonstrating that the CREP falls short. A number of other parties concur in opening comments, explaining that the CREP is not cost-effective with alternatives like solar under the Net Billing Tariff, does not meet the criterion of 20-year savings, and that the PD does not pose any affirmative evidence demonstrating compliance.<sup>17</sup> Achieve compliance with Title 24 necessitates deploying 250-400 MW<sup>18</sup>; the expected amount of capacity deployed with non-ratepayer funds using the CREP—less than 70 MW—is nowhere near hitting the mark.

iii. The PD fails to make maximum use of state and federal funds.

CBD notes that failing to develop a successful Community Solar program will cause California to lose out to other applicants vying for available IRA funding, plainly making the link the same link as Powerflex that to meet the requirements of AB 2316 California needs a program designed to enable a significant number of deployments.<sup>19</sup> The CREP does not meet this standard. TURN elaborates, explaining that CREP projects will not be eligible for the full 50% investment tax credit (“ITC”) because the 5 MW project size limit and that customer

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<sup>13</sup> *Ibid*, at Attachment A.

<sup>14</sup> *Ibid*.

<sup>15</sup> Opening Comments of TURN on PD, at p. 8.

<sup>16</sup> Opening Comments of CUE on PD, at p. 3. “To qualify for the community solar alternative, the system must: (1) have “the same or better performance” as a system that would have been installed on the building, (2) have “dedicated building energy savings benefits” that create bill savings for the building owner, (3) commit to provide these benefits to the building for at least 20 years, and (4) be an incremental resource.”

<sup>17</sup> SEIA (fn 49) at p. 12, TURN at p. 12, CBD at p. 13, NRDC/Vote Solar/CEJA at p. 8, & Cypress Creek at p. 10.

<sup>18</sup> Opening Comments of TURN on PD at p 12, referencing the Opening Brief of the California Building Industries Association (“CBIA”), at p 7.

<sup>19</sup> Opening Comments of CBD on PD, at p. 15.

income verification may pose additional challenges with compliance.<sup>20</sup> Limiting the eligibility of Community Solar projects to receive federal funds, including via a poorly designed program, are both issues that the Commission can solve by pulling the PD and adopting the NVBT.

**B. There is consensus that the NVBT does not represent a wholesale transaction.**

Parties broadly support the NVBT and believe that it is a state retail program not in violation of federal law.<sup>21</sup> CCSA notes that FERC has never invalidated a state NEM, VNEM, or Community Solar program,<sup>22</sup> and SEIA underscores that the NVBT represents a “contractual relationship,”<sup>23</sup> between generator and subscribers, **not** a wholesale sale. Here we note TURN’s concern that the PD appears to be operating from the lens of not violating federal law, prior to any appellate court making a finding of legality.<sup>24</sup> If Community Solar does not represent a wholesale transaction, it is appropriate to rely on the Avoided Cost Calculator (“ACC”) and the NVBT is therefore value appropriate. We believe this to be the case. Without relying on a legal argument there is no justification for promoting the CREP over the NVBT. The NVBT creates far more value for the ratepayers and will lead to many project deployments.

**C. The PD should properly value Infill Solar, including via a brownfield adder.**

In rejecting the NVBT (and flexibility it affords to developers when it comes to project siting), the PD fails to promote Infill projects (including installations of solar on rooftops, parking lots, & parking structures), ignores the value from brownfield deployments, and misses opportunities to locate projects close to subscribers and to electrically constrained load centers.<sup>25</sup> Both the proposed compensation and cost-effectiveness calculations in the PD fail to account for the additional value created by Infill Solar projects, particularly when paired with unbundled storage.<sup>26</sup> In addition to other modifications, the Commission should include a brownfield adder.

**D. A workable program requires greater capacity than is made available in the PD.**

The additional DAC-GT capacity proposed falls far short of the mark of enabling robust participation by low-income customers, as it would serve less than 75,000 customers if fully

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<sup>20</sup> Opening Comments of TURN on PD, at p. 4-5.

<sup>21</sup> Valta at p. 2, Arcadia Power at p. 5-7, CBD at p. 3-4, Cypress Creek at p. 3-4, SEIA at p. 2, CCSA at p. 3.

<sup>22</sup> Opening Comments of CCSA on PD, at p. 3.

<sup>23</sup> Opening Comments of SEIA on PD, at p. 2.

<sup>24</sup> Opening Comments of TURN on PD, at p. 8.

<sup>25</sup> Opening Comments of Valta Energy on PD, at p. 7.

<sup>26</sup> See Clean Coalition Comments on ALJ Ruling Setting Aside Submission of the Record to Seek Comments on Aspects of the NVBT Proposal, at p. 3.



subscribed/procured.<sup>27</sup> Likewise, the \$33 million in state funds will provide bill savings for less than 3,000 low-income Californians.<sup>28</sup> In comparison, the NVBT has the potential to serve 1 million low-income customers. We agree that capacity should be expanded significantly and even support an increase to at least 500 MW.<sup>29</sup>

**E. Updating the cost containment cap should be a public process with transparency and accountability, and not a private process conducted in a black box.**

Cal Advocates' suggestion that the Commission update the DAC-GT project cost containment cap<sup>30</sup> raises the need to make changes to the cap in a transparent manner. The opaqueness of the existing process increases uncertainty and volatility for developers, making it needlessly difficult to consistently invest in the program. Under the current system, a successful application does not necessarily mean another application with the same pricing will be approved, unless the cap has not changed. Thus, we strongly agree with Solar Landscape that any update should be done publicly, not confidentially, and that stakeholders should be allowed to provide feedback throughout the process.<sup>31</sup> The viability of the DAC-GT program depends on a cost containment cap that is accurate to actual costs for projects, and ideally, should be inclusive of cost ranges depending on project size/type.

### III. CONCLUSION

The Clean Coalition respectfully submits these reply comments and urges the Commission to reject the current PD. The design and compensation of a new program must enable a flourishing Infill Solar market segment, which the proposed CREP will not achieve.

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<sup>27</sup> Comments of NRDC/Vote Solar/CEJA on PD, at p. 5.

<sup>28</sup> Comments of Dimension Renewables on PD, at p. 4.

<sup>29</sup> Comments of Solar Landscape on PD, at p. 4.

<sup>30</sup> Comments of Cal Advocates on PD, at p. 3.

<sup>31</sup> Comments of Solar Landscape on PD, at p. 6.