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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)

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

1. Background

The core task of this proceeding is to develop a successor to the net energy metering (NEM) tariff for eligible customer-generators that is currently in effect. The principal method for developing the successor standard contract or tariff will be proposals from the parties, using the "Public Tool" developed by Energy Division staff and consultants.¹

The quantitative elements of a successor standard contract/tariff that will be developed with the aid of the Public Tool are not, however, the only elements of the successor standard contract/tariff. The Legislature also provided that "[i]n developing the standard contract or tariff, the commission shall" take into account a series of requirements set out in Pub. Util. Code 2827.1(b).²

¹ See Administrative Law Judge's Ruling Adopting Specifications for Further Development of Public Tool (December 12, 2014).

² Pub. Util. Code § 2827.1(b) is set out in Attachment A. All further references to sections are to the Public Utilities Code, unless otherwise noted.

Further, there are elements of the current NEM program that are not directly part of the tariff, but are part of the overall administration of the program. The continuation, modification, or termination of these elements is also relevant to development of the successor NEM program as a whole.

For consistency and ease of reference, both the statutory directives in § 2827.1(b) and the additional elements of the NEM program are referred to as "policy" issues. This designation is not intended to, and should not be understood to, suggest that these elements are less important than the more strictly quantitative elements involved in developing the successor standard contract/tariff, or that parties or the Commission have unfettered choice in addressing them. In this ruling, questions on the policy issues raised by the legislation requiring a successor standard contract/tariff are presented first; other policy issues related to the successor standard contract/tariff and the successor program are presented second.

2. Comments

Comments should address each question presented. It is not necessary to reproduce the question, but responses should be numbered to match the questions addressed, or otherwise clearly identify the issue being discussed.

Comments should be as specific and precise as possible. Legal arguments should be supported with specific citations. Comments should be complete in themselves and should not incorporate by reference any other materials. Other materials necessary to the response should be attached, or, if the materials are available on a web site, the link to the materials should be given. All comments should use publicly available materials. All comments should specifically identify, with respect to each question, whether any potential sources of information addressed in the response to the question are confidential.

Parties may identify and comment on issues that are not addressed in the questions below. Commenters doing so should clearly identify and explain the relevance of the additional issue(s).

Comments of not more than 40 pages may be filed and served not later than March 16, 2015. Reply comments of not more than 20 pages may be filed and served not later than March 30, 2015.

3. Questions for Comment

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

- a. What are the relevant formal distinctions, if any, between a tariff and a standard contract? Provide examples from other Commission programs, if appropriate.
- b. What are the potential benefits, if any, from the perspective of the customer-generator in the use of a tariff versus a standard contract? What are the potential drawbacks, if any? Provide specific examples if appropriate.
- c. What are the potential benefits, if any, from the perspective of the program administrator in the use of a tariff versus a standard contract? What are the potential drawbacks, if any? Provide specific examples if appropriate.
- 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.

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? Consider and discuss at

least the following, including quantitative examples where appropriate:

- How should "sustainable growth" be defined
- How should the definition be applied to the various elements of customer-sited DG? Include discussion of differing customer classes; differing renewable DG technologies; differing renewable DG applications; and any other groupings that may be relevant.

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.
- b. How should "growth among residential customers in disadvantaged communities" be defined? How should such growth be measured? Please be as specific as possible and provide an explanation of your proposed methodology, using quantitative examples where relevant.
- c. What, if any, barriers do residential customers in disadvantaged communities face in adopting customer-sited renewable DG? Provide documentation or citation to information relevant to your response.
 - i. Which, if any, of these barriers are especially prevalent among, or unique to, residential customers in disadvantaged communities?
 - ii. How, if at all, should the Commission consider such barriers when designing specific alternatives for growth among residential customers in disadvantaged communities?

- d. If you believe that there are no barriers especially prevalent among, or unique to, residential customers in disadvantaged communities, what criteria should the Commission use in developing the specific alternatives for such customers required by § 2827.1(b)(1)? Please provide specific examples if relevant.
- 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?
 - i. If your response is that the specific alternatives should be considered as part of the more general statutory direction, what mechanisms will be needed to ensure that the specific alternatives for growth in disadvantaged communities are implemented?
 - ii. If your response is that the specific alternatives should not be considered as part of the more general statutory direction, what mechanisms, if any, will be needed to integrate the specific alternatives into the operation of the successor standard contract/tariff?
 - iii. Whether the specific alternatives for growth among residential customers in disadvantaged communities are considered as part of or separate from the rest of the direction in § 2827.1(b)(1), how should the costs and benefits of the specific alternatives be considered in evaluating the costs and benefits of the NEM successor standard contract/tariff? Provide specific reasons and quantitative examples, if relevant.

4. Section 2827.1(b)(3) directs the Commission to ensure that the standard contract/tariff is “based on the costs and benefits of the renewable electrical generation facility.”

- a. What does it mean for the standard contract/tariff to be based on the costs and benefits of the renewable electrical generation facility?
- b. What costs should be considered? Why? Please provide quantitative examples if relevant.
- c. What benefits should be considered? Why? Please provide quantitative example if relevant.
- d. What metrics should be used to measure costs and benefits? Please provide specific citations to publicly available sources of the metrics selected. Please provide quantitative examples of the application of the metrics selected to the development of the successor standard contract/tariff.

5. Section 2827.1(b)(4) directs the Commission to ensure that the “total benefits of the standard contract or tariff to all customers and the electrical system are approximately equal to the total costs.”

- a. What metrics, or types of analysis, should the Commission use to ensure that the “total benefits. . . are approximately equal to the total costs?” For example, should the Commission use a cost of service analysis; or use one or more of the Commission’s cost-effectiveness tests in the Standard Practice Manual? Please provide quantitative examples of the application of the metrics selected to the development of the successor standard contract/tariff.
- b. If not made explicit in your response to a, above, what benefits should be considered in evaluating the “total benefits. . . to all customers and the electrical system. . .”?
- c. If not made explicit in your response to a, above, what costs should be considered in evaluating the “total costs [to all customers and the electrical system]?”
- d. How should the Commission apply the requirement that the total benefits and costs are to be approximately equal? If your response provides a quantitative measure, please provide quantitative examples. If your response provides

a qualitative measure, please explain how it should be used to determine approximate equality of total benefits and costs.

6. What, if any, inconsistencies might exist between the results of applying the directive in § 2827.1(b)(4) and the results of applying the directive in § 2827.1(b)(3), above?

- a. Please identify any potential inconsistencies as precisely as possible, using quantitative examples if relevant.
- b. For each potential inconsistency identified, please suggest a rationale or method for reconciling the inconsistencies. If in your view some or all potential inconsistencies cannot be reconciled, please provide a rationale or method for prioritizing the application of the statutory directives. Please provide quantitative examples if relevant.

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

In responding to the two questions above, please include consideration of at least the following issues:

- Consistency with Rule 21 and other customer generation program policies;
- Impact on program administration;
- Ease of communicating the proposal to customers.

- c. How should the requirement to be “sized to onsite load” be measured?
- d. How should the size requirement be enforced? By whom? Responses should consider at least: the situations of customers with historical energy usage; customers with new construction (i.e., no historical energy usage); and customers with anticipated future load growth, regardless of historical usage.

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 21³? 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?

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?

10. Current law (§ 2827(g)) includes several secondary benefits to NEM customer-generators. These include exemption from “any new or additional

³ The Rule 21 Tariff for each of California’s large investor-owned utilities can be accessed via the Commission’s website, at: <http://www.cpuc.ca.gov/PUC/energy/rule21.htm>.

demand charge, standby charge, customer charge, minimum monthly charge, interconnection charge,” or any other charge that would increase an eligible customer-generator’s costs beyond those of customers who are not customer-generators in the same customer class.

- a. Will any of these exemptions continue to apply as a matter of law after the successor standard contract/tariff is implemented? Why or why not?
- b. Regardless of whether you argue that the exemptions set out above will continue to apply as a matter of law, should they be continued as a matter of Commission policy? Why or why not? Please respond specifically as to each exemption.
- c. Should any of these exemptions set out above be ended when the successor standard contract/tariff is implemented? Why or why not? Please respond specifically as to each exemption.
- d. Should modifications or adjustments to any of the exemptions set out above be made when the successor standard contract/tariff is implemented? Please provide a specific proposal, with a rationale, for each proposed change. Please provide quantitative examples, if relevant.

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.⁴

- 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.

⁴ See D.11-07-031 (VNEM); D.08-10-036 (MASH VNM); Resolutions E-4610, E-4665 (NEM aggregation).

- b. Should modifications or adjustments to the elements set out above be made when the successor standard contract/tariff is implemented? Please provide a specific proposal, with a rationale, for each proposed change. Please provide quantitative examples, if relevant.

12. What, if any, consumer protection issues should the Commission consider as part of the successor standard contract/tariff? Responses should address at least the following topics:

- Maintaining approved equipment lists;
- Warranty requirements;
- Customer complaints and policing bad actors.

13. What impact, if any, could any consumer protections you propose to consider in response to question 12, above, have on the total costs and benefits of the successor standard contract/tariff? Please be specific about the reasons for any impact discussed, and provide quantitative examples.

14. How should considerations of safety be included in the development of the successor standard contract/tariff? Please be specific, and consider at least:

- compliance with existing interconnection rules;
- implementation of requirements for projects larger than one MW;
- consumer protection issues identified in response to question 12, above; and
- any other safety issues that could arise in the implementation of the successor standard contract/tariff.

IT IS RULED that:

1. Comments of not more than 40 pages may be filed and served not later than March 16, 2015.

2. Reply comments of not more than 20 pages may be filed and served not later than March 30, 2015.

Dated February 23, 2015 at San Francisco, California.

 /s/ ANNE E. SIMON
Anne E. Simon
Administrative Law Judge

ATTACHMENT A
Pub. Util. Code § 2827.1(b)

(b) Notwithstanding any other law, the commission shall develop a standard contract or tariff, which may include net energy metering, for eligible customer-generators with a renewable electrical generation facility that is a customer of a large electrical corporation no later than December 31, 2015. The commission may develop the standard contract or tariff prior to December 31, 2015, and may require a large electrical corporation that has reached the net energy metering program limit of subparagraph (B) of paragraph (4) of subdivision (c) of Section 2827 to offer the standard contract or tariff to eligible customer-generators. A large electrical corporation shall offer the standard contract or tariff to an eligible customer-generator beginning July 1, 2017, or prior to that date if ordered to do so by the commission because it has reached the net energy metering program limit of subparagraph (B) of paragraph (4) of subdivision (c) of Section 2827. The commission may revise the standard contract or tariff as appropriate to achieve the objectives of this section. In developing the standard contract or tariff, the commission shall do all of the following:

- (1) Ensure that the standard contract or tariff made available to eligible customer-generators ensures that customer-sited renewable distributed generation continues to grow sustainably and include specific alternatives designed for growth among residential customers in disadvantaged communities.
- (2) Establish terms of service and billing rules for eligible customer-generators.
- (3) Ensure that the standard contract or tariff made available to eligible customer-generators is based on the costs and benefits of the renewable electrical generation facility.
- (4) Ensure that the total benefits of the standard contract or tariff to all customers and the electrical system are approximately equal to the total costs.
- (5) Allow projects greater than one megawatt that do not have significant impact on the distribution grid to be built to the size of the onsite load if the projects with a capacity of more than one megawatt are subject to reasonable interconnection charges established pursuant to the commission's Electric Rule 21 and applicable state and federal requirements.
- (6) Establish a transition period during which eligible customer-generators taking service under a net energy metering tariff or contract prior to July 1, 2017, or until the

electrical corporation reaches its net energy metering program limit pursuant to subparagraph (B) of paragraph (4) of subdivision (c) of Section 2827, whichever is earlier, shall be eligible to continue service under the previously applicable net energy metering tariff for a length of time to be determined by the commission by March 31, 2014. Any rules adopted by the commission shall consider a reasonable expected payback period based on the year the customer initially took service under the tariff or contract authorized by Section 2827.

(7) The commission shall determine which rates and tariffs are applicable to customer generators only during a rulemaking proceeding. 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. The commission shall ensure customer generators are provided electric service at rates that are j

(End of Attachment A)