

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA



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Application of Pacific Gas and Electric Company to Implement and Recover in Rates the Costs of its Photovoltaic (PV) Program. (U39E)

A.09-02-019  
(Filed February 24, 2009)

**REPLY BRIEF OF THE DIVISION OF RATEPAYER ADVOCATES ON  
THE IMPACT OF SENATE BILL 32 AND ASSEMBLY BILL 920**

**I. INTRODUCTION**

The Division of Ratepayer Advocates (DRA) submits this reply brief pursuant to Administrative Law Judge Ebke's ruling inviting parties to submit briefs on whether any aspects of Senate Bill 32 (SB 32) and Assembly Bill 920 (AB 920) impact Pacific Gas and Electric Company's (PG&E's) proposed solar photovoltaic (PV) program.

The Greenlining Institute's clear and concise summary of the situation before the Commission bears repeating here:

The bills in question indicate a legislative preference for independent generation, to be incentivized at rates intended to stimulate solar deployment but also protect ratepayer interests. PG&E's proposed program would include \$1.45 billion in utility owned generation and would pay rates designed more for the benefit of solar installers than ratepayers. As such PG&E's program is out of step with the state's broader renewable energy policy and should not be approved. Moreover, the additional capacity incentivized by the measures in question renders the program less necessary to achieve renewable energy goals.<sup>1</sup>

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<sup>1</sup> Opening Brief of The Greenlining Institute on the Impact of Senate Bill 32 and Assembly Bill 920, p. 1.

In addition, as discussed in DRA’s opening brief on SB 32 and AB 920, the Commission should also consider the impact of Energy Division’s proposed feed-in tariff Renewable Auction Mechanism (RAM) in Rulemaking 08-08-009.

**II. PG&E IS INCORRECT THAT SB 32 IS “UNLIKELY TO MATERIALLY INCREASE” THE FEED-IN TARIFF RATE**

PG&E argues that there is no overlap between the Feed-in Tariff and its solar PV program because “mid-sized PV installations would likely not be built at the price offered by the existing FIT.”<sup>2</sup> PG&E premises this on the assumption that the price for the expanded SB 32 FiT will be the same as the existing FiT – currently set at the market price referent (MPR) or about 11 cents per kilowatt hour. However, it is widely believed that the expanded SB 32 FiT will be higher than the current MPR. So, while difficult to predict that rate at this point, given falling solar PV module prices, it is reasonable to expect that SB 32 will attract the mid-sized solar PV projects PG&E claims can only be built with its program.

PG&E also argues that the impact of SB 32 should be ignored because SB 32 is unlikely to be “implemented on the same schedule” as PG&E’s solar PV program. PG&E fails to explain why policy initiatives must be on the “same schedule” in order to be assessed for conflicts or synergies. Further, accepting PG&E’s reasoning would mean that legislators and regulators could never coordinate policy-making since it is virtually impossible to synchronize the conclusion of an administrative proceeding with the legislative process.

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<sup>2</sup> PG&E’s Opening Brief on the Impact of Senate Bill 32 and Assembly Bill 920, p. 3.

### III. PG&E UNDERESTIMATES THE POTENTIAL IMPACT OF AB 920 ON ITS SOLAR PV PROGRAM

PG&E suggests that AB 920 will not create wholesale generation opportunities that overlap with its proposed power purchase agreement (PPA) program.<sup>3</sup> PG&E is wrong. PG&E incorrectly states that there is a CSI size cap of 1 megawatt (MW). Actually, the CSI limit is 5 MW with only the first MW being eligible for the CSI incentive.<sup>4</sup> PG&E goes on to incorrectly assert that AB 920 requires eligible customers to size their installations to offset their load. Actually, AB 920 only requires eligible customers to size the system to primarily offset “part *or* all” of their load.<sup>5</sup> (Emphasis added.)

As DRA demonstrated in its opening brief it appears that many CSI customers actually oversize their systems.<sup>6</sup> PG&E’s own data (see attachment 1) shows the amount of excess generation in PG&E’s service territory is growing substantially each year (i.e., increasing by 1 GWh annually).<sup>7</sup> PG&E’s 2008 data shows a net surplus of 3.4 GWh for residential and commercial customers.<sup>8</sup> The data also shows that individual customers

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<sup>3</sup> *Id.* at p. 4.

<sup>4</sup> CPUC CSI Handbook, May 2009, p. 20. A CSI Host Customer Site may elect to install up to 5 MW of generation.

<sup>5</sup> AB 920, p. 3 (requiring customers’ systems to be “intended primarily to offset part or all of the customer’s own electrical requirements”).

[http://leginfo.ca.gov/pub/09-10/bill/asm/ab\\_0901-0950/ab\\_920\\_bill\\_20090921\\_enrolled.pdf](http://leginfo.ca.gov/pub/09-10/bill/asm/ab_0901-0950/ab_920_bill_20090921_enrolled.pdf)

<sup>6</sup> DRA Opening Brief On The Impact Of Senate Bill 32 And Assembly Bill 920, p. 3.

<sup>7</sup> Attachment 1, page 2. PG&E Total Annual credit (kWh) solar only in 2006 is 1,135,001kWh, 2007 is 2,528,501kWh, and 2008 is 3,384,631kWh.

<sup>8</sup> *Id.* PG&E Total Annual credit (kWh) for 2008 Residential & Commercial Solar Only = 3,384,631 kWh = 3.4 GWh.

can have an excess of up to 100 MWh on an annual basis.<sup>2</sup> AB 920 provides a further incentive to potential CSI customers to size their systems to serve on-site load as well as to provide excess wholesale generation. Thus, AB 920 will incent more solar PV installations, stimulating the solar industry, further diminishing the need for PG&E's program.

Respectfully submitted,

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<sup>2</sup> Id. PG&E Maximum annual credit (kWh) for 2008 Residential & Commercial Solar Only = -98,850 kWh ~100 MWh.

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day *reserved* a copy of “**REPLY BRIEF OF THE DIVISION OF RATEPAYER ADVOCATES ON THE IMPACT OF SENATE BILL 32 AND ASSEMBLY BILL 920**” to each party of record on the official service list in **A.09-02-019** via electronic mail.

Parties who did not provide an electronic mail address, were served by U.S. mail with postage prepaid listed on the official service list.

Executed on **19<sup>th</sup> day of November, 2009** at San Francisco, California.

/s/ ANGELITA F. MARINDA

Angelita F. Marinda

**NOTICE**

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