

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



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In the matter of the Application of PacifiCorp (U901E) for approval to implement a Net Surplus Compensation Rate.

Application 10-03-001
(Filed March 1, 2010)

In the Matter of the Application of Sierra Pacific Power Company (U903E) for Approval of a Net Surplus Compensation Rate.

Application 10-03-010
(Filed March 15, 2010)

Application of Pacific Gas and Electric Company To Implement Assembly Bill 920 (2009) Setting Terms and Conditions For Compensation For Excess Energy Deliveries By Net Metered Customers. (U 39 E)

Application 10-03-012
(Filed March 15, 2010)

Application of Southern California Edison Company (U338E) in Response to Assigned Commissioner's Ruling Directing Electric Utilities to File Applications Proposing a Net Surplus Compensation Rate Pursuant to AB 920.

Application 10-03-013
(Filed March 15, 2010)

Application of San Diego Gas & Electric Company (U902E) Proposing a Net Surplus Compensation Rate Pursuant to Assembly Bill 920.

Application 10-03-017
(Filed March 15, 2010)

**OPENING COMMENTS BY THE ACTON TOWN COUNCIL ON THE
CONSOLIDATED APPLICATIONS REGARDING AB 920**

The Acton Town Council
P.O. Box 810
Acton, CA 93510
Telephone: (949) 645-7193

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In accordance with the Assigned Commissioner and Administrative Law Judge Scoping Memo and Ruling issued in above-captioned consolidated proceedings on June 1, 2010, the Acton Town Council offers these comments on the proposed methodologies for setting a net surplus compensation rate for net energy metering.

The Acton Town Council contends that a careful review of AB920 reveals that the proposals submitted in these consolidated proceedings by the major utilities are inconsistent with the intent and the specific language of the statute, and should not therefore be adopted by the Commission. In particular, we focus on the proposal submitted by Southern California Edison (“SCE”) since Acton is located within SCE’s service territory.

THE INTENT OF AB 920 AND THE REQUIREMENTS FOR THE NET SURPLUS COMPENSATION RATE

AB 920 is specifically intended to encourage private development of distributed renewable resource generation¹. There is no doubt that distributed renewable generation provides significant economic and environmental advantages over large-scale remote generation (which create substantial environmental impacts and requires costly transmission infrastructure). Yet, remote generation has been substantially incentivized over the last few years², while distributed generation has not. AB920 seeks to address this situation by providing compensation to utility customers that are net energy producers, thereby encouraging “substantial private investment in renewable energy resources”.

¹ AB 920 is intended to “encourage substantial private investment in renewable energy resources, stimulate in-state economic growth, reduce demand for electricity during peak consumption periods, help stabilize California’s energy supply infrastructure, enhance the continued diversification of California’s energy resource mix, reduce interconnection and administrative costs for electricity suppliers, and encourage conservation and efficiency.”

² By the adoption of ever increasing RPS contract compensation rates and the approval of cost recovery for enormous transmission projects under the TAC (i.e. Sunrise, TRTP, etc.).

AB920 requires that Commission establish this “Net Surplus Compensation Rate” (“NSCR”) by January, 2011. Specifically, AB 920 demands that eligible customer-generators be compensated for the *value* of the electricity that is generated as well as the renewable attributes of the energy. AB920 also requires that the NSCR does not result in a shifting of costs between solar customer-generators and other bundled service customers.

THE ACTON TOWN COUNCIL’S PROPOSAL

The Acton Town Council proposes that, for each utility, the NSCR compensation paid to each customer-generator be based on the “Time of Delivery” (“TOD”) that the customer-generator places the power on the utility’s distribution network over the 12 month time interval reconciled with the average value established for the utility’s executed RPS contracts over the same 12 month time interval. As shown in the sample calculations provided in the June 21 filing, this is a simple and straightforward approach that relies on existing rate data that has already been compiled *and approved* by the Commission.

The foundation for the Acton Town Council’s NSCR proposal is that the surplus generation created by the NSCR program is new renewable energy that is eligible for consideration towards the utility’s RPS goals. This is also the crucial factor that is specifically ignored in most (if not all) of the NSCR proposals submitted by the utilities. The Commission has clearly established in prior decisions (most recently Resolution E-9248) that the reasonable value of new RPS-eligible generation greatly exceeds SDG&E’s SRAC value, SCE’s hub price, and PG&E’s DLAP value. Since AB 920 demands that the customer-generator be compensated “for the *value* of net surplus electricity generated” this crucial element must be factored into the Commission’s decision on this matter.

THE ACTON TOWN COUNCIL’S PROPOSED NSCR PRECISELY COMPLIES WITH THE STATUTORY LANGUAGE OF AB 920.

For customers that are not surplus generators over the 12 month reconciliation period, it properly implements 2827(h)(2) by quantifying and applying any credits accrued by these net electricity consumers during specific billing periods.

For customers that are surplus generators over the 12 month reconciliation period, it properly implements 2827(h)(3) by compensating the net surplus generator for the *value* of the renewable energy it produces while leaving other ratepayers unaffected.

The compensation rate proposed by the Acton Town Council meets the “just and reasonable” requirement imposed by 2827(4) because it is based on the Commission’s own “price reasonableness benchmark” established in prior decisions for the purchase of RPS-eligible electricity.

The Acton Town Council’s equitable compensation strategy ensures that the compensation rate paid by a utility to a renewable generator for RPS-eligible generation is the same whether it comes from a remote generation source or a surplus generator that provides renewable energy directly to the distribution grid. For every kWhr of RPS-eligible generation provided by the NSCR program, the utility will acquire and transmit one less kWhr of renewable energy from a remote generation resource. This ensures that costs are not shifted between solar customer generators and other bundled service customers in accordance with AB 920 requirements. In essence, the ratepayer remains unaffected by our proposed NSCR program. In fact, the ratepayer will accrue a significant benefit because the net surplus generation will not be diminished by the transmission line losses that plague the remote generation resources.

THE ACTON TOWN COUNCIL’S PROPOSED NSCR IS HARMONIOUS WITH THE PURPOSE AND INTENT OF AB 920

AB 920 is intended to “encourage substantial private investment in renewable energy resources, stimulate in-state economic growth, reduce demand for electricity during peak consumption periods, help stabilize California’s energy supply infrastructure, enhance the continued diversification of California’s energy resource mix, reduce interconnection and administrative costs for electricity suppliers, and encourage conservation and efficiency.” The Acton Town Council’s proposed NSCR certainly encourages such investment because it provides equitable compensation for customer-generators who provide utilities with RPS-eligible energy.

Conversely, the NSCR proposals submitted by other parties specifically discourage private investment in renewable energy because they substantially underpay the customer generators for the energy that they produce. Thus it fails to provide the encouragement that AB 920 seeks to bestow on customer generators. Simply put, NONE of the NSCR proposals submitted by these utilities meet the underlying intent of AB 920.

SCE'S NSCR PROPOSAL DOES NOT MEET THE CONDITIONS IMPOSED BY AB 920.

SCE's proposed NSCR for Acton's residential customers relies on a bizarre ratio of a low value weighted average of the "MRTU LMP price (with a paltry REC adder) divided by the high value "average retail rate". This ratio is then applied to substantially decrement the residential customer's credit (which itself is established based on the applicable tariff according to section h(2) of the statute). SCE does not explain how this contorted fiscal scheme complies with the AB 920 requirement that customer-generators be paid for the *value* of the energy they produce. Indeed, no such explanation is possible.

The fact is, eligible customer-generator residents in Acton will not be paid for the *value* of the renewable energy they produce under SCE's NSCR scheme, to wit:. Currently, Acton residents pay a flat SCE generation charge of 9.564¢/kWhr. This generation charge is the same whether Tier 1 or Tier 2, and it is separate and distinct from distribution charges, transmission charges, taxes and all other fees. Every kWhr produced by a residential customer-generator in Acton is "sold" by SCE to an adjacent residential consumer for 9.564¢/kWhr. Yet, SCE proposes to pay only a fraction of this amount to the customer-generator. In effect, SCE's proposal will allow the utility to buy electricity from one Acton resident for about 3¢/kWhr and then sell it to the neighboring resident for about 10¢/kWhr.

AB920 requires SCE to pay customer generators for the *value* of their surplus electricity. If, as SCE's NSCR scheme suggests, the "value" of the electricity delivered to Acton's

residents in only 3¢/kWhr, then Acton residents are being substantially overcharged. SCE cannot have it both ways, nor can SCE be permitted to value one kW more than another kW within a given distribution area.

Moreover, the Acton Town Council agrees with SCE's assertion (in their proposal submitted June 21) that the "Commission should approve payment for net surplus generation based on the market value of the energy produced". We point out that net surplus generation is a renewable resource that SCE can (and will) apply toward its RPS compliance goals, thus "the market value of the energy produced" has been established by SCE through their competitive RPS solicitation process, which employs a "Least Cost/Best Fit" approach (see for example, Advice Letter 2457-E submitted March, 2010). We further observe that the Commission has already approved RPS contracts (i.e. E-Solar) in which SCE pays up to 31¢/kWhr for on-peak RPS-eligible energy that is similar to what Acton residents will produce as net surplus generation. There is simply no credible argument that the market value of on-peak renewable energy produced by E-Solar is higher than on-peak renewable energy produced by surplus generators. Conversely, on-peak renewable energy produced by surplus generators is actually *more* valuable than the energy produced by E-Solar because it has NO associated transmission line losses or costs and it has NO associated environmental impacts or costs.

The Acton Town Council urges the Commission to reject SCE's NSCR proposal because it imposes a compensation rate that is substantially lower than the actual value of the energy that is produced. The Acton Town Council furthermore urges the Commission to reject ANY NSCR proposal that permits a utility to charge a residential customer significantly more for *distributed* generation than it pays. The Acton Town Council is particularly concerned that this strategy seems to be implicit in all the proposals submitted by the utilities in this proceeding.

PRIOR COMMISSION DECISIONS REGARDING THE “PRICE REASONABLENESS BENCHMARK” FOR RPS-ELIGIBLE ELECTRICITY IS AT ISSUE IN THIS PROCEEDING.

The Commission has relied upon their adopted “price reasonableness benchmark” many times over the past years to approve compensation rates paid to generators for RPS-eligible energy. AB 920 mandates that the compensation rate paid to net surplus generators for RPS-eligible energy acquired be “just and reasonable”. If the “just and reasonable” net surplus compensation rate established by this proceeding is significantly lower than the “price reasonableness benchmark” established in prior Commission decisions then it must be concluded that the “price reasonableness benchmark” is neither just nor reasonable. Simply put, the Commission cannot conclude that a compensation rate paid to customer generators for RPS-eligible energy is “just and reasonable” if it is substantially lower than the compensation rate paid to other generators for the exact same product.

CONCLUSION

If successfully implemented, AB920 will significantly expand distributed generation development in California, which, after all, is the underlying intent of this legislation. The equitable compensation rate proposed by the Acton Town Council will ensure this outcome by providing just and reasonable payment for the value of renewable energy produced by eligible customer generators in accordance with AB 920.

Respectfully submitted by

JACQUELINE AYER
Utility Committee Chairman
The Acton Town Council
AirSpecial@aol.com
P.O. Box 810
Acton, CA 93510
(949) 645-7193

CERTIFICATE OF SERVICE

I, Jacqueline Ayer, certify that I have on this 26th day of July 2010 caused a copy of the foregoing

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to be served on all known parties to A.10-03-001, A.10-03-010, A.10-03-012, A.10-03-013, and A.10-03-017 listed on the most recently updated service list available on the California Public Utilities Commission website, via email to those listed with email and via U.S. mail to those without email service.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 26th day of July 2010 at Okinawa, Japan.

/s/ Jacqueline Ayer
Jacqueline Ayer
Member, Acton Town Council

SERVICE LIST FOR A.10-03-001, A.10-03-010, A.10-03-012, A.10-03-013, A.10-03-017

AMSmith@SempraUtilities.com
chilen@nvenergy.com
don@donricketts.com
annette.gilliam@sce.com
fortlieb@sandiego.gov
liddell@energyattorney.com
DAKinports@SempraUtilities.com
airspecial@aol.com
sha@cpuc.ca.gov
norman.furuta@navy.mil
sww9@pge.com
abrowning@votesolar.org
bcragg@goodinmacbride.com
jarmstrong@goodinmacbride.com
info@calseia.org
kfox@keyesandfox.com
michaelboyd@sbcglobal.net
bernadette@environmentcalifornia.org
michelle.mishoe@pacificorp.com
clamasbabbini@comverge.com
EGizard@deweysquare.com
HHH4@pge.com
tciardella@nvenergy.com
mrw@mrwassoc.com
jade.juhl@sfgov.org
emello@nvenergy.com
case.admin@sce.com
LEarl@SempraUtilities.com
CentralFiles@SempraUtilities.com
tblair@sandiego.gov
vdr@cpuc.ca.gov
rjl9@pge.com
tjl@a-klaw.com
WMLb@pge.com
regrelcpuccases@pge.com
cem@newsdata.com
l_brown369@yahoo.com
RegRelCPUCCases@pge.com
EFM2@pge.com
camb@pge.com
tomb@crossborderenergy.com
sara@solaralliance.org

joyw@mid.org
lwhouse@innercite.com
steven@iepa.com
abb@eslawfirm.com
jgg@eslawfirm.com
rpistoc@smud.org
atrowbridge@daycartermurphy.com
dsanchez@daycartermurphy.com
californiadockets@pacificorp.com
datarequest@pacificorp.com
aes@cpuc.ca.gov
dot@cpuc.ca.gov
tcr@cpuc.ca.gov