



FILED

01-15-10

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding Policies, Procedures and Rules for the California Solar Initiative, the Self-Generation Incentive Program and Other Distributed Generation Issues.

Rulemaking 08-03-008
(Filed March 13, 2008)

ASSIGNED COMMISSIONER'S RULING DIRECTING ELECTRIC UTILITIES TO FILE APPLICATIONS PROPOSING A NET SURPLUS COMPENSATION RATE PURSUANT TO ASSEMBLY BILL 920

1. Summary

Assembly Bill (AB) 920 (Huffman) Stats. 2009, ch. 376, requires the Commission to establish a Net Surplus Compensation Program to compensate net energy metering (NEM) customers for electricity produced in excess of on-site load at the end of each 12-month period. This Assigned Commissioner Ruling (ACR) directs the Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas and Electric Company (SDG&E), to file applications no later than March 1, 2010, proposing a Net Surplus Compensation rate, as well as other program implementation details pursuant to AB 920, as set forth in this ruling. The Commission encourages the filing of joint applications. Other electric utilities operating in California and subject to the Commission's jurisdiction may file applications as directed in this ruling, but are not required to do so. If such electric utilities do not file an application to establish a Net Surplus Compensation rate, the Commission may apply the rate it adopts for PG&E, SCE, and/or SDG&E, to those electric utilities, after appropriate notice and opportunity for comment by those utilities.

2. Background of AB 920

Under Public Utilities Code Section 2827, each electric utility is required to offer NEM tariffs to certain customer generators who own and operate distributed generation systems. Under these tariffs and prior to the passage of AB 920, customer generators with excess generation in any given month receive a bill credit at the full retail rate of electricity. Customer generators can use the bill credits any time during a 12 month period, known as the “true-up period.” However, at the end of the 12-month true-up period, any remaining bill credits are forfeited to the utility.

AB 920, signed into law by the governor on October 11, 2009, requires the Commission to establish a program to compensate NEM customers for electricity produced in excess of on-site load at the end of the 12-month true-up period. Specifically, the law directs the Commission to adopt a Net Surplus Compensation valuation to compensate a net surplus customer-generator for surplus kilowatt-hours over 12 months. The law requires all electric utilities to notify customers that they have the option to be compensated for net surplus generation. Customers may opt to receive either a payment for net surplus generation or to roll a credit for that generation over into the next 12-month true-up period.

AB 920 amends Pub. Util. Code § 2827 in several ways. First, the law establishes definitions as follows:

- Net surplus customer-generator – a customer that generates more electricity in a 12-month period than is supplied by the electric utility during the same 12- month period. (Section 2827(b)(6).)
- Net surplus electricity – electricity generated by the customer-generator measured in kilowatt-hours over a 12-month period that exceeds the amount of electricity consumed by the customer-generator. (Section 2827(b)(7).)

- Net surplus electricity compensation – a per kilowatt-hour rate, set by the Commission, and offered by the electric utility to the net surplus customer-generator for net surplus electricity. (Section 2827(b)(8).)

Next, AB 920 requires all electric utilities in the state to notify eligible customer-generators by January 31, 2010, that they are eligible to receive net surplus electricity compensation. (Section 2827(h)(3).) The 12-month period over which the net surplus is calculated begins when the utility receives the customer's election to receive compensation. (Section 2827(h)(4).) This 12-month period is likely to be different than the customer's current NEM true-up period. The law states that customers shall be allowed to choose between either (1) compensation at the end of each 12-month period, or (2) a credit for excess kilowatt-hours that can be rolled over into the next 12-month period. AB 920 specifies that customers not notifying the utility of a desire to receive compensation or a credit roll-over shall not be owed any compensation for surplus kilowatt-hours and the utility shall retain any excess kilowatt hours generated during the period 12-month period. (Section 2827(h)(3).)

AB 920 then requires the Commission to establish by January 1, 2011 a Net Surplus Compensation valuation to compensate the net surplus customer-generator for the value of net surplus electricity. The law states that the Commission shall establish the valuation in a public ratemaking proceeding. In addition, AB 920 requires the Commission to establish a rate for net surplus electricity that is just and reasonable for the customer-generator but that leaves other customers unaffected. Specifically, the Commission is prohibited from setting a rate that shifts costs between solar customer-generators and other bundled service customers. (Section 2827(h)(4)(A-B).)

In setting the Net Surplus Compensation rate, the law, in Section 2827(h)(4)(A), requires the Commission to determine whether the compensation rate will include either or both of the following components:

- (i) The value of the electricity itself; and
- (ii) The value of the renewable attributes of the electricity.

Finally, AB 920 specifies that the utility shall retain all renewable energy credits (RECs) associated with net surplus electricity purchased from customer-generators, and the electricity shall count towards each utility's renewable portfolio standard (RPS) annual procurement targets. Moreover, any REC associated with surplus electricity purchased by the electric utility shall belong to the utility, and any REC associated with electricity generated and used by the customer-generator, shall remain the property of the customer-generator. (Section 2827(h)(5)(A-B).)

The law does not modify the part of the pre-existing statute that allows customers to continue to receive monthly bill credits at the full retail rate, and use those credits throughout the year. The law does not specify how to reconcile situations where a customer has excess bill credits but not excess kilowatt hours, or vice versa, at the end of the 12-month true-up period

3. Utilities Net Surplus Compensation Applications

The primary concern of this ACR is the establishment by January 1, 2011 of a net surplus electricity compensation valuation to compensate the net surplus customer-generator for the value of net surplus electricity. To fulfill this requirement, I direct PG&E, SCE, and SDG&E to file applications, separately or jointly, with the Commission no later than March 1, 2010. The Commission encourages the filing of joint applications. The application(s) should propose a Net Surplus Compensation rate and should include the work papers and

methodology used to calculate this proposed rate. The application(s) should also include a sample tariff sheet applying to the new rate or a standard contract for purchase by the utility of net surplus generation from the net surplus customer-generator.

Small and multi-jurisdictional investor-owned electric utilities operating in California may also file applications to establish a Net Surplus Compensation rate, but are not required to do so. If such utilities opt to not file an application, the Commission may apply the Net Surplus Compensation Rate adopted for PG&E, SCE and/or SDG&E to their operations, after appropriate notice and opportunity for comment by these small and multi-jurisdictional electric utilities.

In presenting the Net Surplus Electricity Compensation rate, the application(s) should describe whether the proposed rate includes: (1) the value of the electricity, and (2) the renewable attributes of the electricity. If the Net Surplus Compensation rate includes either of those components, the application(s) and work papers should describe the method used to calculate the value of those components. Finally, the application(s) and workpapers should indicate how the proposed Net Surplus Compensation rate complies with the requirement in AB 920 that all other customers are held indifferent.

4. Additional Application Requirements

In addition to the proposed rate, workpapers, and proposed tariff or standard contract, the application(s) should address the following questions regarding the proposed net surplus compensation rate.

- (1) How will Net Surplus Compensation rate be determined? Options include payment of the full retail rate, the generation-only rate, the most current RPS Market Price Referent rate adjusted for time-of-delivery, an up-front avoided cost calculation, simple payout of customer bill credits, or some other method of valuation. For whatever rate is chosen, please discuss why the other rate options

discussed above were not selected as the preferred method of compensation.

- (2) Will the rate be fixed as of the online date of the generation (similar to RPS contracting) or change over time (along with other rates)?
- (3) How will the rate offered for Net Surplus Compensation interact with the rate offered for net generation on a monthly basis (i.e., the full retail rate)?
- (4) How will all non-participating customers be held indifferent to the Net Surplus Compensation rate of payment?
- (5) If the Customer will be receiving Net Surplus Compensation based on a generation-only rate, will a customer receive the generation rate applicable at the time the excess generation was generated, or the generation rate in effect at the time of the 12 month assessment?
- (6) Should the administrative cost of calculating Net Surplus Compensation and applying it to customer-generators' bills be considered when calculating a rate, to avoid shifting costs between customer-generators and other bundled service customers?
- (7) Is it possible to simply pay eligible customer generators the amount they have in surplus bill credits at the end of the true-up period?

In addition to the items listed above, the utilities should also propose answers to the following policy questions related to AB 920:

- (1) Will the new tariff created by AB 920 replace the customer's existing NEM tariff, or would it coexist alongside that tariff? Will some customers remain on basic NEM, and others opt into Net Surplus Compensation NEM? Will customers on the new tariff be compensated monthly for their monthly bill credits at the full retail rate?
- (2) Is it possible that a customer could use all the bill credits created by surplus generation over a 12-month period and still have surplus kilowatt-hours? Should the Net Surplus Compensation Program restrict a customer's ability to receive and consume full-

retail bill credits on a monthly basis and receive payment for surplus kilowatt-hours?

- (3) Will customers be allowed to switch from the compensation option to the rollover option or vice versa, and if so, at what point will switching be allowed?
- (4) Will surplus electricity be rolled over in the form of bill credits or kilowatt-hours?
 - a) Will customers be compensated when they have surplus bill credits but not surplus kilowatt-hours?
 - b) Will customers be compensated when they have surplus kilowatt-hours but not surplus bill credits?
- (5) In order to qualify for RPS compliance, a generator must be certified as eligible by the California Energy Commission (CEC), and the REC must be recorded in the Western Renewable Energy Generation Information System (WREGIS), which requires the meter measuring the generation to have accuracy of +/- 2%. Currently, the CEC has not certified distributed generation systems as eligible for RPS compliance and many systems on net metering tariffs do not have meters that meet the WREGIS accuracy requirements. Are CEC certification and WREGIS meter accuracy requirements necessary preconditions in order for the utilities to count towards the RPS annual procurement targets the RECs associated with net surplus electricity purchased from eligible customer-generators (as per Section 2827(h)(5)(A-B))? Assuming these are necessary preconditions, and if a net surplus customer-generator has equipment that complies with CEC and WREGIS standards:
 - a) Will the REC belong to the utility if the customer chooses the roll-over option, where a credit for net surplus generation is rolled over into the next 12-month true-up period, or only if the customer chooses a payment for net surplus generation?
 - b) Will the REC belong to the utility for any net surplus generation if the customer does not elect either option?

- (6) Will customers be permitted to roll excess kilowatt-hours over into subsequent 12-month periods indefinitely, or will the excess kilowatt-hours “expire” after a certain period of time?
- (7) Will the utility be required to cut a physical check to every customer that opts for Net Surplus Compensation, even if the amount owed would be below a de minimus threshold (for instance, if the customer is owed \$1.00)? If not, how should the de minimus threshold be determined?
- (8) Given the potential new layer of complexity that Net Surplus Compensation may add to the existing NEM program, how will the utility communicate the NEM-related rate and program offerings to customers and how will it communicate the financial implications of the new Net Surplus Compensation program? Will customers be able to “look up” what rate is being offered to them? If the rate is the generation-only rate, how will customers be notified if and when that rate changes, as it may multiple times throughout the year?

5. Customer Notification

AB 920 requires the electric utilities to notify their customer-generators by January 31, 2010 that they are eligible to receive net surplus electricity compensation. If all Commission-jurisdictional electric utilities have not already performed this notification, they should do so by the statutory deadline. The utilities may find it useful to cite this ruling and its requirement that electric utilities file application(s) to propose a net surplus compensation rate.

Therefore, **IT IS RULED** that:

1. Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company, shall file applications, separately or jointly, no later than March 1, 2010 proposing a Net Surplus Compensation rate pursuant to Assembly Bill 920, and they shall provide notice of these applications on all persons and entities served with this ruling, the service list for Rulemaking 08-08-009 (the RPS Administration Proceeding), as well as all

customer-generators who received the notification described in Section 5 of this ruling. The application(s) shall include the workpapers and methodology used to calculate this proposed rate, and a sample tariff sheet applying to the proposed rate or a proposed standard contract for purchase by the utility of net surplus generation from the net surplus customer-generator.

2. Small and multi-jurisdictional investor-owned electric utilities operating in California may file applications to establish a Net Surplus Compensation rate as set forth in this ruling, but are not required to do so. If such utilities opt not to file an application, the Commission may apply the Net Surplus Compensation Rate adopted for Pacific Gas and Electric Company, Southern California Edison Company and/or San Diego Gas & Electric Company, to their operations, after appropriate notice and opportunity for comment by these small and multi-jurisdictional electric utilities.

3. In their application(s), Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company, should describe whether the proposed Net Surplus Compensation rate includes the value of the electricity and the renewable attributes of the electricity. If the Net Surplus Compensation rate includes either of those components, the application and workpapers should describe the method used to calculate the value of those components.

4. In their application(s), Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company, should address the questions posed in Section 4 of this ruling.

5. All Commission-jurisdictional electric utilities subject to Assembly Bill (AB) 920 shall perform the customer notification required by AB 920 by January 31, 2010.

6. The Commission's Process Office shall ensure this ruling is served on PacifiCorp, NV Energy, Inc., Bear Valley Electric Service, and Mountain Utilities, Inc.

Dated January 15, 2010, at San Francisco, California.

/s/ MICHAEL R. PEEVEY

Michael R. Peevey
Assigned Commissioner

