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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

Rulemaking 06-03-004
(Filed March 2, 2006)

**ADMINISTRATIVE LAW JUDGE'S RULING
SOLICITING COMMENTS ON THE COMMUNITY CHOICE
AGGREGATION NET ENERGY METERING SERVICE OPTION**

This ruling solicits comments on a proposal for billing requirements to offer Net Energy Metering (NEM)¹ to Community Choice Aggregation (CCA) customer-generators.² The billing proposal would allow CCA customer-generators with solar, biogas and fuel cell generators up to 1 megawatt (MW) and wind generators up to 50 kilowatts (kW) to receive generation credits from the CCA and transmission and distribution (T&D) credits from the serving utility.

¹ Public Utilities (P.U.) Code Section 2827 (b) (3) defines *NEM* as "measuring the difference between the electricity supplied through the electric grid and the electricity generated by an eligible customer-generator and fed back to the electric grid over a 12-month period as described in subdivision (h)..."

² P.U. Code Section 2827 (b) (2) defines an eligible *customer generator* as a " residential, small commercial customer as defined in subdivision (h) of Section 331, commercial, industrial, or agricultural customer of an electric service provider, who uses a solar or a wind turbine electrical generating facility, or a hybrid system of both, with a capacity of not more than one megawatt that is located on the customer's owned, leased, or rented premises, is interconnected and operates in parallel with the electric grid, and is intended primarily to offset part or all of the customer's own electrical requirements."

Background

Net Energy Metering is a service currently offered to utility customers that have installed solar, wind power, biogas and fuel cell generation systems of up to 1 MW. These customers, called customer-generators, receive credit for the energy annually produced by their Distributed Generation systems net of energy annually consumed by the customer. For solar generators up to 1 MW and wind generators up to 50 kW the credit provided by the utility for customer-generators is equivalent to the bundled retail price of power, and thus includes transmission, distribution and all other energy-related charges of the customer-generator's otherwise applicable schedule.

Community Choice Aggregation, as per Assembly Bill (AB) 117, authorizes members of a local community to aggregate their electrical loads to purchase their power from an entity other than the utility in whose territory they reside. Customers who choose to take Community Choice Aggregation service continue to pay their bills through the utility, but the utility passes through to the aggregator the customer's payment for the generation portion of the bill. The customer continues to pay the utility for T&D services. CCA customers should have equal access to Net Energy Metering. However, the Community Choice Aggregation rulemaking, (R.) 03-10-003, found that issue of how to provide NEM service to eligible customer-generators should be considered in the Commission's rulemaking on distributed generation issues. Decision (D.) 05-12-041 stated:

Net metering effectively requires the utility to pay the customer the utility's full retail price for power that is produced by the customer but sent into the utility grid. Currently, we permit net metering for certain renewable projects. We have recently addressed this issue in R.04-03-017 (now R. 06-03-004), where we are developing policies for distributed generation in general and our Self-Generation Incentive

Program (SGIP) in particular. We believe that proceeding is the appropriate venue for deciding issues relating to renewable project net metering and decline to make any decision here about whether CCAs and their customers would qualify for net metering. In that regard we would consider whether it is appropriate for utility bundled customers to pay for the high cost of net metered power produced by CCA customers.

Following that order, the Commission issued Resolution (R.4013-E), resolving various issues in R. 03-10-003 that were raised by parties in their protests to the utilities' CCA Implementation tariffs and approved these tariffs, as modified. However, the issue of providing NEM service to CCA customers was not resolved. Resolution 4013-E stated:

Service under (the NEM rate) schedule shall not be permitted in combination with CCA service until such time as the Commission establishes the terms and conditions applicable to CCA and its customers participating in Net Energy Metering service.

The proposal contained in this ruling recommends terms and conditions for CCA Net Energy Metering service and solicits comments on the proposal.

CCA Net Energy Metering Proposal

In their NEM tariffs, the utilities have suggested that CCA NEM service be treated the same as Direct Access (DA) NEM service that is provided by Electric Service Providers (ESPs). In this case, aggregators under CCA would be subject to rules similar to Public Utilities Code Section 2827(f)(1), which states:

(f)(1) If a customer participates in direct transactions pursuant to paragraph (1) of subdivision (b) of Section 365 with an electric supplier that does not provide distribution service for the direct transactions, the service provider that provides distribution service for an eligible customer-generator is not obligated to provide net energy metering to the customer.

If aggregators under CCA were to be treated the same as ESPs, the utility would not be obligated to provide any kind of bill credit for Net Energy

Metering to CCA customers. This could leave an aggregator who wants to serve customer-generators through NEM serve at a competitive disadvantage. To serve such customers, an aggregator under CCA would have two options. First, it could provide only a generation credit, in which case it would not be competitive with utilities for eligible customer-generators. Second, in order to remain competitive, it could incur an extra expense and provide a bundled generation, transmission and distribution credit, even though the aggregator does not provide T&D services. Furthermore, utilities are required under the CCA program to provide metering and billing services, whereas ESPs under direct access are allowed to meter and bill separately. This difference between CCAs and ESPs warrant separate consideration of NEM services.

In order to avoid creating a disincentive for customers-generators to take CCA service and because the utilities continue to receive T&D revenue under CCA service, this ruling proposes it should be the utilities' responsibility to credit eligible CCA customer-generators for T&D and other energy related charges offset by the customer-generators. Pursuant to D.05-12-041 and Resolution E-4013 in R.03-10-003, the Commission solicits comments on the following billing proposal applicable to customer-generators with solar, biogas, and fuel cell generators up to 1 MW, and wind generators up to 50 kW in the CCA program that take NEM service:

- Community Choice Aggregators will provide a NEM eligible CCA customer-generator with the generation-related bill credit based on the aggregator's CCA generation rate. The CCA will inform the utility of the generation rate for the credit, and the utility will then be responsible to pass the credit on to the customer-generator. Each CCA will be responsible for creating the applicable generation-related bill credit structure associated with this service option.

- The utility will provide a NEM eligible CCA customer-generator with T&D and other energy-related bill credits.
- Any net balance related to generation charges that are collected from a NEM eligible CCA customer-generator will be paid by the utility to the Community Choice Aggregator as set forth in Rule 23 Q, which describes the payment and collection terms between the serving utility and a CCA customer.

In commenting on this proposal, parties may also provide comments addressing any additional terms and conditions they feel may be applicable to a CCA and its customers wishing to take part in the CCA NEM service option.

This ruling will be mailed to the service list for the Commission's CCA R.03-10-003 so that any parties to that proceeding who wish to file comments on this issue may do so.

IT IS RULED that:

1. Parties may comment on the CCA NEM proposal contained in this ruling no later than September 14, 2007.
2. Reply comments may be filed no later than September 21, 2007.
3. Comments should be limited to those issues that address how CCA customer-generators shall take part in the Net Energy Metering service.
4. In addition to the above-captioned proceeding, this ruling should be served on the service list for the Rulemaking 03-10-003 regarding Community Choice Aggregation.

Dated August 30, 2007, at San Francisco, California.

/s/ DOROTHY J. DUDA

Dorothy J. Duda
Administrative Law Judge

INFORMATION REGARDING SERVICE

I have provided notification of filing to the electronic mail addresses on the attached service lists.

Upon confirmation of this document's acceptance for filing, I will cause a Notice of Availability of the filed document to be served upon the service list to this proceeding and Rulemaking 03-10-003 by U.S. mail. The service lists I will use to serve the Notice of Availability of the filed document is current as of today's date.

Dated August 30, 2007, at San Francisco, California.

/s/ SANDRA M. JACKSON

Sandra M. Jackson