PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION **RESOLUTION E-4228**
February 20, 2009

R E S O L U T I O N

Resolution E-4228. Pacific Gas & Electric Company (PG&E) submits new electric tariff NEMCCSF – Net Energy Metering Service for City and County of San Francisco Municipal Load Served by Hetch Hetchy and Solar Generators. Approved with modifications.

By Advice Letter 3363-E filed on November 17, 2008

SUMMARY

This Resolution approves with modifications PG&E's new tariff NEMCCSF. It requires that all "environmental attributes" of the self generated energy be retained by the City and County of San Francisco (CCSF), but provides credit to CCSF only for the generation component of the energy produced by Hetch Hetchy Water and Power At-Site Photovoltaic (PV) Generating Facilities. This resolution also requires clarifications to be made to the tariff language.

BACKGROUND

Existing Net Energy Metering (NEM) tariffs apply to retail customers per Public Utilities (PU) Code Section 2827. Since the City and County of San Francisco (CCSF) is not a PG&E retail customer for its entire load the California Legislature enacted and then amended PU Code Section 2828.

The first version, Assembly Bill (AB) 594, signed by the Governor on September 24, 2004, authorized the CCSF to designate specific photovoltaic (PV) generation facilities meeting specified conditions as "Hetch Hetchy Water and Power (HHWP) solar generation facilities." Upon the CCSF's first designation of such a facility, the law provides PG&E with 10 days to submit to the Commission an advice letter (AL) establishing a special NEW rate for CCSF solar generation serving on-site load.

Under AB 594, the total peak generating capacity of all HHWP solar generation is not to exceed 5 megawatts (MW) and each individual photovoltaic generation project is not to exceed one MW of peak generation capacity.

On a monthly basis, any electricity exported to PG&E's grid will, for each Time-Of-Use (TOU) period, result in either a monetary credit, or an offset against the invoice created pursuant to the existing PG&E/CCSF Interconnection Agreement (CCSF IA) filed with the Federal Energy Regulatory Commission (FERC). The credit or offset is valued at the generation component of the energy charge of the applicable TOU tariff. AB 594 gives the Commission discretion to increase this credit to reflect any additional value derived from the location or environmental attributes of such a facility.

Annually, a true-up must be performed, and if the total electricity delivered to the site by PG&E since the previous true-up is less than the energy exported to the grid, the CCSF receives no credit or offset for the electricity exported to the grid in excess of the electricity delivered to the site from the grid. Such an arrangement would terminate 1) upon notice from the CCSF or 2) upon the CCSF engaging in retail sales to PG&E's customers as a result of becoming a Community Choice Aggregator (CCA), or 3) upon the CCSF's municipalization.

The provisions of PU Code Section 2828 were subsequently amended by Assembly Bill (AB) 2573, signed into law by the Governor on September 29, 2006. AB 2573 authorized two different types of HHWP photovoltaic electricity generation arrangements:

1) HHWP at-site solar generation.
HHWP at-site solar generation incorporated almost all of the existing provisions established by AB 594 - remote load is not credited, credit is issued at the generation component of an identified TOU tariff, and surplus credit is lost at an annual true-up. AB 2573 made some revisions, however: the maximum total peak generation for CCSF under the new program increased from 5 megawatts to 15 megawatts, and the tariff would no longer terminate should CCSF become a CCA or a municipal utility.

2) HHWP remote solar generation.
As a result of AB 2573, PG&E and the CCSF negotiated amendments to the terms of the FERC approved CCSF IA to permit the CCSF photovoltaic facilities to serve remote load. Since the CCSF IA serves as the "tariff" for the HHWP

remote solar generation portion of the statute, this Advice Letter and Resolution does not apply to HHWP solar facilities generating electricity where load is remote from the generating site.

PU Code 2828 section (f) provides that:
"Pacific Gas and Electric Company shall file an advice letter with the Commission, that complies with this section, not later than 10 days after the City and County of San Francisco first designates the specific generation facilities that will comprise HHWP solar generation. The Commission, within 30 days of the date of filing of the advice letter, shall approve the advice letter or specify conforming changes to be made by Pacific Gas and Electric Company to be filed in an amended advice letter within 30 days."

On November 5, 2008, the CCSF notified PG&E that it is designating solar facilities located at PIER 96 (Account #8BFRG8BF) as its first HHWP at-site solar generation. In accordance with this requirement, PG&E submitted this AL with proposed Electric Rate Schedule - NEMCCSF in a timely fashion.

NOTICE

Notice of AL 3363-E was made by publication in the Commission's Daily Calendar. PG&E states that a copy of the Advice Letter was mailed and distributed in accordance with Section 3.14 of General Order 96-B.

PROTESTS

PG&E's Advice Letter AL 3363-E was timely protested by the CCSF on December 8, 2008.
PG&E replied to the protests of the CCSF on December 15, 2008.

CCSF's protest

CCSF states the following in its protest:

1. <u>CCSF should receive all value and credits associated with the "Environmental Attributes" of its solar generators.</u>

The proposed tariff states that

> "Ownership and use of the "Environmental Attributes" associated with the electricity delivered to the electric grid by the HHWP At-Site Solar Generation Facility and purchased by PG&E shall be retained by PG&E".

This violates PUC Section 2828(j) that states that

> "Ownership and use of the environmental attributes associated with the electricity delivered to the electric grid by HHWP at-site solar generation and HHPW remote solar generation shall be determined by the Commission in accordance with Article 16 (commencing with Section 399.11 of Chapter 2.3 of Part 1" (aka Renewable Portfolio Standard (RPS)).

Decision (D.) 07-01-018, Ordering Paragraph (OP) #3 states:

> "The Commission should allow all renewable DG system owners to retain the RECs (Renewable Energy Credits) produced by their facilities irrespective of whether or not they receive ratepayer funding from programs such as CSI (California Solar Initiative), SGIP (Self Generation Incentive Program), or <u>net metering</u>."

The text of D.07-01-018 also refers to D.02-10-062 which articulates policy to encourage the installation of additional renewable DG facilities, which were included in the definition of renewable generation under RPS to encourage their installation.

The Commission's determination that system owners, rather than PG&E, should retain the RECs is particularly telling considering the stark contrast between the magnitudes of ratepayer-funded incentives that other customers will receive relative to CCSF. CCSF solar facilities will only receive the net metering payments under AB 594. PG&E's proposed tariff language must be modified to meet the statutory requirement of the legislation and so as to read in the second Paragraph under Applicability:

> "Ownership and use of the "Environmental Attributes" associated with the electricity delivered to the electric grid by the HHWP At-Site Solar Generation Facility and purchased by PG&E shall be retained by CCSF".

CCSF's protest continues as follows:

2. <u>CCSF should receive Net Metering credit for the "Generation Component" of the otherwise applicable Demand charge as required by AB 594.</u>

   In drafting AB 594, the Legislature specifically stated that CCSF's eligible solar generation provided to PG&E shall:

   > For each TOU period, resulting in a monetary credit to be applied monthly as a credit or offset against the invoice created pursuant to the Interconnection Agreement and **shall be valued at the generation component of the appropriate TOU tariff** (PUC Section 2828(c)).

   In contrast, PG&E has limited the requirements of AB 594, proposing that:

   > For each TOU period …shall be valued at the generation component **of the Energy Charge** of the appropriate TOU tariff (PG&E proposed tariff Sheet 27833-E).

   PG&E's larger TOU Customers pay three different charges for their service – a flat customer charge, a per kWh energy charge, and a per kW demand charge based on the highest recorded usage during the month. Each of these components is then further broken down into various components – a **generation component**, distribution component, transmission component, and other components.

   CCSF should receive a net-metering credit for the demand charge based on the difference between what demand would have been with and without the solar generation.

   Further support for CCSF's position is found in AB 2466, signed into law on September 28, 2008, which allows other local governments to use net-metering. In AB 2466 the bill credit is limited to:
   The TOU electricity **generation component of the electricity usage charge** of the generation account, multiplied by the quantity of

electricity …exported to the grid during the corresponding time period. (New PUC Section 2830(a) (2), effective January 1, 2009).

In AB 594 the Legislature clearly stated that the credit applies to the generation component of the "appropriate tariff", not just the "electric usage charge" as AB 2466 does.

CCSF's protest continues as follows:

3. The resolution should be effective as of December 17, 2008

   Under the statuary requirement the tariff implementing AB 594 must be approved by the Commission by December 17, 2008. Rule 7.3.1 of General Order (G.O.) 96-B allows for Resolution to become effective "if a statute … specifically authorizes an AL to go into effect on a date different from that otherwise provided by these General Rules."

PG&E's reply to CCSF's protest

1. CPUC should look for guidance to the entire history of the DG/REC discussion

   PG&E agrees that the language of AB 594 is clear about the CPUC determining ownership of the environmental attributes in accordance with the RPS legislation. However the entire history should be considered, not just the treatment of net metered customers (i.e. solar and small wind serving on-site load), for which the CPUC determined that the RECs for all power (serving on-site load or providing a bill credit) initially belongs to the system owner. Because a single channel for metering is used, there is no record of the customer's actual usage or export to the grid. PG&E bills the customer only according to its net usage at the end of a billing cycle and the customer is essentially using the grid as a battery.

   In contrast, AB 1969 and PG&E's implementing tariffs E-PWF (Eligible Public Water Facility Power Purchase Agreement (PPA)) and E-SRG (Small Renewable Generation PPA) clearly indicate that the renewable attributes are conveyed to PG&E for exported electricity and count towards compliance with PG&E's RPS.

PG&E believes that AB 594 established a program more like tariff E-SRG because:

- E-SRG and NEMCCSF can only offset simultaneous load occurring behind the meter. There is no use of the grid as a "battery".
- Unlike NEM which typically uses one channel, E-SRG and NEMCCSF uses two separate channels.
- NEM does not discuss ownership of the export to the grid, while the statute for E-SRG and NEMCCSF makes it clear that export becomes PG&E's property.

Furthermore, the generation component of the energy charge (or credit) for NEMCCSF includes all generation energy costs, including the fully bundled rates for any renewable purchases, etc. (i.e. RPS purchases).

The Assembly Floor analysis of AB 594 states that "The benefit for PG&E as a result of this net metering agreement comes from the lower costs of purchasing this electricity under TOU tariffs versus retail rates and having the electricity purchased meet its RPS requirements under state law."

PG&E's reply to CCSF's protest continues:

2. <u>The Generation component of the Demand charge is not credited on similar tariffs NEM-BIO and NEM-FC, and AB 594/2466 language differences are easily explained.</u>

   At the time AB 594 was enacted, many of PG&E's tariffs had a negative value as the generation component of the demand charge – including tariff E-19P, the likely tariff Pier 96 will be assigned, and A-10, the tariff cited in CCSF's protest. Clearly the legislature did not intend PG&E to charge CCSF a demand charge for export under AB 594 and PG&E has understood that this is the reason the generation component of the demand charge was not included when the statute was crafted. At the time AB 2466 was passed, all of PG&E's tariffs had a positive value for the generation component of the demand charge.

   Contrary to what CCSF argues, "generation component" used in AB 594 to describe the rate component to be used in the CCSF net metering credit calculation, has consistently been interpreted by CPUC to represent the

"generation component of the energy charge" of the applicable rate schedule.

PUC Section 2827.8(b) (NEM credits for wind generators over 50 kW) uses the same "generation component" language that was later incorporated into PUC Section 2828. Long established NEM tariffs for large wind, biogas and fuel cell generators provide credits for export based on the generation component of the energy charge only.

PG&E's reply to CCSF's protest continues:

3. Other issues

It is noteworthy that under the SGIP any Hetch Hetchy customer was eligible for SGIP funds if it was a PG&E electric or gas customer. The PV installation at Pier 96 therefore received $ 3.00 per Watt.

PG&E would like CCSF to begin taking advantage of the NEMCCSF tariff as soon as possible but points out that the December 17, 2008 effective date is only established by statute in case the CPUC adopts the tariff as filed. Alternatively, the statute allows the Commission to order PG&E to amend the tariff, and still be in compliance with the requirement for action within 30 days.

DISCUSSION

We discuss the two issues raised by this AL, disagreeing with PG&E on the first issue (CCSF should receive all attributes), but agreeing with the utility on the second issue (not crediting the generation component of the demand charge).

Energy Division has reviewed the AL, protest of the CCSF and PG&E's reply to the protest.

1. Environmental attributes (or RECs)

We agree with the CCSF that D.07-01-018, Ordering Paragraph (OP) #3 clearly applies to PG&E's proposed tariff NEMCCSF because this tariff is a net (energy) metering tariff that only credits generation up to consumption. Therefore the NEMCCSF tariff paragraph under "Applicability" should read: "Ownership and

use of the "Environmental Attributes" associated with all the electricity generated by the HHWP At-Site Solar PV Generation Facility shall be retained by CCSF."
We disagree with PG&E's arguments for the following reasons:

- Like other NEM tariffs, the proposed tariff provides for banking of monthly credits for a year and then trues them up against charges for the year. There is no compensation for overproduction delivered to PG&E's grid. The NEMCCSF tariff actually trues up kWh, which mimics use of the grid more like a battery than the true up of the monthly monetized kWh provided by the other NEM tariffs.
- Other NEM tariffs under TOU otherwise applicable tariffs also require two channel meters (able to measure separately the flow in both directions) and even the NEM tariff for solar and small wind generators may use this option.
- Other NEM tariffs have language that states that excess energy will be retained by PG&E without compensation.

In D.07-01-018 most parties strongly agreed that ownership of RECs should not be split between the producer and the utility, assigning all of them to the producer. This principle makes sense for accounting simplicity and since generators under NEM tariffs are generally not oversized for economical reasons (forfeiture of overproduction) and only minimal REC assignments to the utility would occur therefore.

In its comments PG&E argues that CCSFNEM is similar to the Power Purchase Agreements (PPA) under PU Code 399.20 and therefore the RECs associated with the generation by a facility under CCSF should also be treated the same. We disagree, because CCSFNEM only allows offset or credit for the generation against consumption charges from the utility. A PPA has no such restriction and PU Code 399.20 does not require the generator to be a retail consumer of utility power.

2. <u>Generation component of Demand charge</u>

Utility rates usually have fixed customer charges and variable Energy rates. The energy rates are unbundled into Generation, Transmission, Distribution, Public Purpose, Nuclear Decommissioning and other components.

Some TOU tariffs also include Demand charges, which are unbundled into Generation, Transmission and Distribution Components.

PU Code Section 2828(c) states that

> "…electricity exported … shall be valued at the generation component of the appropriate TOU tariff."

The term "electricity" is generally equated with "energy" (kWh), regardless of voltage, power factor, or other attributes, like demand, and the term "component" is singular in this legislation.

PU Code Section 2828(c) states:

> "The Commission shall determine if it is appropriate to increase the credit to reflect any additional value derived from the location or the environmental attributes of, the designated HHWP solar generation."

Thus CCSF asks the Commission to increase the credit that PG&E's tariff would provide, by crediting the generation component of the <u>demand</u> charge as well.

However NEM tariffs under PU Code Sections 2827.8, 2827.9 and 2827.10, which are similar to the proposed tariff, do not credit the customer-generator for its generation component of the demand charge. The report on the cost and benefits of net energy metering, due by the end of this year under PU Code Section 2827(c)(4), may result in changes to the tariffs under Proceeding R. 08-03-008.

In its comments to the draft resolution, CCSF refers to PU Code Section 2827.8. The surcharges referred to in this Section however are for the California Department of Water Resources power purchase costs, not demand related "surcharges". This section specifically excludes crediting surcharges on the generation component which were "established under the applicable structure" (of the tariffs).

As to the assertion that 2827.8 provides clearer distinction on the Commission's authority and discretion to determine the NEM tariffs under the applicable structure (of the tariffs), we note that the structure of those

long-established tariffs have not changed with the advent of customer-side generation.

Furthermore we agree with PG&E's statement that the "exported energy from CCSF does not reduce the capacity-capable requirement" of PG&E to CCSF or any other customer.
AB 594 clearly established a Net Energy Metering tariff and the suggestions by PG&E and CCSF that it established a PPA, when it suits their positions, is disingenuous. When NEM tariffs under PU Code 2827.8 were established, the crediting of generation components in other than the first order of the rate schedule breakdown was not included.

AB 594 is modeled after SB 1038 (PU Code 2826.5), which established a bill crediting for the City of Davis (Davis) for energy exported from the PVUSA generating plant, The term "applicable rate schedule" is used there in contrast to "applicable tariff" in AB 594 and we see no difference in meaning therein. Under the contract with Davis, the generation component of the demand charge was not credited, as evidenced by PG&E bill statements. Incidentally, the generation component of the demand charge at the time of contract effective date was negative, which would have required Davis to pay for exporting power above certain limits.

Therefore it would be premature and inconsistent for the Commission to provide CCSF additional credit for the generation component of the demand charge at this time.

3. Other issues

In the draft resolution we agreed with PG&E's Reply position that the Commission timely fulfilled the statute when it commenced this resolution draft process in accordance with Commission Rules 7.5.2 and 7.6.2 upon receipt of PG&E's AL, followed by protest, and reply to the protest, allowing for due review, and by scheduling it for the earliest Commission calendar date.

AB 594 states: "The commission, within 30 days of the date of filing of the advice letter, shall approve the advise letter or specify conforming changes to be made …" This wording does not allow for changes before approval and is silent on the effective date. However based on CCSF's comments referring to

G.O. 96-B, Rule 7.3.1, we shall require December 17, 2008 as the effective date for the proposed Schedule CCSFNEM, as requested by PG&E. This assumes that "approve" in the statute means "being effective".

We also approve PG&E's request to add under "Applicability" the sentence "The CCSF is strongly encouraged to contact PG&E regarding any export limitations, before beginning any work on a HHWP At-Site PV Generating Facility that is expected to export under NEMCCSF" and to change the definition of "Account" referring to Rule 1.

4. Clarifications

We request that the following editorial changes be made to the proposed NEMCCSF tariff for clarification:

a. Change the title and each applicable occurrence to: "Net Energy Metering Service for City and County of San Francisco Municipal Load Served by Hetch Hetchy and At-Site Photovoltaic Generating Facilities." This is to clarify that tariff only applies to At-Site PV solar systems.
b. Clarify, where applicable, "meter" as "utility meter" or "PG&E meter" and "grid" as "PG&E grid".
c. Change the last paragraph under "Applicability" to say: "HHWP At-Site PV Generating Facility Interconnections in portions of San Francisco where PG&E has a network grid may be export limited. The CCSF is strongly encouraged to contact PG&E regarding any export limitations, before beginning any work on a HHWP At-Site PV Generating Facility that is expected to export under NEMCCSF". CCSF would not know where the networks are and therefore could not notify PG&E.
d. Delete or change last sentence under "Rates" to: "Costs to administer this tariff will be funded through bundled customer rates." This is to clarify that not all implementation costs, like meters and grid modifications, are funded through bundled customer rates. This sentence does not generally appear in other tariffs though.
e. Change the second paragraph under "Billing" to read "Any electricity exported to the PG&E grid by a HHWP At-Site PV

Generating Facility shall be valued in dollars at the generation component of the Energy Charge of the Appropriate TOU Tariff for each time-of-use period, and applied monthly as a credit or offset against the invoice created pursuant to the Interconnection Agreement." Delete the remainder of the paragraph because it is a repetition of the previous sentence or violates the required carry-over of credits to the end of the year.

f. Change the second sentence of the third paragraph under "Billing" to "A separate true-up shall be performed annually for each site served …"
g. In the second sentence of the fourth paragraph under "Billing" add "site" to "For any HHWP At-Site PV Generating Facility site …"
h. Under "Special Conditions 2." change "…Parallel Operation, the customer generator must …" to "… Parallel Operation, CCSF must …"

COMMENTS

Public Utilities Code section 311(g) (1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g) (2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments, and will be placed on the Commission's agenda no earlier than 30 days from mailing.

Comments and Replies were submitted timely by PG&E and CCSF and shown below. Their discussion is incorporated by additions to the original Discussion section above.

PG&E Comments

PG&E still believes that because the exported energy is not banked for later use by CCSF, the treatment of the RECs should be similar to treatment under

Schedule E-PWF (PU Section 399.20 PPA) and E-SRG (Small Renewable Generation PPA). The customer is not a PG&E customer at all. The generation component of PG&E's rates include all costs of generation, including any above market costs paid for renewable energy needed to pay for environmental attributes.

PG&E agrees with the conclusion reached in the draft resolution regarding the generation component of the demand charge. It also points out that the Pier 96 site already receives a full reduction in demand charges because of the at-site offset.

PG&E proposes to add the following sentence to the Discussion Section 4. (c): " The CCSF is strongly encouraged to contact PG&E regarding any export limitations, before beginning any work on a HHWP At-Site PV Generating Facility that is expected to export under NEMCCSF", and revise Special Condition 4 of NEMCCSF "Account means the individual PG&E metered service point served under this rate schedule" to: "Account" is defined in Rule 1, Definitions.

CCSF Comments

CCSF strongly supports the draft resolution's determination that CCSF is entitled to the RECs of its renewable generation.

CCSF disagrees with the draft resolution that "electricity", as used in Section 2828, means "energy measured in kWh". All demand-based rate schedules specify the energy in kWh measured over the highest hour of use, which is used to determine the amount of demand subject to demand charge. Also, per PU Code Section 13 "singular" and "plural" are interchangeable. PU Code Section 2827.8 for NEM provides clearer distinctions on the Commission's authority and discretion than AB 594 and values power at the generation component, excluding surcharges …established under the applicable structure. The Commission thus was given more deference what this "structure" is. PU Code Sections 2827.9 and 2827.10 limit their applicability by requiring that the kWh produced shall be valued at the same price as the electrical corporation would charge for retail kWh sales for generation.

CCSF refers to D.07-01-024 which allows the effective date of an advice letter to be other than the approval date, where statute designates so. G.O. 96-B, Rule

7.3.1 specifically recognizes that legislative requirements may require an AL to go into effect on a date different from that otherwise provided by these General Rules, consistent with the authorization. "Commencing the resolution draft process" is not the same as "approval" required by the statute. Therefore CCSFNEM should go into effect December 17, 2008, as PG&E requested.

Reply comments were submitted on February 5, 2009 by PG&E and CCSF

PG&E's reply comments

PG&E maintains that environmental attributes of CCSF's energy should follow rate schedules E-PWF and E-SRG, both regulating Power Purchase Agreements (PPA), because once power is exported to the grid, it is purchased by PG&E and available to serve bundled customers. Under a NEM tariff the grid exports are banked for future use by the NEM customer.

PG&E counters CCSF's claim for credit of the generation component of the demand charge with the notion that the author of AB 594 chose the word "export" to refer to energy (kWh) in contrast to demand (kW), which is a service, not a commodity. CCSF's description how the demand credit should be calculated is inconsistent with the credit based on export of electricity. Comparing demand with and without PV has nothing to do with export of electricity and PV already offsets CCSF's demand.

The meaning of "generation component credit" is long established. The term "appropriate TOU tariff "in AB 594 does not significantly changes the meaning of "generation component credit" from the meaning in PU Code 2827.8, where "applicable structure to which the customer would be assigned if the customer did not use an eligible wind electric generating facility" is used.

Also, the CCSF customers do not take service on PG&E bundled rates.

CCSF's reply comments

CCSF reiterates that AB 594 PU Code 2828) was clearly designed as a "net metering "program and therefore the environmental attributes belong to the generator as decided in D.07-01-018.

CCSF maintains that the limitation of the generation credit to the energy charge only is not supported by the statute. It also refers to recently adopted AB 2466 (PU Code 2830) which specifically limits the credit to the generation component of the usage charge. Each of these programs is authorized by different sections of the PU Code and has different authorization language. The limiting language in AB 2466 would be superfluous if both programs were designed the same. CCSF objects to PG&E's characterization of not being a customer at all because it is a customer under a FERC tariff. AB 594 recognizes that CCSF is not eligible under a CPUC regulated NEM tariff though.

FINDINGS

1. CCSF is not a retail customer of PG&E therefore other net energy metering (NEM) tariffs do not apply.
2. Assembly Bill 594 directed PG&E to file an Advice Letter to implement a NEM tariff for HHWP At-Site PV generation that credits the CCSF for electricity exported.
3. The proposed tariff is modeled after the contract with the City of Davis for the export from PVUSA under PUC 2826.5 and existing net energy (NEM) tariffs for PG&E bundled customers.
4. There is no difference in the meaning of the term "applicable rate schedule" and "applicable tariff".
5. The essence of proposed and existing NEM tariffs is to offset a customer's energy purchase needs but to not create a generator of energy for sale; therefore, NEM tariffs do not compensate the customer-generator for excess energy exported to the PG&E grid.
6. A PPA has no such restriction and PU Code Section 399.20 does not specifically require the generator to be a retail consumer of utility power.
7. D.07-01-018 ruled that NEM customer-generators retain all environmental attributes of the self-generation.
8. The Commission interprets "electricity" as used in Section 2828 to mean "energy", measured in kWh.
9. AB 594 requires electricity to be credited at the generation component (singular) of the appropriate TOU tariff.
10. Existing NEM tariffs each apply to an otherwise applicable tariff (OAT) and do not credit the generation component of the demand charge of the OAT.
11. AB 594 allows the Commission to determine if it is appropriate to increase the credit to reflect any additional value derived from the location or the environmental attributes of the designated HHWP solar generation.

12. Accordingly CCSF asks to increase the credit PG&E's tariff would give it, but it would require a proceeding to do so, and the Commission has not increased the credit for any DG to date.
13. Crediting the generation component of the demand charge for the proposed NEMCCSF tariff would be inconsistent with treatment adopted in other NEM tariffs and the contract with the City of Davis under PU Code 2826.5.
14. The exported energy from CCSF does not reduce the capacity-capable requirement by PG&E to CCSF or any other customer.
15. The proposed tariff should be revised per Clarifications a. through h. of the Discussion Section 4.
16. G.O.96-B, Rule 7.3.1 allows an AL to go into effect at a different time than the approval date if a statute requires so.

THEREFORE IT IS ORDERED THAT:

1. The request of PG&E to provide a new electric rate schedule NEMCCSF as submitted in Advice Letter 3363-E is approved with modifications.

2. PG&E shall change the second to last paragraph of the "Applicability " section to read: "Ownership and use of the "Environmental Attributes" associated with all the electricity generated by the HHWP At-Site Solar PV Generation Facility shall be retained by CCSF."

3. PG&E shall make Clarifications a. through h. of the Discussion and change the definition of "Account", referring to Rule 1 Definitions, in its proposed tariff.

4. PG&E shall submit a supplemental AL revised per Ordering Paragraphs 2 and 3 within 10 days.

5. The tariff, as modified by this resolution, shall be effective as of December 17, 2008.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on February 20, 2009, the following Commissioners voting favorably thereon:

/s/ Paul Clanon
Paul Clanon
Executive Director

MICHAEL R. PEEVEY
PRESIDENT
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners