

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA



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Order Instituting Rulemaking to Develop  
a Successor to Existing Net Energy  
Metering Tariffs Pursuant to Public  
Utilities Code Section 2827.1, and to  
Address Other Issues Related to Net  
Energy Metering.

Rulemaking 14-07-002  
(Filed July 10, 2014)

**REPLY COMMENTS OF THE OFFICE OF RATEPAYER ADVOCATES  
ON THE PROPOSED DECISION ADOPTING SUCCESSOR TO  
NET ENERGY METERING TARIFF**

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## **I. INTRODUCTION**

The Office of Ratepayer Advocates (ORA) submits these reply comments on the Proposed Decision (PD) of Administrative Law (ALJ) Judge Simon. The PD represents a step in the right direction towards addressing the Net Energy Metering (NEM) cost shift. The adoption of mandatory time of use rates for NEM customers, the elimination of the interconnection waiver, and the application of non-bypassable charges to the gross consumption of NEM customers are reforms which are an appropriate next step and should be part of the final decision. As ORA and other parties opening comments point out, these NEM reforms were proposed under the assumption that the federal Investment Tax Credit (ITC) would expire in 2016. In light of the recent extension of the 30% ITC through 2019 and continued ITC benefits through 2021, the Commission can be confident that these modest PD NEM reforms can be made now.

## **II. DISCUSSION**

### **1. Require TOU Rates for NEM Customers who Interconnect on or after Jan. 1, 2018.**

Parties recommend against the PD's adoption of mandatory TOU rates for NEM successor tariff customers who interconnect on or after January 1, 2018.<sup>1</sup> ORA disagrees. The Commission should retain the mandatory rates as proposed in the PD. Requiring NEM customers to take service on a TOU rate as soon as is practically and legally possible ensures that NEM customers receive an appropriate price signal. Properly designed TOU rates encourage NEM customers to shift their load to time-periods when their load has lower potential to contribute to grid impacts. The load-shifting price signal is simply nonexistent for NEM customers who are on tiered rates because these customers are able to offset their imports from the utility at peak times with exports from the on-site generator at off-peak times. In the recent residential rate reform

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<sup>1</sup> See Brightline Defense Project and the Salvadoran American Leadership and Educational Fund (SALEF) Opening Comments, p. 3; The Alliance for Solar Choice (TASC) Opening Comments, p. 2; The Silicon Valley Leadership Group (SVLG), p. 4.

OIR, the Commission affirmed the benefits of a TOU rate design.<sup>2</sup> Several solar and environmental groups voiced support for TOU rates in the residential rate reform OIR.<sup>3</sup>

The PD requires customers who take service under the NEM successor tariff prior to 2018 to also move to a TOU rate once the Commission has instituted default TOU rates for all residential customers in 2019.<sup>4</sup> The Sierra Club is concerned that this provision could have a harmful effect on the solar industry.<sup>5</sup> Similarly, the Joint Solar Parties (JSP) argue that even if solar customers installing in 2016 and 2017 are sufficiently notified that they will be transferred onto TOU in 2019, they will have insufficient information regarding their rates for the majority of the useful life of their investment. ORA doesn't dispute the possibility that customers who take service under the NEM successor tariff prior to 2018 may not have had perfect information with which to evaluate costs and benefits. The same can be said for customers who have already taken service under the existing NEM tariff and must comply with residential rate reform, yet NEM installations have continued to grow. The Commission should not create work-arounds or delay policy treatments to remove the risk of future rate design changes for NEM customers, when rate design changes will equally impact non-NEM customers.

**2. Require NEM successor tariff customers to pay all nonbypassable charges and on a gross usage basis.**

A minority of parties recommended against the PD's requirement that NEM successor tariff customers should pay nonbypassable charges on each kWh of electricity they consume from the grid.<sup>6</sup> The joint solar parties argued against including all of the existing NBC charges in that calculation.<sup>7</sup> ORA disagrees with both recommendations.

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<sup>2</sup> D.15-07-001, p. 84.

<sup>3</sup> D.15-07-001, p. 85.

<sup>4</sup> PD, Conclusion of Law #10, p. 120.

<sup>5</sup> Sierra Club Opening Comments, p. 3.

<sup>6</sup> The Federal Executive Agencies (FEA) Opening Comments, pp. 1-2; Foundation Windpower Opening Comments, pp. 1-8;

<sup>7</sup> Joint Solar Parties (JSP) Opening Comments, pp. 6-9.

ORA agrees with the PD that nonbypassable charges support important programs that are used by and benefit all ratepayers, including NEM customers.<sup>8</sup> Also, the PD is correct to mandate payment of nonbypassable charges on the full amount of electricity the NEM successor tariff customer receives from the grid, as it is with other customers. In addition, the PD does not specify that it is changing which NBCs are charged to NEM customers. On the contrary, the PD only specifies that under the current NEM tariff, NEM customers pay nonbypassable charges embedded in their volumetric rates. The PD is now requiring those same NBCs currently paid by NEM customers on a net consumption to be paid on gross consumption. The Commission should retain the requirement that all currently assessed NBCs be charged on each kWh of electricity that NEM successor tariff customers consume from the grid.

**3. Modify the PD to account for the ITC extension.**

ORA, PG&E, TURN, and NRDC<sup>9</sup> all agree that the PD be revised to remove discussion of the uncertainties associated with the ITC. The ITC extension removes a significant uncertainty, thus the PD's NEM reforms (i.e., interconnection fees, nonbypassable charges on gross usage, and mandatory TOU) should be maintained.

**4. Refine policies for growth in disadvantaged communities.**

The PD allows that the AB 693 Multifamily Affordable Solar Roofs program (AB 693 Program), once implemented, be counted towards compliance with P.U. Code § 2827.1(b)(1).<sup>10</sup> Because the AB 693 Program is not available to single-family homeowners and renters in disadvantaged communities, the PD finds that it is reasonable to adopt the staff proposed Neighborhood VNM program. ORA shares the concern expressed by the California Housing Partnership Corporation (CHPC) that the targeted population of the AB 693 Program as adopted by the Legislature is more expansive than

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<sup>8</sup> PD at p. 88.

<sup>9</sup> ORA Opening Comments, p. 3, PG&E Opening Comments, p. 3, TURN Opening Comments, p. 9, NRDC Opening Comments, p. 2.

<sup>10</sup> PD, p. 110.

the disadvantaged communities population defined in the PD, specifically that the AB 693 Program was intended to be open to all low income communities.<sup>11</sup> Thus while the AB 693 Program should count towards § 2827.1(b)(1) compliance, it should be developed independently of the NEM tariff either in this proceeding or in R.12-11-005.

If the Commission continues the Neighborhood VNM program, the disadvantaged communities definition should be based on participant income.<sup>12</sup> Once the AB 693 Program is designed and begins implementation, it will be available to low-income multi-family participants. Equally income eligible households residing in single-family homes outside of the narrowly defined disadvantaged communities census tracts will not be able to participate in the Neighborhood VNM program. Therefore, if the Commission continues with the Neighborhood VNM program, the eligibility should be income limited as a matter of equity. Limiting eligibility based on income also prevents the problem identified by TURN where wealthy customers receive retail rate credits because they are located within a disadvantaged community census tract.<sup>13</sup> Finally, ORA agrees with TURN's concern that the Neighborhood VNM program has the potential to encroach on the implementation of the Green Tariff Shared Renewables (GTSR) program.<sup>14</sup> While the Neighborhood VNM program would not be required to maintain non-participating customer indifference, the GTSR program is constrained by the requirement to maintain non-participating customer indifference. As such, generators would find the Neighborhood VNM program much more lucrative than the competing GTSR program that is required to pass all costs of the program onto participants. Compliance with § 2827.1(b)(1) should be addressed in the next phase of this proceeding.

**5. The grandfather period should be shortened to 10 years.**

Under the NEM successor tariff, customers can take service for 20 years post

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<sup>11</sup> CHPC opening Comments, p. 2.

<sup>12</sup> Proposal of the ORA for Net Energy Metering Successor Standard Contract or Tariff, p. A-34.

<sup>13</sup> TURN Opening Comments, p. 14.

<sup>14</sup> TURN Opening Comments, p. 14.

NEM interconnection. The extension of the existing NEM is now uncapped and NEM interconnections have been accelerating as installation prices decline. There is a high potential to lock in a significant amount of NEM MWs on the extended existing tariff. The public tool estimates that the average payback period for NEM generators is below 10 years.<sup>15</sup> ORA recommends that the Commission adopt a 10 year period.

**6. Reject proposals for NEM customers to lock in a rate.**

Sierra Club recommends that NEM customers be allowed to lock in their underlying TOU rate for 5 years to provide predictability.<sup>16</sup> This is inconsistent with residential rate reform rules set out in D.15-07-001.<sup>17</sup>

**7. Reject proposals to eliminate customer protections.**

SDG&E suggests elimination of requirements for the utilities (IOUs) to fulfill certain consumer protection functions.<sup>18</sup> ORA disagrees. NEM participants are still customers of the IOUs. The IOUs perform other consumer protection and safety functions for their customers and are in the best position to efficiently perform these functions as part of the interconnection process as envisioned by the PD.

Respectfully submitted,

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<sup>15</sup> PG&E Opening Comments, p. 13.

<sup>16</sup> Sierra Club Opening Comments, p. 5.

<sup>17</sup> Decision 15-07-001, p. 154.

<sup>18</sup> SDG&E Opening Comments, p. 14.