

BEFORE THE PUBLIC UTILITIES COMMISSION OF  
THE STATE OF CALIFORNIA



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Order Instituting Rulemaking to Revisit Net  
Energy Metering Tariffs Pursuant to  
Decision D.16-01-044, and to Address Other  
Issues Related to Net Energy Metering

Rulemaking 20-08-020  
(Filed August 27, 2020)

COMMENTS OF THE UTILITY REFORM NETWORK  
ON THE PRELIMINARY SCOPE AND SCHEDULE



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**COMMENTS OF THE UTILITY REFORM NETWORK  
ON THE PRELIMINARY SCOPE AND SCHEDULE**

Pursuant to the Order Instituting Rulemaking to Revisit Net Energy Metering Tariffs Pursuant to Decision 16-01-044, The Utility Reform Network (TURN) submits these comments on the preliminary scope and schedule of the proceeding.<sup>1</sup> As an active participant in the debate over the Net Energy Metering successor tariff (NEM 2.0) in R.14-07-002, TURN urged the Commission to develop a new approach to compensating customers with Behind The Meter (BTM) generation resources. Specifically, TURN repeatedly noted the inequities, inefficiencies and growing challenges of continuing to link compensation for BTM resources to retail rates. The final decision issued by the Commission, on a sharply divided 3-2 vote, failed to seize the opportunity for reform, kicked the can down the road, and made only a handful of modifications to the legacy NEM tariff.

The Commission's failure to act decisively in 2016 led to material rate increases and effectively locked in decades of large subsidies paid by the general body of ratepayers to benefit a small group of participating customers. As more customers flock to BTM options in a rational effort to avoid paying for a wide array of system costs (including those linked to wildfires), the base of remaining customers left to foot the escalating bill continues to shrink. The inequitable outcomes from this accelerating trend must be addressed in this proceeding and mitigated through a new compensation structure that is not tied to retail rates.

As the Commission is aware, Public Utilities Code §2827.1(b)(3) requires that the successor tariff is "based on the costs and benefits of the renewable generation facility" and §2827.1(b)(4) directs the Commission to "ensure that the total benefits of the standard contract or tariff to all customers and the electrical system are approximately

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<sup>1</sup> OIR 20-05-003, Ordering Paragraph 5.

equal to the total costs.” At the Commission business meeting where D.16-01-044 was adopted, Commission President Picker admitted that the failure to apply the requirements of §2827.1(b)(3) and (b)(4) represent “areas where we really fell short” and noted that the Decision does not reach any conclusions regarding the valuation of costs and benefits for the successor tariff.<sup>2</sup> Commissioner Florio noted, in his oral comments opposing the Decision, that AB 327 “requires us to look at the costs and benefits and require that they are appropriately balanced.”<sup>3</sup> Commissioner Peterman admitted that the Decision creates a “cost shift” that “is a general concern for all of us.”<sup>4</sup> The fact that a majority of Commissioners openly acknowledged the failure of the Decision to satisfy key statutory requirements demonstrates the basic insufficiency of the adopted successor tariff.

The Commission now has an opportunity to course correct and ensure that the next wave of NEM-eligible deployment is fairly compensated for the actual benefits provided to the grid and the general body of customers. This course correction should ensure that BTM deployments continue to grow while recognizing that NEM tariffs must be restructured to minimize or eliminate cost shifting, an outcome that would address a variety of outstanding legal requirements and policy objectives.

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<sup>2</sup> Commissioner Picker oral comments, CPUC business meeting, January 28, 2016. (approximately 56 minute mark).

<sup>3</sup> Commissioner Florio oral comments, CPUC business meeting, January 28, 2016 (approximately 1 hour 19 minute mark).

<sup>4</sup> Commissioner Peterman oral comments, CPUC business meeting, January 28, 2016 (approximately 1 hour 32 minute mark).

## I. THE COMMISSION SHOULD ADOPT GUIDING PRINCIPLES FOR THE CONSIDERATION OF NET ENERGY METERING TARIFF REVISIONS

The OIR proposes a preliminary scope that would result in the “identification of guiding principles, or goals, to assist in the development and evaluation of different tariff or contract options for the NEM 2.0 successor tariff.”<sup>5</sup> TURN agrees with this approach and has already begun collaborating with other public interest stakeholders to develop a set of common principles for consideration in this proceeding. Those principles, endorsed in whole or part by the Public Advocates Office (CalPA) and the Natural Resources Defense Council (NRDC), are a good start. The Commission should adopt a set of comprehensive principles in a ruling issued after reviewing comments submitted in response to the OIR. TURN offers the following principles for consideration in this proceeding.<sup>6</sup>

### *Principle #1 -- Decisive action to reform NEM is needed immediately*

#### Justification

- Because the high cost of existing NEM tariffs is driving electrical rates up at an unsustainable rate, decisive action is important to mitigate future rate increases attributable to the cost shifting occurring under the existing tariff.
- The immediate reform of NEM will allow California to more aggressively promote the deployment of behind-the-meter generation, including microgrids and other virtual customer arrangements, without concerns about unsustainable cost shifting.

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<sup>5</sup> OIR, page 8.

<sup>6</sup> These principles are similar, but not identical, to those proposed by CalPA and NRDC.

- Reforming NEM to be more cost-effective will help California achieve its climate goals faster and more equitably. Specifically, NEM reform can lower electricity rates thereby encouraging building decarbonization and transportation electrification while also freeing up resources to support the achievement of more aggressive climate goals.

***Principle #2 -- A successor tariff should compensate Distributed Energy Resources based on avoided costs that incorporate quantifiable benefits provided to the grid, the environment and all ratepayers.***

Justification

- Existing NEM tariffs, which set compensation based on retail rates and do not reflect avoided costs, create a large cost burden which is borne primarily by non-participating utility customers.<sup>7</sup>
- Existing NEM participants are compensated at multiple times their system's actual value to the grid and the environment.<sup>8</sup>
- Pursuant to Public Utilities Code §2827.1(b)(3), the successor tariff must be “based on the costs and benefits of the renewable generation facility”. Public Utilities Code §2827.1(b)(4) directs the Commission to “ensure that the total benefits of the standard contract or tariff to all customers and the electrical system are approximately equal to the total costs.” The Commission specifically noted that while the existing NEM tariff adopted in R.14-07-002 did not satisfy these requirements, a subsequent review of NEM tariffs would be used for this purpose.

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<sup>7</sup>For example, see Sacramento Municipal Utility District, Value of Solar and Solar + Storage Study Summary Report (September 2020), p. 2.

<sup>8</sup> *Ibid.*, p. 2; See also Draft NEM 2.0 Lookback Study cost-effectiveness results (RIM test).

***Principle #3 -- The successor tariff, in combination with other incentives, should provide equal or greater compensation for low-income customers in order to promote adoption of behind the meter resources by households eligible for CARE and FERA.***

Justification

- Existing NEM tariffs link compensation to the participating customer's applicable retail rates, resulting in *de facto* lower levels of compensation for the same unit of production for any solar system located behind the meter of a CARE or FERA customer (as compared to a non-CARE residential customer).
- There is no rational basis for providing higher rates of compensation to customers based solely on household income.
- Although a very small number of NEM customers are low-income households, the remaining body of low-income customers bears the general cost shift resulting from existing NEM participation by non-CARE residential customers.

***Principle #4 -- The Successor Tariff should establish requirements for the dispatch of DERs, including storage, to maximize grid benefits and assist with the avoidance of grid outages.***

Justification

- If dispatched to maximize grid benefits, storage paired with solar can help increase resiliency, reduce greenhouse gas emissions, support

reliability during periods of system and local peak demand, and improve customer economics.<sup>9</sup>

- Customers receiving the benefits of NEM have an obligation to use their systems to help avoid conditions where the grid is experiencing severe stress. These include periods of overgeneration as well as periods when generation supply is limited relative to loads.

***Principle #5: The successor tariff should ensure that all NEM customers are paying a fair share for the grid services they use.***

Justification

- Existing NEM customers continue to rely heavily on the grid to provide power during hours when BTM generation is unavailable. Existing NEM tariffs do not adequately charge participating customers for the costs to serve their load from the grid during these times.

***Principle #6 – Non-participating low-income electricity customers should be protected from any cost shifts associated with the NEM program.***

Justification

- NEM participation within the residential class has been heavily skewed towards higher income customers who receive most of the benefits.

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<sup>9</sup> See ITRON 2017 SGIP Advanced Energy Storage Impact Evaluation 07 September 2018. [https://www.cpuc.ca.gov/uploadedFiles/CPUC\\_Public\\_Website/Content/Utilities\\_and\\_Industries/Energy/Energy\\_Programs/Demand\\_Side\\_Management/Customer\\_Gen\\_and\\_Storage/2017\\_SGIP\\_AES\\_Impact\\_Evaluation.pdf](https://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/Utilities_and_Industries/Energy/Energy_Programs/Demand_Side_Management/Customer_Gen_and_Storage/2017_SGIP_AES_Impact_Evaluation.pdf)

- Intra-class cost shifts result in low-income residential customers receiving higher bills as a result of NEM subsidies provided to wealthier customers.
- Increasing challenges with affordability, as evidenced by the high number of customer disconnections, justify additional protections against costs being shifted to lower income customers.

TURN strongly urges the Commission to adopt these principles to guide consideration of various tariff reforms in this proceeding.

## **II. OTHER ELEMENTS THAT SHOULD BE CONSIDERED WITHIN THE SCOPE OF THE PROCEEDING**

The OIR identifies a scope that includes information needed for the “development of a successor to the existing NEM 2.0 tariffs” and “modifications to specific provisions of the NEM tariffs.”<sup>10</sup> TURN recommends that the following issues be specifically identified as within the scope of the proceeding to effectuate these articulated purposes.

- (1) Assessment of whether existing and proposed NEM reforms would ensure the adequate collection of unavoidable costs and various nonbypassable charges from NEM customers. These costs include Public Purpose Program Charges, Nuclear Decommissioning, DWR bond charges, any IOU costs subject to securitization, and stranded generation costs collected in the Power Cost Indifference Adjustment rate. In addition, the Commission should assess whether it is reasonable to allow NEM customers to avoid the costs of approved utility wildfire mitigation plans.

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<sup>10</sup> OIR, page 6.



- (2) Potential caps on the maximum size of an eligible generator and any paired storage.
- (3) Term of any “grandfathering” for customers on current and future NEM tariffs including the frequency of any updates to elements not based on retail rate components.
- (4) Alternative pricing mechanisms for valuing output from NEM-eligible resources, including the following:
- A Value of Distributed Energy tariff similar to the one proposed by TURN in R.14-07-002. In D.16-01-044, the Commission noted the “theoretical potential” of this proposal and stated that value-based analysis in other proceedings should “provide information that will allow effective analysis of a VODE-type option in the review of the successor tariff to be undertaken in 2019.”<sup>11</sup>
  - Other methods of decoupling compensation for NEM-eligible systems from retail rate design.
  - Compensation that can be forecasted with a high level of confidence over the first 5 or 10 years of tariff eligibility.
  - More granular TOU structures for NEM participants such as Real-Time Pricing, or TOU structures with higher ratios and additional periods compared to those applied to non-NEM customers.
  - Mechanisms for collecting fixed and nonbypassable costs from NEM customers.

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<sup>11</sup> D.16-01-044, pages 62-63, 85.

- Stand-alone direct subsidies to NEM customers that can be transparently identified and tracked.
- (5) Changes to the netting period that would consider alternatives to the current annual true-up.
  - (6) Potential requirements relating to the direct metering of BTM generation output, and the transmission of such data to the utility, to determine customer responsibility for various nonbypassable and unavoidable costs.
  - (7) Various program elements relating to NEM paired energy storage including current restrictions preventing storage from charging from, and discharging to, the grid. In addition, potential requirements for the dispatch of any NEM-paired storage unit to serve grid needs during periods of significant system scarcity.
  - (8) Additional subsidies or tariff mechanisms for targeted deployment of NEM-eligible generators to low-income customers residing near natural gas-fired generation resources that could be subject to early retirement, and to low-income customers in disadvantaged communities with poor air quality.

Although this list is not exhaustive, it provides additional details regarding the types of issues and mechanisms that must be part of any comprehensive review of the existing successor tariff.

### **III. THE COMMISSION SHOULD IDENTIFY THE ANALYTICAL TOOLS THAT WILL BE USED TO GUIDE ITS ANALYSIS**

In D.16-01-044, the Commission found that “based on the analytic tools and information currently available for use by the Commission, it is not possible to come to a comprehensive, reliable, and analytically sound determination of the benefits and costs of the NEM successor tariff to all customers and the electric system.”<sup>12</sup> Although the Commission required parties to use the Public Tool model developed for that proceeding, the Commission ultimately concluded that more work on benefit valuation was needed to enable the Public Tool to produce reliable outcomes that could be used for tariff development.

The ability to determine the value of customer-sited renewable DG with sufficient accuracy is critical to the analysis performed in this proceeding. At the outset, the Commission should perform a gap analysis to determine what existing tools and information can be used to enable a comprehensive, reliable and analytically sound determination of the benefits and costs of proposed successor tariffs and what new information must be developed in this proceeding. Existing tools, or tools yet to be developed in the context of this proceeding, must be available to enable determination of the value of customer-sited renewable DERs with sufficient accuracy such that value-based compensation proposals can be evaluated. Without the use of standard tools, Parties will develop a multitude of alternative and conflicting frameworks for evaluating the costs and benefits of various tariff options. This approach could make it difficult, or impossible, to fairly evaluate the different proposals made by parties.

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<sup>12</sup> D.16-01-044, Finding of Fact 12

Any analytical tools relied upon in this proceeding should be capable of evaluating, for all customer classes, the suite of future compensation alternatives that will need to be quantified in this proceeding. Some, but not all, of these compensation alternatives are identified in Section II.<sup>13</sup> One potential solution is to engage a consultant to modify and update the Public Tool that was developed during the NEM 2.0 proceeding.

Any analytical tools should include the acceptable cost tests and other results that the Commission will use to quantify alternatives.<sup>14</sup> The main focus of analytical work should be on options for minimizing or eliminating the cost shift. Moreover, any tool should be capable of calculating and tracking benchmarks relating to the sustainable growth of BTM systems over the short, medium and long-term.

Finally, the Commission must be able to accurately model potential utilization and dispatch of NEM-paired energy storage systems, the value that such systems could provide to the grid under optimal conditions, and the reduced system value resulting from suboptimal utilization. This type of analysis can assist with the design of a tariff that ensures full compensation for energy storage is only provided in exchange for systems that actually deliver the anticipated value to the grid.

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<sup>13</sup> Any model should be able to evaluate different TOU rate schedules, the adoption of a value-based compensation system for gross system output, separate subsidy payments, alternative netting periods, mechanisms for collecting nonbypassable and unavoidable costs, and the dispatch of paired storage. Any tool must also be capable of performing detailed evaluations of successor tariff alternatives for residential customers in disadvantaged communities and low-income residential customers.

<sup>14</sup> For example, the RIM and PCT test results are critical to ranking alternatives.

#### IV. PROPOSED SCHEDULE AND PHASING ISSUES

The OIR suggests a schedule that fails to reflect the scope and depth of work needed to perform a comprehensive review of the existing NEM program along with the development of a revised successor tariff. TURN is concerned that there are no references to the need to develop common analytical tools and the appropriate cost tests that would guide the Commission's analysis of successor tariff alternatives. This scope of work should be added to any final schedule.

Further, the proposed schedule would devote a series of months through the end of 2020 (and into 2021) to "development of guiding principles and program elements."<sup>15</sup> There is no need to wait until the Winter of 2020 to determine what guiding principles are appropriate. These principles should be included in a final scoping memo issued shortly after the upcoming PHC.

Finally, the schedule should recognize the urgency of prompt action to reform NEM tariffs. The Commission must indicate, at the outset, a commitment to prioritizing this effort and having a new tariff in place no later than January 1, 2022.

TURN appreciates the opportunity to file these comments.

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<sup>15</sup> OIR, page 10.

Respectfully submitted,

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