

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**



**FILED**

10/13/20  
04:24 PM

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)

**REPLY COMMENTS OF THE CALIFORNIA SOLAR & STORAGE  
ASSOCIATION ON ORDER INSTITUTING RULEMAKING TO REVISIT NET  
ENERGY METERING TARIFFS PURSUANT TO DECISION 16-01-044, AND  
TO ADDRESS OTHER ISSUES RELATED TO NET ENERGY METERING**

Tim Lindl  
Julia Kantor  
KEYES & FOX LLP  
580 California Street, 12<sup>th</sup> Floor  
San Francisco, CA 94104  
Telephone: (510) 314-8385  
Email: [tlindl@keyesfox.com](mailto:tlindl@keyesfox.com)  
[jkantor@keyesfox.com](mailto:jkantor@keyesfox.com)

October 13, 2020

*On behalf of the California Solar & Storage  
Association*

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

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)

**REPLY COMMENTS OF THE CALIFORNIA SOLAR & STORAGE  
ASSOCIATION ON ORDER INSTITUTING RULEMAKING TO REVISIT NET  
ENERGY METERING TARIFFS PURSUANT TO DECISION 16-01-044, AND  
TO ADDRESS OTHER ISSUES RELATED TO NET ENERGY METERING**

Pursuant to Rule 6.2 of the California Public Utilities Commission’s (“Commission”) Rules of Practice and Procedure, and the *Order Instituting Rulemaking to Revisit Net Energy Metering Tariffs Pursuant to Decision 16-01-044, and to Address Other Issues Related to Net Energy Metering*, dated August 27, 2020 (“OIR”),<sup>1</sup> the California Solar & Storage Association (“CALSSA”) hereby submits these reply comments on the OIR.

As CALSSA noted in its opening comments,<sup>2</sup> the Commission has generally set forth a reasonable proposed scope, organizational structure, and schedule for this proceeding. In refining the proposed scope and schedule, CALSSA urges the Commission to:

- Prioritize issues of equity in this proceeding through the development of a separate tariff for low-income ratepayers and disadvantaged communities, or separate elements within the main successor tariff, on an equal timeline as the development of the main successor tariff.
- Include in scope any consumer protection issues left unresolved by R.14-07-002, and address these consumer protection issues concurrently with the development of a successor tariff in a separate quasi-legislative track.
- Schedule a round of comments on guiding principles after the issuance of the Scoping Ruling to allow for fair input from all stakeholders.

---

<sup>1</sup> R.20-08-020, *Order Instituting Rulemaking to Revisit Net Energy Metering Tariffs Pursuant to Decision 16-01-044, and to Address Other Issues Related to Net Energy Metering* (August 27, 2020) (“OIR”).

<sup>2</sup> R.20-08-020, *Opening Comments of CALSSA on OIR to Revisit Net Energy Metering Tariffs Pursuant to Decision 16-01-044, and to Address Other Issues Related to Net Energy Metering*, p. 2 (October 5, 2020) (“CALSSA Opening Comments”).

- Allow for concurrent party and Staff proposals on the successor and low-income tariffs, followed by workshops and a round of comments.
- Issue a ruling soliciting party comment on whether to change the residential net energy metering (“NEM”) tariff to a pay as you go model for residential customers, replacing billing at true-up, and allow for a decision on this issue prior to the final decision on a successor tariff.
- Account for the likely need for evidentiary hearings in the schedule.

These modifications will allow for a full development of the record on the critical issues surrounding reform to the current NEM tariff. In addition to adopting these modifications, the Commission should reject procedural changes suggested by Southern California Edison Company, Pacific Gas & Electric Company, and San Diego Gas & Electric Company (“the Joint IOUs”) that rely on unproven factual assertions regarding cost shifts associated with NEM. Further, party recommendations regarding the guiding principles that should be adopted in this proceeding, and the particular tests, assumptions, and data that should inform an evaluation of the cost-effectiveness of NEM, go beyond the scope of comments on the OIR and should not inform the Commission’s Scoping Ruling. Indeed, these advocacy positions and the unproven factual assertions on which they rely demonstrate the need for rigorous analysis and the development of a robust record in this proceeding.

**I. The Joint IOUs’ Proposal to Imminently End Enrollment in NEM 2.0 is Contrary to the Law, Relies on Facts the IOUs Were Unable to Support, and Would Result in Irresponsible Policymaking.**

In opening comments, the Joint IOUs propose that the Commission end enrollment in NEM 2.0 “as quickly as possible,” and preferably before January 1, 2021,<sup>3</sup> prior to the approval and implementation of a successor tariff. This position, premised on the Joint IOUs’ unsupported contention that the current NEM tariff causes a significant cost shift,<sup>4</sup> should be rejected.

Ending the NEM tariff without a successor tariff in place is directly contrary to the Legislative mandate in Assembly Bill (“AB”) 327, which requires the Commission to maintain a

---

<sup>3</sup> R.20-08-020, *Joint Opening Comments of SCE, PG&E, and SDG&E on OIR to Revisit Net Energy Metering Tariffs Pursuant to D.16-01-044, and to Address Other Issues Related to Net Energy Metering*, p. 10 (October 5, 2020) (“Joint IOUs Opening Comments”).

<sup>4</sup> *Id.*, p. 10 (“It is imperative to immediately contain the growing inequity of the status quo. The Joint IOUs therefore recommend isolating the development of the new main successor tariff and related issues to the first phase of the proceeding. Related matters include the date certain upon which NEM 2.0 will close to new customers . . . The Joint IOUs propose that the Commission end enrollment on NEM 2.0 as quickly as possible, but preferably in all events before, January 1, 2021.”).

standard contract or tariff that ensures that customer-sited distributed generation “grow[s] sustainably.”<sup>5</sup> Even if customers could be temporarily served on NEM 2.0 during this interim period before the utilities implement the new successor tariff,<sup>6</sup> no reasonable customer would sign on to a tariff with undefined terms and unknown projected cost savings. This proposal would therefore stymie growth in customer-sited distributed energy resources (“DERs”).

The Joint IOUs’ primary justification for both this proposal and an expedited procedural timeframe for an initial phase of the proceeding to develop the new main successor tariff<sup>7</sup> is an unsupported claim about a cross subsidy associated with NEM.<sup>8</sup> However, each time the Joint IOUs reference this purported cost shift, they provide no citations or references to substantiate it.<sup>9</sup> The Commission cannot rely on a disputed factual claim for which the Joint IOUs provide no support or substantiation to set the course of this proceeding or to prematurely end the NEM tariff without a replacement.

CALSSA served a data request on the Joint IOUs, the day after opening comments were filed, asking questions regarding the basis for these assertions and calculations. The Joint IOUs objected to CALSSA’s request for the workpapers supporting these estimates as “unduly burdensome[,]”<sup>10</sup> and stated they will not provide responsive documents until after reply comments on the OIR are due. As the Joint IOUs’ numbers cannot be tested or analyzed until after these reply comments are due, they should not influence Commission decision-making at this time. Indeed, the Joint IOUs’ decision not to reply to these questions at this point in the proceeding underscores the need for further process to understand the basis for these claims, and to evaluate these estimates alongside other stakeholders’ models and assumptions regarding the cost-effectiveness of the NEM tariff.

---

<sup>5</sup> AB 327 (adding Cal. Pub. Util. Code § 2827.1(b)(1)).

<sup>6</sup> Joint IOUs Opening Comments, p. 10.

<sup>7</sup> *Id.*, pp. 10-11, 13-14.

<sup>8</sup> *Id.*, pp. 8, 10-11. Specifically, the Joint IOUs claim throughout their opening comments that “the total statewide costs unfairly borne by non-solar customers is \$2.5 billion annually and, without changes to the underlying tariff, will grow to \$4.4 billion annually by 2030.” *See id.*, pp. 2, 4, 5, 8, 9-10.

<sup>9</sup> *See id.*, pp. 2, 4, 5, 8, 9-10 (each time the Joint IOUs reference the purported \$2.5 billion cost shift associated with NEM, the utilities provide no citations or references that substantiate this estimate; the only explanation included is as follows: “Statewide cost shift estimate is as of June 30, 2020 and is based on rates effective at that time. Avoided costs from 2020 ACC model were used in the cost shift estimate” (*Id.*, p. 8 n. 13)).

<sup>10</sup> CALSSA to Joint IOUs Data Request 1, Questions 1-2. The data requests referenced herein are attached hereto as Attachment A.

While the Joint IOUs failed to provide workpapers supporting these claims, they did confirm that their cost shift estimates rely on the Ratepayer Impact Measurement (“RIM”) test,<sup>11</sup> which aligns with their emphasis on this test throughout their opening comments,<sup>12</sup> and their contention that the RIM test is the appropriate tool to measure the costs and benefits of NEM.<sup>13</sup> Importantly, this reliance on the RIM test is contrary to current Commission policy; the Commission has already determined that “the [Total Resource Cost (‘TRC’) test is] the primary test for evaluating the cost-effectiveness of distributed energy resources, except where prohibited by statute or Commission decision.”<sup>14</sup> While CALSSA notes that the Commission has made clear that future DER proceedings should generally also include a review and consideration of all the cost-effectiveness tests,<sup>15</sup> the Commission has emphasized that “RIM and [Program Administrator Cost (‘PAC’)] test results should only be considered supplemental to the TRC test results.”<sup>16</sup> It would therefore be directly contrary to prior Commission directives to rely on estimates based on the RIM test alone to set the course of this proceeding.

In addition, the Joint IOUs’ analysis is missing a key component underlying the entire NEM 2.0 policy framework, *i.e.*, that moving NEM customers to time of use (“TOU”) rates will align customer incentives with grid conditions, thus causing customers to install more advanced systems such as those with behind-the-meter storage.<sup>17</sup> In response to discovery, the Joint IOUs acknowledge that their figures “do not attempt to estimate the participant bill savings or additional avoided costs from the storage component of such systems.”<sup>18</sup> The Joint IOUs are therefore suggesting that the current NEM tariff is associated with a cost shift and, as such, is out of step with the Commission’s goals, but to arrive at this conclusion they do not analyze a key system demographic this tariff was intended to encourage.

---

<sup>11</sup> CALSSA to Joint IOUs Data Request 1, Question 3.

<sup>12</sup> Joint IOUs Opening Comments, pp. 3, 7-8.

<sup>13</sup> *Id.*, p. 7.

<sup>14</sup> D.19-05-019, Conclusion of Law 2.

<sup>15</sup> *Id.*, Conclusion of Law 3. *See also id.*, p. 24 (“we require the review and consideration of the RIM and PAC tests results during deliberation of all distributed energy resources proceedings and advice letters where cost-effectiveness analyses are required, including distributed energy resources reporting and evaluation requirements. The record indicates each of the tests have value. *However, RIM and PAC test results should only be considered supplemental to the TRC test results*”) (emphasis added).

<sup>16</sup> *Id.*, p. 24.

<sup>17</sup> *See* D.16-01-044, pp. 91-92.

<sup>18</sup> CALSSA to Joint IOUs Data Request 1, Question 4.

Clearly, these cost shift assertions raise critical issues of fact that will be disputed by CALSSA and others in this proceeding. Such issues cannot be resolved with the minimal process proposed by the Joint IOUs—which contemplates that an interim ruling in December, issued after a compressed comment period on an end date for NEM 2.0 (as well as guiding principles), would resolve the complex issues their ill-considered proposal raises.<sup>19</sup> Indeed, party proposals for the successor tariff, and hearings on those proposals (as laid out in the Joint IOUs’ suggested schedule)<sup>20</sup> will likely address the issue of cost shifts and the assumptions underlying parties’ estimates of the cost-effectiveness of NEM in general.

Finally, ending the current NEM tariff prior to the development of a replacement would be irresponsible policymaking, limiting customer options to keep the lights on as Californians face rolling blackouts and wildfires, sowing customer confusion, and likely leading to job losses. Accepting a proposal that would put the ability of Californians to choose to self-generate on hold at a time when the threats of wildfires and blackouts are imminent and increasing is simply untenable. The unprecedented threats facing the state necessitate a measured approach to NEM reform. Customer-sited energy storage is needed to boost community resiliency, and net metered solar is needed to make the storage more resilient, affordable, and clean.

At this critical time, creating an interim period of a year or more during which any new NEM customers would be unable to learn the terms of the tariff pursuant to which their systems will be operating would also create customer confusion and diminish public confidence in the fairness of clean energy utility tariffs going forward. Further, it would undermine explicit Commission directives concerning the importance of solar installers disclosing to their customers “the terms that will apply to [their] systems for the foreseeable future, including the applicable tariffs as well as the timing and terms for transition to a successor tariff.”<sup>21</sup> It is unclear how installers could responsibly follow this direction to appropriately educate their customers under the Joint IOUs’ proposal and in the face of uncertainty concerning the timing and terms of the successor tariff.

In addition to these significant customer impacts, as the Joint IOUs acknowledge,<sup>22</sup> this proposal would harm the solar industry as well as the 74,000 Californians working within this

---

<sup>19</sup> Joint IOUs Opening Comments, p. 13.

<sup>20</sup> *Id.*, pp. 13-14.

<sup>21</sup> D.14-03-041, Conclusion of Law 7.

<sup>22</sup> Joint IOUs Opening Comments, p. 11.

industry.<sup>23</sup> Employees in the solar industry would be at risk of losing their jobs, at a time when, as the Joint IOUs point out, the COVID-19 pandemic is already taking a significant economic toll on California families.<sup>24</sup> This is simply not the time to put a hold on customers' ability to self-generate and to adopt programmatic gaps that generate confusion and greater economic uncertainty for Californians.

In light of all these issues, the Joint IOUs' proposal to expedite a process to determine a near-term end date for NEM 2.0 should be rejected.

## **II. The Joint IOUs' Contention That Legacy Treatment of Customers Served on All Versions of the NEM Tariff Should be Added to the Scope of This Proceeding Ignores Clear Commission Precedent, and Must Be Rejected.**

The Joint IOUs also rely on these unsupported assertions regarding the NEM cost shift to argue that the legacy treatment for NEM 1.0 and NEM 2.0 should be added to the scope of this proceeding.<sup>25</sup> Not only are these arguments unconvincing in light of the Joint IOUs' lack of substantiation for claims surrounding the purported cost shift, as discussed above, but these arguments also ignore clear direction from the Commission set forth in prior NEM decisions.

In D.14-03-041, the Commission established a 20-year transition period, beginning with the year the system was interconnected, for NEM 1.0 customers,<sup>26</sup> and in D.16-01-044, it established this same 20-year transition period for NEM 2.0 customers.<sup>27</sup> The Commission was clear in both decisions that 20 years from the customer's interconnection under the existing NEM tariff was a reasonable period over which a customer taking service under that existing tariff should be eligible to continue to take service under that tariff.<sup>28</sup>

The Commission relied on various factual and legal findings in order to set these transition periods,<sup>29</sup> including that such a period was consistent with statutory mandate,<sup>30</sup> aligned with the expected useful life of NEM PV systems,<sup>31</sup> and would "allow customers to have a

---

<sup>23</sup> *National Solar Jobs Census 2019*, The Solar Foundation (February 2020), <https://www.thesolarfoundation.org/national/>.

<sup>24</sup> Joint IOUs Opening Comments, p. 2.

<sup>25</sup> *Id.*, pp. 8-9.

<sup>26</sup> D.14-03-041, p. 2.

<sup>27</sup> D.16-01-044, pp. 100-101.

<sup>28</sup> *Id.*, p. 100.

<sup>29</sup> *See, e.g.*, D.14-03-041, Findings of Fact 4-6 and Conclusion of Law 2; D.16-01-044, p. 100 and Conclusion of Law 14.

<sup>30</sup> D.14-03-041, Conclusion of Law 2.

<sup>31</sup> *Id.*, Findings of Fact 4 and 6.

uniform and reliable expectation of stability.”<sup>32</sup> If the Joint IOUs or other parties wish to challenge these prior decisions and the findings relied upon to support them, they must proceed through the appropriate procedural avenue to do so—namely, a Petition for Modification.<sup>33</sup> These settled issues should not be relitigated through the instant proceeding.

### III. Low-Income Reforms and Consumer Protection.

In opening comments, many parties emphasize concerns regarding the current NEM tariff’s impact on and accessibility to low-income Californians,<sup>34</sup> and raise questions regarding the appropriate scoping of consumer protection issues in this proceeding.<sup>35</sup>

With regard to NEM’s impact on and accessibility to low-income Californians, CALSSA agrees that in this proceeding, the Commission should prioritize consideration of policy changes that would address issues with how low-income customers are compensated under NEM, and more generally, should prioritize reforms to ensure that NEM is accessible to low-income ratepayers and encourages increased adoption among these customers.

Where CALSSA differs with some parties is in its understanding of the best way to address these issues head-on. For instance, the Joint IOUs respond to equity concerns with a call for the urgent termination of NEM 2.0 prior to the development of a successor tariff,<sup>36</sup> while at the same time advocating for a phased proceeding that would defer all issues outside of the end date for the NEM 2.0 tariff and the development of the main successor tariff to subsequent phases.<sup>37</sup> This proposed schedule would effectively defer any consideration of reforms specific to solar adoption by low-income ratepayers to a later phase. The Commission should instead prioritize issues of equal access in this proceeding through the development of a separate tariff or separate tariff elements for low-income ratepayers and disadvantaged communities, along with

---

<sup>32</sup> D.16-01-044, p. 100.

<sup>33</sup> See Rule 16.4 of the Commission’s Rules of Practice and Procedure.

<sup>34</sup> See, e.g., Joint IOUs Opening Comments, pp. 2, 4-5; R.20-08-020, *Opening Comments of the Public Advocates Office on OIR to Revisit Net Energy Metering Tariffs Pursuant to Decision 16-01-044, and to Address Other Issues Related to Net Energy Metering*, pp. 6-7, 10 (October 5, 2020) (“PAO Opening Comments”); R.20-08-020, *Comments of The Utility Reform Network on the Preliminary Scope and Schedule*, p. 5 (October 5, 2020) (“TURN Opening Comments”); R.20-08-020, *Comments of the Natural Resources Defense Council on the OIR to Revisit Net Energy Metering Tariffs Pursuant to Decision 16-01-044, and to Address Other Issues Related to Net Energy Metering*, pp. 5-8 (October 5, 2020) (“NRDC Opening Comments”); R.20-08-020, *Opening Comments of the Coalition of California Utility Employees on the OIR*, p. 2 (October 5, 2020) (“CUE Opening Comments”).

<sup>35</sup> Joint IOUs Opening Comments, pp. 10-11.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*, pp. 12-14.



the consideration of other solutions and reforms aimed at making solar more accessible to low- and medium-income customers.<sup>38</sup> The Commission should tackle these issues head-on by developing targeted equity reforms on the same timeline as changes to the main successor tariff. Notably, other parties like the Solar Energy Industries Association (“SEIA”), Vote Solar, and the Public Advocates Office are aligned with CALSSA on the need in this proceeding to prioritize issues of equity and participation by low-income ratepayers.<sup>39</sup> The Commission should therefore respond to party concerns regarding issues of equity and accessibility by prioritizing consideration of a separate tariff for low-income customers within this proceeding.

The Joint IOUs’ phased proceeding proposal would also defer consideration of any consumer protection issues to a later phase of the proceeding.<sup>40</sup> CALSSA opposes this approach. The Commission should not leave a time gap for active consideration of consumer protection. While CALSSA expects many outstanding consumer protection issues to be addressed in R.14-07-002, which has been scoped to cover these issues,<sup>41</sup> CALSSA supports scoping into this proceeding any consumer protection issues left unresolved by R.14-07-002 and similar issues that may arise.

Consistent with treatment of consumer protection issues in R.14-07-002,<sup>42</sup> consumer protection issues in this proceeding should be addressed in a separate quasi-legislative track. It makes sense for solar consumer protection to be addressed within the NEM proceeding, but consumer protection is not a ratemaking exercise and can therefore be addressed via a less restrictive process.

#### **IV. CALSSA is Supportive of an Efficient Process for the Development of Guiding Principles, but the Commission Should Not Rule on Principles for This Proceeding Until Party Proposals Have Been Developed on the Record.**

CALSSA is supportive of an expedited process for the development of guiding principles in this proceeding, but this process must take place prior to a Commission ruling on the guiding principles that will provide the frame for this proceeding. Adopting guiding principles based

---

<sup>38</sup> CALSSA Opening Comments, pp. 4-5.

<sup>39</sup> R.20-08-020, *Comments of SEIA and Vote Solar on OIR to Revisit Net Energy Metering Tariffs Pursuant to Decision 16-01-044, and to Address Other Issues Related to Net Energy Metering*, pp. 5-6 (October 5, 2020) (“SEIA/Vote Solar Opening Comments”); PAO Opening Comments, p. 10.

<sup>40</sup> Joint IOUs Opening Comments, pp. 10-13.

<sup>41</sup> R.14-07-002, *Assigned Commissioner’s Seventh Amended Scoping Memo and Ruling*, p. 2 (September 11, 2020).

<sup>42</sup> *Id.*, p. 4.

merely on comments on the OIR, or based on these comments with minimal additional process, would be insufficient and raise due process concerns.

The OIR did not invite parties to propose their guiding principles in comments on the OIR. The Commission solicited comments on “the preliminary scope and schedule[.]”<sup>43</sup> and in so doing, it clearly directed “parties to *limit their comments* to the schedule, the issues set forth in the preliminary scoping memo, the anticipated activities in this proceeding, and to objections to the preliminary determinations.”<sup>44</sup> The Commission further clarified that “[c]omments directed to the issues identified within the scope of this proceeding may include whether to amend the issues and how to prioritize the issues to be resolved; how to procedurally address these issues; and the proposed timeline for resolving the issues identified, within the general schedule set forth in this OIR.”<sup>45</sup>

Despite this clear direction to limit comments to how to modify, prioritize, or procedurally address the scoped issues, a number of parties chose instead to substantively address one of the Commission’s scoped issues by laying out their proposed guiding principles for the proceeding.<sup>46</sup> In so doing, some parties suggested the Commission forgo *any* further process surrounding the development of guiding principles, and adopt guiding principles based solely on party comments on the OIR,<sup>47</sup> while other parties proposed that the Commission allow for minimal additional process after comments on the OIR, prior to an expedited ruling on principles.<sup>48</sup> If the Commission were to adopt these suggestions and establish guiding principles based on minimal comments, from a subset of stakeholders, on an OIR that did not solicit substantive comments on these issues, it would be ruling on this issue based on an incomplete record. Such a ruling would violate due process requirements “of adequate notice to [parties] affected and an opportunity to be heard before a valid order can be made.”<sup>49</sup>

---

<sup>43</sup> OIR, pp. 1-2.

<sup>44</sup> *Id.*, p. 11 (emphasis added).

<sup>45</sup> *Id.*

<sup>46</sup> Joint IOUs Opening Comments, pp. 4-7; PAO Opening Comments, pp. 3-8; TURN Opening Comments, pp. 3-7; NRDC Opening Comments, pp. 1-3; CUE Opening Comments, p. 5.

<sup>47</sup> TURN Opening Comments, pp. 3, 12; PAO Opening Comments, p. 4; NRDC Opening Comments, pp. 3, 8.

<sup>48</sup> Joint IOUs Opening Comments, p. 13.

<sup>49</sup> See *People v. Western Air Lines, Inc.*, 42 Cal. 2d 621, 632 (1954). A fundamental requirement of due process is “notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.” *Pacific Gas & Electric Co. v. Pub. Util. Comm’n*, 237 Cal. App. 4th 812, 859-60 (2015) (quoting *Mullane v. Cent.*

Furthermore, CALSSA notes that certain principles advanced by parties cannot even properly be considered “guiding principles, or goals, to assist in the development and evaluation of different tariff or contract options[,]”<sup>50</sup> but rather, are tariff elements that should be subject to rigorous fact-finding—such as The Utility Reform Network’s (“TURN”) suggested principle that would require NEM systems to be dispatchable.<sup>51</sup> While all the principles proposed by parties require further consideration through a process clearly outlined by the Commission, such extreme suggestions further highlight the need for sufficient procedure surrounding the establishment of guiding principles.

In opening comments, CALSSA suggested that the schedule include opening and reply comments on guiding principles after the issuance of the Scoping Ruling,<sup>52</sup> followed by an Assigned Commissioner’s Ruling. CALSSA is supportive of a schedule that has a tight turnaround time for comments on principles, but proper process must be followed.<sup>53</sup>

**V. Revisions to the Commission’s Proposed Schedule Will Allow For Fuller Record Development and Consideration of Reforms to the NEM Tariff Aimed at Improving Customer Experience.**

As mentioned in opening comments, CALSSA generally supports the Commission’s proposed schedule laid out in the OIR.<sup>54</sup> The revisions proposed to the proceeding schedule here aim to allow for fuller record development as well as consideration of reforms aimed at improving customer experience with the NEM tariff.

First, CALSSA sees merit in the Public Advocates Office’s suggestion that the Energy Division Staff should have the opportunity to submit a proposal on the successor tariff.<sup>55</sup> Engaging Staff in this more meaningful way on the successor tariff will allow for a more robust

---

*Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950)). The California Supreme Court has ruled on the application of this standard in the context of the Commission, finding, “[d]ue process as to the commission’s initial action is provided by the requirement of adequate notice to a party affected and an opportunity to be heard before a valid order can be made.” *People v. Western Air Lines, Inc.*, 42 Cal. 2d 621, 632 (1954).

<sup>50</sup> OIR, p. 8.

<sup>51</sup> See, e.g., TURN Opening Comments, pp. 5-6 (suggesting as one of its principles: “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”).

<sup>52</sup> CALSSA Opening Comments, p. 5.

<sup>53</sup> CALSSA notes that the Joint IOUs’ expedited schedule for comments on guiding principles, and a ruling on principles to be issued at the same time as the Scoping Ruling, is unrealistic. See Joint IOUs Opening Comments, p. 13.

<sup>54</sup> CALSSA Opening Comments, pp. 4-5.

<sup>55</sup> PAO Opening Comments, p. 14.

development of the record and ensure that Staff’s perspective is appropriately highlighted and considered in the process. The most effective and efficient way to incorporate this additional step into the procedural schedule would be to allow for concurrent party and Staff proposals on the successor tariff. This way, parties and Staff would all have the opportunity to advance their own proposals, on equal footing, to be considered concurrently and followed by workshops as well as a round of comments. CALSSA proposes the below schedule as a modified version of its proposed schedule submitted in opening comments, to account for this additional procedure.

In addition, and as mentioned in CALSSA’s opening comments, consideration of the appropriate true-up cycles and billing rules for NEM will be integral to the development of a successful successor tariff.<sup>56</sup> To this end, the Commission should consider, in this proceeding, whether to change the residential NEM tariff to a pay as you go model in which customers owing money at the end of any month would pay that amount on their monthly bill (while still retaining the annual true-up cycle). This would improve the NEM experience for some customers by ensuring that customers could not be hit with a large and unexpected true-up at the end of the year, while still allowing the customer to rollover excess credits until the end of the true-up cycle. Based on complaints that have been expressed in the consumer protection track of R.14-07-002, the need to address this issue is urgent. To allow for consideration of this discrete issue separately from the development of the successor tariff, CALSSA suggests the Commission issue a ruling soliciting comments on this issue, as set forth in the proposed schedule below, such that the Commission is able to rule on this issue prior to its decision on the successor tariff.

Item	Date
Comments on the OIR Filed and Served	30 days from issuance of the OIR
Reply Comments on the OIR Filed and Served	40 days from issuance of the OIR
PHC	November 2020
Scoping Memo and Ruling (setting procedural milestones, including inviting opening and reply comments on guiding principles)	December 2020
Opening Comments on Guiding Principles	Fall 2020/Winter 2021
Reply Comments on Guiding Principles	Fall 2020/Winter 2021

<sup>56</sup> CALSSA Opening Comments, p. 3.

Assigned Commissioner Ruling on Guiding Principles for the Proceeding (and 1. setting guidelines on elements and timeline for party and Staff tariff proposals, and 2. soliciting a separate round of comments on billing rules)	Fall 2020/Winter 2021
Opening and Reply Comments on Billing Rules	Winter 2021
Proposed Decision on Billing Rules	Spring 2021
Concurrent Party and Staff Proposals on Successor Tariff and Separate Low-Income Tariff (including demonstration of how proposals are aligned with guiding principles)	Spring 2021
Workshops on Tariff Proposals	Spring/Summer 2021
Opening Comments on Tariff Proposals	Spring/Summer 2021
Reply Comments on Tariff Proposals	Spring/Summer 2021
Deadline to Move for Hearings and/or Legal Briefing	Spring/Summer 2021
Evidentiary Hearings (if necessary)	Summer 2021
Opening Briefs and Reply Briefs (if necessary)	Fall 2021
Proposed Decision on Successor Tariffs or Contracts	November 2021

**VI. Determinations Regarding a Significant Programmatic Change, or the Scope and Schedule of This Proceeding, Should Not Be Based on Arguments That Rely on Disputed Factual Claims.**

In opening comments, in response to an OIR soliciting comments on “schedule, the issues set forth in the preliminary scoping memo, [and] the anticipated activities in this proceeding,”<sup>57</sup> many parties addressed their substantive views on issues that are integral to the development of a successor tariff. Issues like how to evaluate the cost-effectiveness of NEM, how to define “sustainable growth” of distributed generation, and how to design reforms aimed

---

<sup>57</sup> OIR, p. 11.

at improving equity issues surrounding NEM, for instance, will be explored throughout the course of this proceeding. CALSSA looks forward to addressing these important topics in this proceeding, but notes that determinations regarding the scope or schedule should not rely on stakeholder arguments that are based on unproven facts and legal assertions.

For example, parties' opening comments highlight the patchwork of current viewpoints regarding the cost-effectiveness of NEM. On this point, some parties support their positions by citing to the Sacramento Municipal Utility District's Value of Solar and Solar + Storage Study,<sup>58</sup> some point to the Commission's Draft NEM 2.0 Lookback Study ("Lookback Study"),<sup>59</sup> and the RIM test in particular,<sup>60</sup> some point to the TRC test,<sup>61</sup> some point to the Societal Cost Test ("SCT"),<sup>62</sup> some point to E3's Value of Solar Study and the Commission's Avoided Cost Calculator,<sup>63</sup> and some point to statistics from the Lawrence Berkeley National Lab.<sup>64</sup> In addition, parties like SEIA and Vote Solar point out that a full accounting of the benefits of distributed generation is not captured in some of these measures—for instance, including resiliency and reliability benefits and grid services benefits.<sup>65</sup>

While CALSSA does not believe these comments are the appropriate procedural vehicle for engaging on the merits of this question, CALSSA highlights two particularly problematic viewpoints. First, the Lookback Study relied upon by many parties is still in draft form, and, as CALSSA has pointed out in responsive comments, should be revised to correct significant deficiencies in the current version.<sup>66</sup> For instance, the suitability and accuracy of the underlying data, inputs, and assumptions of the Lookback Study, as well as the fact that it does not adequately consider the resiliency value of behind-the-meter storage paired with solar, undermine the credibility of the current draft.<sup>67</sup> Indeed, even the Coalition of California Utility

---

<sup>58</sup> TURN Opening Comments, p. 4.

<sup>59</sup> Joint IOUs Opening Comments, p. 4.

<sup>60</sup> TURN Opening Comments, p. 4; PAO Opening Comments, pp. 5-6; CUE Opening Comments, p. 2; NRDC Opening Comments, p. 7. *See also* Joint IOUs Opening Comments, pp. 7-8.

<sup>61</sup> CUE Opening Comments, p. 3.

<sup>62</sup> R.20-08-020, *Opening Comments of Grid Alternatives on OIR to Revisit Net Energy Metering Tariffs Pursuant to Decision 16-01-044, and to Address Other Issues Related to Net Energy Metering*, pp. 3-5 (October 5, 2020) ("Grid Alternatives Opening Comments"); SEIA/Vote Solar Opening Comments, pp. 4-5.

<sup>63</sup> NRDC Opening Comments, pp. 4-5.

<sup>64</sup> Joint IOUs Opening Comments, p. 4; NRDC Opening Comments, pp. 6-7.

<sup>65</sup> SEIA/Vote Solar Opening Comments, pp. 3-5.

<sup>66</sup> *See CALSSA Comments on Draft NEM Lookback Study*, CALSSA (September 8, 2020).

<sup>67</sup> *See id.*

Employees (“CUE”), at the same time as it relies on the results of the Lookback Study in making its arguments, comments on the fact that the Study’s “model remains a black box that cannot be adequately assessed.”<sup>68</sup>

Second, many parties rely on the RIM test to make various assertions when, as discussed above, the Commission has already determined the TRC test is the “primary test for evaluating the cost-effectiveness of distributed energy resources.”<sup>69</sup> CALSSA does not dispute that the Commission’s broad proposed scope—which covers “any and all information necessary for . . . development of a successor to the existing NEM 2.0 tariffs”<sup>70</sup>—includes consideration of the RIM test. However, arguments that the Commission should at this point in the proceeding fully adopt the RIM test as the appropriate tool to measure the cost-effectiveness of NEM<sup>71</sup> ignore the clear, contrary findings in D.19-05-019 and are utterly unreasonable in light of both that recent decision and the limitations the Commission set for comments on its OIR.

## VII. Conclusion

CALSSA appreciates the opportunity to submit these reply comments on the OIR, and urges the Commission to adopt the recommendations herein.

Dated: October 13, 2020

Respectfully submitted,



---

Tim Lindl  
Julia Kantor  
KEYES & FOX LLP  
580 California Street, 12<sup>th</sup> Floor  
San Francisco, CA 94104  
Telephone: (510) 314-8385  
Email: [tlindl@keyesfox.com](mailto:tlindl@keyesfox.com)  
[jkantor@keyesfox.com](mailto:jkantor@keyesfox.com)

*On behalf of the California Solar & Storage  
Association*

---

<sup>68</sup> CUE Opening Comments, pp. 2, 7.

<sup>69</sup> D.19-05-019, Conclusion of Law 2.

<sup>70</sup> OIR, p. 6.

<sup>71</sup> Joint IOUs Opening Comments, pp. 7-8 (“For this new NEM successor proceeding, the Joint IOUs submit the Commission should adopt, along with the guiding principles discussed above, the Ratepayer Impact Measurement test (RIM) as the appropriate tool to measure the costs and benefits of NEM tariffs from the perspective of all customers and the grid.”).

**Attachment A**

**Joint IOU Responses to CALSSA Data Request 1**



*Southern California Edison*  
*R.20-08-020 – NEM OIR*

**DATA REQUEST SET CALSSA - JOINT IOUs - 001**

**To: CALSSA**  
**Prepared by: Andre Ramirez**  
**Job Title: Sr Advisor**  
**Received Date: 10/6/2020**

**Response Date: 10/9/2020**

---

**Question 001:**

Referring to the OIR Comments at pp. 2, 4 and 8, wherein the Joint IOUs reference a “cost shift” of “\$2.5 billion (individually as much as \$200)” and “\$4.4 billion, or as much as \$310 per customer,” please provide the workpapers, if any, in Excel format used to calculate these figures.

**Response to Question 001:**

The Joint IOUs object to this request as unduly burdensome. The requested workpapers require an assessment regarding potentially confidential information, and this assessment will be performed by many of the same Joint IOU personnel currently working on the OIR Reply Comments due on Tuesday, October 13. This request seeks a response within 3 business days, which is an insufficient period of time to perform the necessary confidentiality assessment. Notwithstanding this objection, Joint IOUs will provide a response within 10 business days from the date this request was served.

*Southern California Edison*  
*R.20-08-020 – NEM OIR*

**DATA REQUEST SET CALSSA - JOINT IOUs - 001**

**To: CALSSA**  
**Prepared by: Andre Ramirez**  
**Job Title: Sr Advisor**  
**Received Date: 10/6/2020**

**Response Date: 10/9/2020**

---

**Question 002:**

Referring to the OIR Comments at p. 5, Table 1, please provide the workpapers, if any, in Excel format used to calculate the figures in that table.

**Response to Question 002:**

The Joint IOUs object to this request as unduly burdensome. The requested workpapers require an assessment regarding potentially confidential information, and this assessment will be performed by many of the same Joint IOU personnel currently working on the OIR Reply Comments due on Tuesday, October 13. This request seeks a response within 3 business days, which is an insufficient period of time to perform the necessary confidentiality assessment. Notwithstanding this objection, Joint IOUs will provide a response within 10 business days from the date this request was served.

*Southern California Edison*  
*R.20-08-020 – NEM OIR*

**DATA REQUEST SET CALSSA - JOINT IOUs - 001**

**To: CALSSA**  
**Prepared by: Andre Ramirez**  
**Job Title: Sr Advisor**  
**Received Date: 10/6/2020**

**Response Date: 10/9/2020**

---

**Question 003:**

Referring to CALSSA to Joint IOUs 001 and 002, and the OIR Comments at p. 8, n. 13, please explain the degree to which the 2020 Avoided Cost Calculator was used to calculate the referenced figures and whether they are based on the Ratepayer Impact Measure test.

**Response to Question 003:**

The “cost shift” is another term for the “Ratepayer Impact” test. The joint IOUs used the 2020 ACC to calculate the benefits of the energy produced by NEM generators in each year for each IOU, weighted by adoption in each geographic zone used in the Avoided Cost Calculator.

*Southern California Edison*  
*R.20-08-020 – NEM OIR*

**DATA REQUEST SET CALSSA - JOINT IOUs - 001**

**To: CALSSA**  
**Prepared by: Andre Ramirez**  
**Job Title: Sr Advisor**  
**Received Date: 10/6/2020**

**Response Date: 10/9/2020**

---

**Question 004:**

Referring to CALSSA to Joint IOUs 001 and 002, and the OIR Comments at p. 8, n. 13, please explain the degree to which the referenced figures include storage-paired-solar NEM projects.

**Response to Question 004:**

The referenced figures evaluate the impacts of the solar component of solar plus storage systems, but do not attempt to estimate the participant bill savings or additional avoided costs from the storage component of such systems. At present the installed capacity of behind-the-meter storage is not significant enough to impact the results. By 2030 battery storage could either increase or decrease the overall cost shift significantly