



**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)

**REPLY COMMENTS OF THE SOLAR ENERGY INDUSTRIES ASSOCIATION
AND VOTE SOLAR 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**

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Dated: October 13, 2020

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Pursuant to Ordering Paragraph 5 of the *Order Instituting Rulemaking to Revisit Net Energy Metering Tariffs Pursuant to Decisions 16-01-044, and to Address Other Issues Related to Net Energy Metering* issued on September 3, 2020 (“OIR”), the Solar Energy Industries Association (“SEIA”) and Vote Solar reply to comments on the OIR filed in the above captioned proceeding on October 5, 2020.

I. INTRODUCTION

In seeking comment on the OIR, the Commission 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.”¹ In clarifying the requested content of the comments on the scope of the proceeding, the Commission stated that parties “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

¹ OIR, p. 11.

issues identified.”² As discussed below, several parties went outside these parameters, using the opportunity to make broad and deleterious characterizations of the net energy metering (“NEM”) program. These characterizations often lacked any credible support and are detrimental to moving this proceeding forward in a deliberate and even-handed manner that will ensure that the Commission meets all AB 327 statutory mandates in designing a successor NEM tariff.

In addition, a number of parties sought to cut short the deliberative and due process for developing a successor NEM tariff as set forth in the OIR, arguing that the Commission should not expend any time developing guiding principles, or goals, to assist in the development and evaluation of a successor tariff. Instead, these parties suggest that the Commission should just go ahead and adopt the principles advanced by the commenting party, and ignore the input of all other parties. Again, such a tactic is not useful to creating the robust record necessary to comply with the directive of AB 327 and to ensure that California meets its clean energy goals.

Finally, in proposing modifications to the preliminary scope of the proceeding and the processes to be followed, certain parties offered recommendations that ignore prior Commission decisions and directives, such as the Commission’s longstanding policy of respecting customer investments made pursuant to past or existing programs, or would require the Commission to make an inappropriate premature determination on a matter at issue in the proceeding.

II. THE COMMISSION SHOULD NOT RUSH THROUGH THIS PROCEEDING BASED ON FABRICATED CLAIMS OF AN URGENT NEED FOR IMMEDIATE ACTION

Several parties attempt to insert a sense of urgency into this proceeding, advocating that the Commission skip certain steps in devising the successor NEM tariff, or push critical issues

² *Id.*

off until later phases of this proceeding.³ The Joint IOUs are even claiming that this urgency provides a basis to immediately close the NEM 2.0 tariff to new customers, even in the absence of a replacement tariff.⁴ This sense of urgency is premised on the alleged need to stop “overcompensating NEM eligible generators” and “unfairly shifting costs to non-participating customers.”⁵ Accusations are made that “NEM has caused a wealth transfer from non-participants to participants, and from the poorer to the wealthier”⁶ and that the “high cost of existing NEM tariffs is driving electrical rates up at an unsustainable rate.”⁷ The Joint IOUs even attempt to put a price tag on the “overcompensation” to NEM customers by asserting that “the total statewide costs unfairly borne by non-solar customers is \$2.5 billion annually.”⁸ Of course, no data or analysis is provided in support of the asserted \$2.5 billion annual cost shift.⁹

SEIA and Vote Solar are aware that it is the position of the IOUs and several other parties that NEM has created a cost shift. This is a position that they will have the opportunity to support throughout this proceeding. This position, however, is not one that should drive the

³ Joint Opening Comments of Southern California Edison Company, Pacific Gas and Electric Company, and San Diego Gas and Electric Company on Order Instituting Rulemaking to Revisit Net Energy Metering Tariff Pursuant to D.16-01-044, and to Address other Issues Related to Net Energy Metering, R. 20-08-020 (October 5, 2020) (“Joint IOU Comments”), pp. 3-4; Opening Comments of the Public Advocates Office on Order Instituting Rulemaking to Revisit Net Energy Metering Tariff Pursuant to D.16-01-044, and to Address other Issues Related to Net Energy Metering, R. 20-08-020 (October 5, 2020) (“CalPA Comments”), pp. 13-14; Comments of The Utility Reform Network on Preliminary Scope and Schedule, R. 20-08-020 (October 5, 2020) (“TURN Comments”), p. 3.

⁴ Joint IOUs Comments, p. 10 (see further discussion of this proposal in Section IV. B., *infra*.)

⁵ *Id.*, p. 2.

⁶ Opening Comments of the Coalition of California Utility Employees on Order Instituting Rulemaking, R. 20-08-020 (October 5, 2020) (“CUE Comments”), p. 3.

⁷ TURN Comments, p. 3.

⁸ Joint IOU Comments, p. 2.

⁹ SEIA and Vote Solar understand that the California Solar and Storage Association (“CalSSA”) asked in a data request for the workpapers for the Joint IOUs’ \$2.5 billion figure. The IOUs declined immediately providing the workpapers in time for these reply comments, but stated that they would provide them in 10 business days. The IOUs appear to be purposely withholding their calculations from scrutiny until after these reply comments are filed in hopes that merely citing this large number will influence the Commission’s determination of the scope and schedule of this case.

Commission to take any action prior to a full vetting of the issue. As noted above, the Joint IOUs have not provided any details on their claimed \$2.5 billion cost shift. The IOUs, however, admit that their cost shift calculation is based on the entire population of 8.5 GW of existing NEM 1.0 and 2.0 customers,¹⁰ whose NEM tariffs are protected by existing, longstanding Commission policy and which are not and should not be within the scope of this case (*see* Section IV.A. below). Even assuming that a cost shift does or would exist, simply limiting the calculation to the issues in this case -- *prospective* NEM tariffs -- and not conflating the calculation with historic NEM 1.0 and 2.0 customers, reduces the IOU alleged cost shift number to less than 15% of what the IOUs cite.¹¹ Moreover, SEIA has reviewed another calculation of the purported NEM cost shift that one IOU has advanced in a recent Commission case and identified several other flaws.¹²

The calculation of any purported subsidy is one to be probed in this proceeding – not one which can be presented as fact. Again, SEIA and Vote Solar are not attempting to argue this issue through comments on the scope of the OIR. We are merely highlighting that it is

¹⁰ Joint IOU Comments, p. 8.

¹¹ The recent growth in distributed solar has been about 1.2 GW per year in the IOU territories, and there were 8.5 GW of NEM 1.0 and 2.0 systems installed as of April 30, 2020. Any cost shift calculation should focus only prospectively on the 1.2 GW per year that will be impacted by this case, not on the 8.5 GW of legacy NEM 1.0 and 2.0 systems. This reduces any cost shift calculation to 14% (1.1 GW divided by 8.5 GW = 14%) of a calculation that is based on legacy volumes (such as the IOUs' \$2.5 billion figure). See the data on cumulative IOU solar customers and installed GW through April 30, 2020, at <https://www.californiadgstats.ca.gov/charts/>.

¹² SDG&E asserted in the recent Rate Design Window case (A. 17-12-011) on residential TOU rates that the NEM cost shift in its service territory has reached \$400 million per year. SEIA's review of this calculation revealed that SDG&E had made several errors or incorrect assumptions that, if corrected, would significantly reduce the size of any alleged cost shift. Specifically, the \$400 million alleged cost shift (1) is based incorrectly on legacy NEM 1.0 and 2.0 volumes instead of incremental annual volumes, (2) does not use the Avoided Cost Calculator, (3) fails to assume that NEM 2.0 customers must be on TOU rates, (4) ignores the \$10 monthly minimum bill and annual zeroing of net bill credits, (5) does not remove non-bypassable charges from export rates, and (6) does not focus only on exported power.

inappropriate for the Commission to use unsubstantiated arguments to make determinations regarding the scope and schedule of this proceeding, as requested by certain parties.

III. THE COMMISSION SHOULD REJECT PARTIES' ATTEMPTS TO REMOVE THE IDENTIFICATION OF GUIDING PRINCIPLES FROM THE ALL PARTY PROCESS

Listed among the scoped issues in this proceeding is the “[i]dentification 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.”¹³ Rather than stay within the directed parameters when commenting on this issue – i.e., whether to amend the issue, how to prioritize it, and how to procedurally address it – several parties set forth their preferred list of guiding principles, requesting that the Commission adopt them either absent additional process or with minimal process.¹⁴ The Commission should reject such attempts to cut short a seminal step in the process of designing the successor tariff.

The importance of deriving guiding principles to use in crafting a rate structure was highlighted in the Commission’s residential rate design rulemaking (R. 12-06-013). Therein the Commission adopted a set of rate design principles after “extensive input from the parties, including a workshop and written comments.”¹⁵ While those principles were designed for use in

¹³ OIR, p. 8.

¹⁴ See, e.g., TURN Comments, p. 3 (The Commission should adopt a set of comprehensive principles in a ruling issued after reviewing comments submitted in response to the OIR); CalPA Comments, p. 4 (Commission should adopt the four principles advanced by CalPA); CUE Comments, p. 4 (in developing the NEM successor tariff, the Commission should use the principles identified by CUE); Comments of the Natural Resource Defense Council on Order Instituting Rulemaking to Revisit Net Energy Metering Tariff Pursuant to D.16-01-044, and to Address other Issues Related to Net Energy Metering, R. 20-08-020 (October 5, 2020) (“NRDC Comments”), p. 4 (“To expedite this proceeding, NRDC suggests that the CPUC adopt NRDC’s proposed principles instead of devoting the first part of the proceeding to develop principles of engagement as proposed in Section 4 of the OIR); Joint IOU Comments, p13 (propose an expedited round of comments to determine the principles).

¹⁵ See Decision 14-06-029, p.12.

that proceeding,¹⁶ they have since been used as guidelines for subsequent assessments of proposed rate design changes. The principles adopted in this proceeding will, no doubt, be used to guide future changes to the NEM tariff, thereby influencing the future of distributed energy resources for the foreseeable future. The principles should not be given short shrift.

Moreover, in compliance with the directives of the OIR, SEIA and Vote Solar did not present the guiding principles which it believes are imperative to the shaping of the successor NEM tariff. These principles include:

1. Ensure that distributed solar continues to grow sustainably in California, as required by AB 327.
2. Preserve and expand access to distributed solar to more low-income customers, as well as to disadvantaged and other underserved communities.
3. Ensure the DG solar industry continues to align with the state's GHG and reliability goals as the electric grid changes, while maximizing ratepayer benefits.
4. Protect the customer's right to self-consume and store clean energy generated onsite.
5. Avoid fixed charges and other discriminatory fees that reduce the value of DG solar without the opportunity to mitigate the lost value with other technologies.
6. Ensure any policy changes are gradual and predictable, allowing businesses to plan investments that will be needed to provide the products and services to serve tomorrow's grid.
7. Work in conjunction with other policies, programs and incentives to reduce the cost and improve the capabilities of distributed energy storage to enhance resiliency and provide a range of grid services, such that DG solar paired with storage becomes the industry standard.

SEIA and Vote Solar are not presenting these principles at this time for the purpose of seeking a Commission decision thereon (as other parties have done with the principles they advance), but rather as illustration of the point that there are varying views on the principles that should guide the development of the NEM successor tariff. These views that must be explored

¹⁶ *Id.* (the Commission has “developed the following list of ten optimal Rate Design Principles for use in this proceeding.”).

and vetted thoroughly prior to the adoption of a set of guidelines that will shape the successor NEM tariff, and subsequent changes thereto, for the indeterminate future.

Finally, SEIA and Vote Solar would point out that what certain parties cast as “guiding principles” are actually predetermined outcomes for the proceeding or are based on premises that, as of yet, have not been substantiated. For example, CUE presents as a “guiding principle” that “NEM participants should be paid, at most, the wholesale rate (not the retail rate) for electricity exported to the grid.”¹⁷ The price that NEM customers will be paid for exports to the grid is an issue in this proceeding. Predetermining that issue through a guiding principle is not appropriate. CUE’s “principle” completely ignores the fact that distributed solar generation produced and consumed on the distribution system avoids not just wholesale energy costs, but also the long-term costs for greenhouse gas (GHG) emissions and for transmission and distribution capacity, as well as other costs, as measured by the Commission’s approved Avoided Cost Calculator. The Joint IOUs are not so blatant in their attempt to predetermine the proceeding through guiding principles, but their principles are all based on the assertion, that has yet to be tested in this proceeding, that NEM customers are receiving an unwarranted subsidy.¹⁸ The Commission should not build guiding principles on assertions that have not been validated.

IV. CERTAIN ISSUES IDENTIFIED BY THE JOINT IOUS SHOULD NOT BE INCLUDED IN SCOPE

A. Legacy Treatment of Customers under the NEM 1.0 and NEM 2.0 Tariffs Has Already Been Determined by the Commission.

¹⁷ CUE Comments, p. 6.

¹⁸ Joint IOU Comments, p. 5 (“This overarching concern [of a subsidy] is the touchstone for and informs each of the Joint IOUs’ guiding principles.”).

The Joint IOUs submit that “legacy treatment for NEM 1.0, NEM 2.0, and new successor tariff customers must be included in scope.”¹⁹ The legacy treatment for customers on the NEM 1.0 and NEM 2.0 tariffs has already been determined in prior Commission decisions and is not within the scope of this proceeding.

Decision 14-03-041 establishes a 20-year transition period, beginning when the system was interconnected, for NEM 1.0 customers.²⁰ This transition period was established pursuant to statutory mandate.²¹ The IOUs did not seek rehearing of this decision to challenge the legal basis for the Commission’s determined transition period, nor have they filed a petition for modification advocating changed facts that would warrant a change in the Commission’s determination to afford a 20 year transition period.

Similar to Decision 14-03-041, Decision 16-01-044 creates the same 20 year transition period structure for NEM 2.0 customers.²² The Commission’s stated reason for the approved transition period was to “allow customers to have a uniform and reliable expectation of stability of the NEM structure under which they decided to invest in their customer-sited renewable DG systems.”²³ Again the IOUs neither sought rehearing of this determination, nor have they filed a petition for modification seeking to change the adopted 20 year transition period.

Moreover, the Commission established the 20-year transition period for NEM 2.0 customers in the same decision (D. 16-01-044) in which it stated that it would conduct the 2019

¹⁹ Joint IOU Comments, p. 8.

²⁰ D.14-03-041, p. 2.

²¹ See PU Code Section 2827.1 (b) 6) (directing the Commission to “establish a transition period during which eligible customer-generators taking service under a net energy metering tariff or contract prior to July 1, 2017, or until the electrical corporation reaches its net energy metering program limit pursuant to subparagraph (B) of paragraph (4) of subdivision (c) of Section 2827, whichever is earlier, shall be eligible to continue service under the previously applicable net energy metering tariff for a length of time to be determined by the commission by March 31, 2014.”).

²² D. 16-01-044, p. 100.

²³ See *Id.*

review of the NEM 2.0 successor tariff that this OIR is undertaking. The adopted 20-year transition period for NEM 2.0 customers would have been meaningless if the Commission meant for this review to change the NEM 2.0 tariff for customers who invest under the NEM 2.0 tariff prior to this review.

In this regard, SEIA and Vote Solar cannot understate the importance to the future growth of the distributed solar market in California of the Commission's commitment to "allow customers to have a uniform and reliable expectation of stability of the NEM structure under which they decided to invest in their customer-sited renewable DG systems." Over one million IOU customers have invested tens of billions of dollars in 8.5 GW of distributed solar under the NEM 1.0 and 2.0 tariffs in reliance on this promise of a stable NEM structure and on the policy that changes to the NEM program would only apply to existing customers after the adopted 20-year transition period.²⁴ To undermine the economic underpinnings of those investments in this proceeding would be profoundly destabilizing, and would impact adversely the market not just for solar but also for other types of DERs (including storage).

Moreover, the consumer protections ramifications of any attempt to retroactively change the transition periods for customers are innumerable. For the past several years, customers have been evaluating the economics of solar installations based on the Commission's explicit determination in D. 16-01-044 that they would have the right to stay on the NEM 2.0 tariff for a period of 20 years from interconnection. In marketing solar installations, solar developers have been making that representation. A change to this basic tenet of the NEM 2.0 tariff would undermine not only these project economics, but the significant efforts that the Commission has undertaken to ensure that consumers have the information necessary to make an

²⁴ See the data on cumulative IOU solar customers and installed GW through April 30, 2020, at <https://www.californiadgstats.ca.gov/charts/>.

informed decision about installing solar and taking service under the NEM tariff.²⁵ Hundreds of thousands of solar customers would be placed in the position of having purchased a solar system based on what will become a misrepresentation endorsed by the Commission. The customer backlash against the IOUs, the industry and the Commission would be considerable.

Illustrative of the consumer dissatisfaction that can result from an attempt to change fundamentally the NEM structure applicable to an existing population of NEM customers is the experience that occurred in Nevada a few years ago. In 2015-2016, the Nevada Public Utilities Commission (“PUCN”) changed the rate structure under the NEM tariffs. The PUCN applied the changes not just to new solar customers, but also to those with existing systems, thus altering the economics of existing systems to the point where the significant investments made by customers were rendered uneconomic. The changes also immediately shut down the rooftop solar market in the state, resulting in over 1,000 layoffs and major solar companies exiting the state.²⁶ Further, the ensuing customer backlash led to a ballot initiative, multiple law suits, and a significant statewide political issue, which ultimately resulted in the PUCN reversing course. In doing so, in September 2016 the PUCN’s first step was to adopt an explicit grandfathering policy, allowing existing solar customers at the time of the change in NEM policy to net meter at full retail rates for a 20-year period.²⁷

B. The Joint IOUs Request to Close the NEM 2.0 Tariff by January 1, 2021 Must be Rejected Outright

²⁵ See, e.g., D. 18-09-044 (adopting a solar consumer information packet)

²⁶ The immediate impacts of the PUCN decision to make a substantial change to the NEM structure in Nevada, and to apply that policy change to existing NEM customers, including the layoffs at solar companies, is documented in the *Prepared Direct and Rebuttal Testimonies of R. Thomas Beach on behalf of The Alliance for Solar Choice*, served February 1 and 5, 2016 in PUCN Dockets Nos. 15-07-041 and 15-07-042.

²⁷ See <https://www.greentechmedia.com/articles/read/nevada-regulators-restore-net-metering-for-existing-solar-customers#gs.aExnCD4>

The Joint IOUs' request to close the NEM 2.0 tariff to new customers prior to the implementation of a successor tariff (indeed by January 1, 2021) is not only procedurally incorrect, but, if granted, would disrupt the solar market, as acknowledged by the Joint IOUs,²⁸ create a significant amount of customer confusion and dissatisfaction, and potentially place the Commission in violation of AB 327.

Comments on the scope of an OIR are not the vehicle by which to make a substantive motion for the Commission to take an action in a proceeding. While the Joint IOUs have proposed that parties have an opportunity to weigh in on this proposal through an expedited round of comments, such is not sufficient due process. The Joint IOUs have framed their proposal as a matter upon which the Commission must act immediately in order to “contain the growing inequity of the status quo,” i.e., the purported cost shift. However, this cost shift is a material issue of disputed fact and policy among the parties, and one that will, more likely than not, necessitate hearings. As discussed above, SEIA and Vote Solar strongly question the validity of the cost shift numbers that the Joint IOUs are advancing as justification for the immediate action they recommend. The minimal process that the Joint IOUs have proposed be undertaken prior to a ruling on their proposal is insufficient to obtain an adequate record to resolve this material issue of fact and its related policy implications.

Moreover, while the Joint IOUs provide a cursory recognition that their proposal could cause disruption in the market,²⁹ that recognition is grossly understated. Essentially the Joint IOUs proposal would require the solar industry to operate for over a year without being able to educate customers on the tariff pursuant to which the solar installation they are purchasing will

²⁸ Joint IOU Comments., pp. 10-11.

²⁹ *Id.*, p. 11.

operate.³⁰ This will produce one of two results: (1) a considerable drop in solar sales as customers decline to gamble on whether the tariff resulting from this proceeding will continue to support the economics of their long-term investment; or (2) customers proceeding to purchase solar installations, then backlashing against solar providers, the IOUs, and the Commission if in the future they are removed from the NEM 2.0 tariff to an uneconomic successor tariff. Both of these results are extremely deleterious to California consumers, the solar industry, and the state's climate goals.

With respect to the first result, a precipitous drop in solar sales endangers California's ability to meet its clean energy goals. As referenced in SEIA's and Vote Solar's opening comments, California's current Reference System Plan, adopted in Decision 20-03-028, relies on the continued addition of more than 1 GW per year of behind-the-meter solar generation over the next decade, in order to meet the state's 2030 goals for GHG emission reductions.³¹

With respect to the second possibility of customers being re-assigned to an uneconomic successor tariff, the Commission has emphasized repeatedly the need for clear communications with customers and the avoidance of customer backlash regarding utility tariffs.³² Establishing a construct wherein customers are placed on the NEM 2.0 tariff and then transferred to the successor tariff – a tariff for which there are no details available at the time the customer initially signs up for NEM – is asking for considerable customer confusion and dissatisfaction, and raises

³⁰ The Joint IOUs are proposing that customers with an interconnection agreement after January 1, 2021 would be temporarily served on NEM 2.0 until the utilities implement the new approved successor tariff or three years from permission to operate, whichever is later.

³¹ The No New DER case that has been modeled shows that, without the 1 GW per year of customer solar, the amount of utility-scale solar that would be needed to replace DERs would reach land use and transmission constraints in several parts of the state, showing the risks and costs of relying entirely on utility-scale renewable projects..

³² See, *e.g.*, Decision 20-03-003.

serious consumer protection concerns (e.g., consumers not understanding that they will be switched to the new tariff and asserting that they were misled).

Finally, the Joint IOUs are recommending that the Commission establish a construct under which a successor NEM tariff has not been adopted and the current NEM tariff (NEM 2.0) is technically closed (in that it will be an interim tariff for customers taking service after January 1, 2021, but before the adoption of a NEM successor tariff). Such construct could place the Commission in violation of AB 327 which states:

*Beginning July 1, 2017, or when ordered to do so by the commission because the large electrical corporation has reached its capacity limitation of subparagraph (B) of paragraph (4) of subdivision (c) of Section 2827, all new eligible customer-generators shall be subject to the standard contract or tariff developed by the commission and any rules, terms, and rates developed pursuant to subdivision (b). There shall be no limitation on the amount of generating capacity or number of new eligible customer-generators entitled to receive service pursuant to the standard contract or tariff after July 1, 2017. An eligible customer-generator that has received service under a net energy metering standard contract or tariff pursuant to Section 2827 that is no longer eligible to receive service shall be eligible to receive service pursuant to the standard contract or tariff developed by the commission pursuant to this section.*³³

AB 327 does not contemplate the construct that the Joint IOUs are advocating -- i.e., a period of time in which a NEM successor tariff is unavailable to eligible customer generators.

V. CERTAIN RECOMMENDED PROCEDURES OR METHODS SHOULD BE REJECTED

A. The Ratepayer Impact Measurement is not the Appropriate Tool to Measure the Cost and Benefits of NEM

The Joint IOUs argue that the Commission should adopt the Ratepayer Impact Measurement test (RIM) as the appropriate tool to measure the costs and benefits of NEM tariffs.³⁴ Again the Joint IOUs ignore the work that the Commission has previously undertaken

³³ PU Code Section 2827.1(c) (emphasis added).

³⁴ Joint IOU Comments, p. 7.

to help frame this proceeding. Specifically, in Decision 19-05-019 issued in May 2019 in R. 14-10-003, the Commission determined the cost-effectiveness framework for distributed energy resources, including net-metered distributed energy resources. Specifically, the Commission designated the Total Resource Cost (“TRC”) test, not the RIM test, as the primary test for evaluating the cost-effectiveness of distributed energy resources, except where prohibited by statute or Commission decision.³⁵ In terms of the statutory framework for this case, AB 327 requires that the new tariff “is based on the costs and benefits of the renewable electrical generation facility;” and “that the total benefits of the standard contract or tariff to all customers and the electrical system are approximately equal to the total costs” (emphasis added). Neither of these statutory requirements indicate that cost and benefits of the successor tariff should only be evaluated from the perspective of just a subset of customers (i.e. non-participating customers), which is what the RIM test measures. To the contrary, the statute speaks clearly of the cost and benefits of the renewable electric generation facility and the costs and benefits of the successor tariff to “all customers,” not just non-participating customers. Finally, the Commission squarely addressed this issue in D, 16-01-044 in adopting the NEM 2.0 tariff:

Therefore, when PG&E, SDG&E and ORA in their comments urge the Commission to evaluate proposals for the successor tariff in terms of their impact on nonparticipants (i.e., utility customers who are not using the NEM successor tariff), they are promoting a standard that does not fully reflect the actual legislative requirement. The Legislature deliberately expanded the scope of statutory concern from “nonparticipating customers” to “all customers and the electrical system.” Nonparticipating customers are one segment of “all customers,” but they are clearly not the only focus of the legislative direction to the Commission for designing the successor tariff.³⁶

SEIA and Vote Solar acknowledge that D. 19-05-019 also stated that the RIM and PAC test results have value and thus should be considered during deliberation of all distributed energy

³⁵ D. 19-05-019, Conclusion of Law No. 2.

³⁶ D. 16-01-044, at p. 55.

resources proceedings where cost-effectiveness analyses are required. SEIA and Vote Solar recognize that the relative weight to be given to these two subsidiary tests will be an issue in this proceeding. The Commission, however, has been quite clear that the “RIM and PAC test results should only be considered supplemental to the TRC test results.”³⁷

Similarly, as advanced in SEIA and Vote Solar’s opening comments, the Commission also must look to the societal test, a variation of the TRC, in its deliberations on the cost effectiveness of the NEM tariff.³⁸ While recognizing that the TRC is the primary test, SEIA and Vote Solar submit that the SCT is critical to the full assessment of the costs and benefits of NEM; a point also emphasized by Grid Alternatives.³⁹ In this time of climate crisis in California, the Commission cannot ignore the benefits of DERs that extend beyond the direct avoided costs to the utility system. Since the last review of NEM, there has been significant progress in quantifying important societal benefits of clean DERs, including the social cost of carbon emissions, health benefits of reduced air pollution, avoided methane leakage, land use benefits, and the enhanced reliability & resiliency of solar-plus-storage systems.⁴⁰

B. The Commission Should Not Relegate Certain Issues to Later Phases

The Joint IOUs recommend that the Commission segment the proceeding into phases and address issues, such as incorporating NEM reform into the virtual and aggregation NEM

³⁷ D. 19-05-019, p. 24.

³⁸ *Comments of the Solar Energy Industries Association and Vote Solar on Order Instituting Rulemaking to Revisit Net Energy Metering Tariff Pursuant to D.16-01-044, and to Address other Issues Related to Net Energy Metering*, R. 20-08-020 (October 5, 2020) (“SEIA/ VS Comments”) pp. 4-5.

³⁹ *Opening Comments of Grid Alternative on Order Instituting Rulemaking to Revisit Net Energy Metering Tariff Pursuant to D.16-01-044, and to Address other Issues Related to Net Energy Metering*, R. 20-08-020 (October 5, 2020), pp. 4-5.

⁴⁰ For example, see generally D. 19-05-019, D. 20-04-010, and Resolution E-5077.

schedules and consumer protection matters, in a later phase.⁴¹ SEIA and Vote Solar strongly disagree with this proposal.

A number of parties, including SEIA and Vote Solar, noted the importance of ensuring that NEM can be more readily available to a broader and more diverse customer base; specifically arguing that the proceeding should be scoped to include issues of access by low income consumers and disadvantaged communities.⁴² VNEM tariffs are particularly important for deploying rooftop solar for low-income families and renters, because solar customers in multifamily affordable housing and in market rate apartment buildings take service on VNEM tariffs and thus merit early consideration in this proceeding. Moreover, the IOUs fail to recognize the pivotal role that NEM has played in enabling the industry to expand access to low and moderate income solar customers over the last several years.⁴³ VNEM and other NEM tariffs that are tailored for low and moderate income customers are premised upon the basic structure of the overarching NEM tariff; their review and potential modification cannot be divorced therefrom. Any NEM reforms made must be done in concert with consideration of how such reforms will impact solar penetration among low and moderate-income customers.

Similarly, the Commission has placed an appropriate and increasing focus on consumer protection with respect to the sale of rooftop solar installations. A change from the current NEM 2.0 structure to the new successor tariff is likely to require changes to the Solar Consumer Protection Guide, changes which should be in effect prior to the marketing of systems under the successor tariff. Despite the IOUs' desire to rush through this proceeding, the Commission

⁴¹ Joint IOU Comments, p. 10.

⁴² SEIA/ VS Comments, pp. 5-6; *see also* CalPA comments, pp. 6-7; Grid Alternative Comments, pp. 2-3.

⁴³ *See* NEM 2.0 Lookback Study showing steady adoption of solar by low to moderate income ratepayers .

should not adopt a new tariff, require all new NEM customers to take service under that tariff, but then address implementation and consumer protection issues at a later date.

C. TURN’s Proposed Analytical Tool

TURN recommends that the Commission formulate and adopt an analytical tool to be used in evaluating the various options for the successor NEM tariff.⁴⁴ In this regard, TURN notes that one potential option is to engage a consultant to modify and update the Public Tool that was developed during the NEM 2.0 proceeding. If the Commission decides to pursue this option, the tool developed should be available to all parties and simple enough for any party to use and modify. The Public Tool used in the NEM 2.0 proceeding was difficult (but not impossible) to use, requiring about six hours for a single run. SEIA and Vote Solar recommend that any new tool be easier to use than the NEM 2.0 Public Tool.

D. Adopting a Definition of “Sustainable Growth” is Premature

CalPA suggest that the Commission modify the OIR to adopt the following definition of sustainable growth: “preserving and fostering sufficient market conditions to facilitate robust adoption of customer-sited renewable generation while minimizing potential cost impacts to nonparticipants over time.”⁴⁵ CalPA asserts that adopt of this definition of “sustainable growth” is necessary to provide “clarity and guidance in this proceeding, as well as to better focus this proceeding on the customers most negatively impacted by NEM: non-participating customers, including lower income customers.”⁴⁶ While SEIA and Vote Solar agree that the concept of sustainable growth of customer sited renewable generation is foundational to this proceeding, we submit that it is premature to adopt CalPA’s suggestion.

⁴⁴ TURN Comments, p. 10.

⁴⁵ CalPA Comments, p.11.

⁴⁶ *Id.*

SEIA and Vote Solar question CalPA's assertion that its proposed definition will provide "clarity." For example, the concept of "robust adoption" is ambiguous. In this regard, SEIA and Vote Solar submit that "sustainable growth" must be tied state energy planning. In other words, using the terminology advanced by CalPA, "robust adoption" would be adoption sufficient to keep the state on track to meet its GHG targets. SEIA and Vote Solar offer the following modification to CalPA's proposed definition: "preserving and fostering sufficient market conditions to facilitate ~~robust~~ adoption of customer-sited renewable generation at the level necessary to meet California's clean energy goals, while minimizing potential cost impacts to nonparticipants over time." Again, however, SEIA and Vote Solar are not requesting that the Commission adopt this definition, but are merely illustrating that CalPA's request is premature; the definition of sustainable growth must be explored in more depth in the proceeding.

VI. CONCLUSION

The Commission should flatly decline the invitation of the IOUs and other parties to this proceeding to use unsubstantiated arguments to make determinations regarding the scope and schedule of this proceeding. Calls for the Commission to cut short the deliberative and due process for developing a successor NEM tariff and merely accept the position of the advocating party must be ignored. Any changes made to the current NEM 2.0 structure will have significant impacts on the advancement and sustainability of the solar industry in California. The Commission must take the time and expend the resources necessary to establish a robust record upon which a reasoned decision can be rendered.

Respectfully submitted October 13, 2020 at San Francisco, California.

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⁴⁷ In accord with Commission Rule 1.8, the representative of SEIA has been authorized to sign these comments on behalf of Vote Solar.