

**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 CALIFORNIA BUILDING INDUSTRIES ASSOCIATION  
ON THE PROPOSED DECISION OF ALJ HYMES**

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Date: January 7, 2022

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In accordance with Rule 14.3 Commission’s Rules of Practice and Procedure, the California Building Industry Association (CBIA) hereby respectfully submits its comments on the Proposed Decision issued by Administrative Law Judge Kelly A. Hymes on December 13, 2021.<sup>1</sup>

**I. The Record Clearly Establishes the Urgent Need for Adoption of a Net Value Billing Tariff as a Foundation for Community Solar in California to Enable Builders to meet Energy Efficiency Mandates in a Manner that Saves Ratepayers Money.**

Unrebutted testimony in this docket establishes the following facts: Current efficiency regulations promulgated by the California Energy Commission (“CEC”) under California Code of Regulations, Title 24, Part 1 and Part 6 (“Title 24”), require all new residential construction of three- stories or less to be powered by solar energy systems.<sup>2</sup> Based on current Title 24 requirements, Witness Raymer testified that at least 250 to 450 megawatts (MW) of capacity is needed from community solar every year to meet builder demand.<sup>3</sup> This level of demand will increase with the forthcoming 2022 Building Energy

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<sup>1</sup> By ruling dated December 17, 2021, the date for filing comments on the PD was extended to January 7, 2022.

<sup>2</sup> Exhibit CCS-01 at pg. 14, lines 4-10

<sup>3</sup> Exhibit CBI-01 at pg. 5, line 24 through pg. 6, line 3

Efficiency Standards<sup>4</sup> for Title 24 (“2022 Building Code”) which the CEC recently approved via a “Resolution Adopting Proposed Regulation” and recently approved by California Building Standards Commission on December 14, 2021.<sup>5</sup> The 2022 Building Code will go into effect on January 1, 2023, and would expand the solar mandate to include not only new low-rise residential construction (as required under the 2019 Building Code), but also new high-rise multifamily buildings, nonresidential (grocery, retail, office, etc.) buildings and hotels and motels.<sup>6</sup> Title 24 allows for either behind-the-meter solar or community solar as compliance options to meet this mandate.<sup>7</sup>

Despite these looming mandates, no Commission-jurisdictional utility has a viable community solar program for homebuilders to utilize as a compliance option for Title 24.<sup>8</sup> The lack of a viable community solar program option for builders “represents a serious misalignment of policy between two state agencies that share oversight of California’s energy efficiency programs and mandates.”<sup>9</sup> The current community solar programs authorized by the Commission suffer from serious deficiencies that undermine their use as a compliance pathway for builders being limited in size, providing no assurance of energy savings as required by Title 24, and/or being only available to

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<sup>4</sup> See 2022 Building Energy Efficiency Standards available at:

<https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2022-building-energy-efficiency>.

<sup>5</sup> See CEC. August 18, 2021. Docket No. 21-BSTD-01. 2022 Energy Code Update Rulemaking. Resolution Adopting Proposed Rulemaking; See, also, Building Standards Commission, December 2021 Commission Meeting website available at:

<https://www.dgs.ca.gov/BSC/Rulemaking/2021-Triennial-Code-Adoption-Cycle/Dec-2021-Commission-Mtg>.

<sup>6</sup> CEC. July 14, 2021. Docket No. 21-BSTD-01. See 15-Day Express Terms 2022 Energy Code –Residential and Nonresidential.

<sup>7</sup> See Title 24, Section 150.1(b)(1) and Section 10-115.

<sup>8</sup> Exhibit CBI-01 at pg. 3, lines 4-6.

<sup>9</sup> Exhibit CBI-01 at pg. 3, lines 10-12.

bundled customers of the investor-owned utilities.<sup>10</sup>

The record in this docket also clearly establishes the fact that a community solar program founded on the Net Value Billing Tariff will **save ratepayers money** when compared to builders utilizing behind-the-meter solar alone. The lack of a viable community solar program as a compliance pathway also has deleterious impacts on California's building industry by adding complexity and uncertainty to the building process directly undermining energy efficiency goals and driving up costs for builders.<sup>11</sup> These costs are then passed on in home prices which exacerbates California's housing crisis.<sup>12</sup>

In the face of this record, the PD's determination that adoption of the Net Value Billing Tariff proposed by the Coalition for Community Solar Access ("CCSA") is premature is directly at odds with the unrebutted facts established in this docket. The PD does not explain this rationale merely noting that coordination with other dockets is needed. This conclusion alone does not mean that such coordination cannot take place in this docket, nor does it establish that adoption of the Net Value Billing Tariff is premature.

More broadly, the Proposed Decision gives scant reference to the impact of the Proposed Decision on the Title 24 Building Code even though the code was central to one of the six guiding principles for the proceeding adopted by the Commission in D.21-

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<sup>10</sup> See Exhibit CBI-01 at pg. 3, line 23 to pg. 6, line 7; see, also Exhibit CCS-01 at p 14, line 10 and at 15 lines 1-2.

<sup>11</sup> See Exhibit CBI-01 at pg. 6, lines 11-14.

<sup>12</sup> See Exhibit CBI-01 at pg. 6, lines 14-15.

02-007<sup>13</sup>. The Proposed Decision only makes two references to the Building Code, first to state that solar projects used for compliance will not be eligible for a Market Transition Credit and second to say that the Commission will coordinate with the Energy Commission.<sup>14</sup> This discussion is woefully insufficient given the record in this docket clearly demonstrating the need for a community solar compliance pathway for builders to utilize in cost-effectively meeting Building Code requirements. A sharp reversal of course is necessary. The Commission should use the extensive record developed to date to find that a community solar option is essential to meeting the 2019 Building Code and the 2022 Building Code and will be a key to limiting ratepayer impacts from the achievement of these Building Codes.

**II. The PD should be revised to reflect Commission determination that adoption of the Net Value Billing Tariff proposed by CCSA is reasonable, consistent with state policy, and in the public interest.**

To remedy deficiencies in the PD concerning the Net Value Billing Tariff, CBIA requests that the PD be reformed to take the following actions. First, the Proposed Decision should make a clear determination that a viable community solar program is necessary as a compliance option for builders. The Proposed Decision should adopt in concept the Net Value Billing Tariff proposal advanced by CCSA as a cost-effective foundation for community solar projects that can address the needs of builders.<sup>15</sup> The Proposed Decision should clarify that CCSA’s Net Value Billing Tariff received support

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<sup>13</sup> See PD at pg. 9, “(e) A successor to the net energy metering tariff should be coordinated with the Commission and California’s energy policies, including but not limited to, [California Senate Bill 100 \(2018, DeLeon\)](#), the Integrated Resource Planning process, Title 24 Building Energy Efficiency Standards, and [California Executive Order B-55-18](#).”

<sup>14</sup> See PD at pg. 117 and pg. 155.

<sup>15</sup> See Exhibit CCS-03, pg. 13, line 3 (Table 2. Cost Comparison Between Existing Programs and CCSA Proposed Tariff).

from a wide variety of stakeholders<sup>16</sup> and, therefore, future workshops in this docket should focus only on those aspects of CCSA's proposal that other parties expressed concerns about. Those concerns focused on three issues: the compensation structure for exported energy, the ability of community solar to access the Equity Fund, and the possible need for additional Commission oversight of contract terms and conditions. CBIA supports exploring these three issues in workshops to continue to build broad stakeholder support for a viable Title 24 compliance pathway. As part of this later action, the Proposed Decision should establish a clear timeline for establishment of the tariff by 2023. Taking these actions will allow the PD to accurately reflect the record established to date and focus party and Commission resources on the remaining items that must be addressed so that the Net Value Billing Tariff can be utilized by builders during 2023.

CBIA appreciates the opportunity to provide its comments on the PD as well as the Commission's anticipated consideration of its recommended revision to the PD. A copy of CBIA's proposed Findings of Fact is included as Attachment A hereto.

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<sup>16</sup> See Public Advocates Office Opening Brief at pgs. 34-25, The Utility Reform Network Opening Brief at pg. 13, Natural Resources Defense Council Opening Brief at pg. 37-38; CUE Reply Brief at pgs. 41-43.

Respectfully submitted January 7, 2022, at San Francisco, California.

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## Appendix A

### Proposed Edits to Findings of Fact and Conclusions of Law

#### Proposed Edits to Findings of Fact

154. The name “grid participation charge” sends a clear message to the customers they are paying to use the grid. The Net Value Billing Tariff as proposed by CCSA is cost-effective, aligns program costs with program benefits, and promotes equity.

191. There are aspects of community solar that are being discussed or considered in other proceedings so coordination with those dockets as we develop a community solar tariff in this docket is important.

192. It is the intention of the Commission to conduct workshops in this docket during Phase 2 to consider finalize development of a community solar tariff building upon the record established to date in this docket. aspects of community solar that are being discussed or considered in other proceedings.

193. It is premature to adopt a Community Solar tariff or subtariff at this time. CCSA’s Net Value Billing Tariff should form the foundation for further development of a community solar tariff.

194. CCSA’s Net Value Billing Tariff garnered significant support from diverse participants in the docket.

195. Community solar program elements tested in hearings including (1) basic terms and conditions of the Net Value Billing Tariff such as eligibility, duration of service, true-up period for crediting, netting interval, and form of subscription; (2) developer registration and consumer protection requirements; (3) enrollment of a renewable facility in the program; (4) and billing and crediting including allocation of credits to program participants should serve as foundational program elements for a community solar tariff.

196. Community solar program elements related to compensation structure for exported energy, accessing the Equity Fund to support deployment of community solar in disadvantaged communities, and the possible need for additional Commission oversight of contract terms and conditions should be explored further as part of workshops and comments established in this decision.

197. A community solar tariff is necessary to support compliance with the Energy Commission’s Title 24 mandates.



## **Proposed Edits to Conclusions of Law**

32. The Commission should adopt Avoided Cost Calculator values based on a five year schedule of values for each hour from the most recent Avoided Cost Calculator, adopted as of January 1 of the calendar year of the new successor tariff customer's interconnection date. The Commission should develop export compensation rates for community solar consistent with CCSA's Net Value Billing Tariff proposal after further refinement in workshops.

41. The Commission has the authority necessary to adopt the Net Value Billing Tariff as the foundation of a community solar program and adoption of a tariff after further refinement is in the public interest and necessary to support cost-effective compliance with the Energy Commission's Title 24 Building Code requirements. The Commission should not apply the grid participation charge and should allow any time-of-use rate for low-income households enrolled in the successor tariff.

55. To ensure timely adoption of a Net Value Billing Tariff as a foundation for a community solar program, only elements related to compensation structure for exported energy, accessing the Equity Fund to support deployment of community solar in disadvantaged communities, and the possible need for additional Commission oversight of contract terms and conditions shall be explored further as part of workshops and comments established in this decision.

## **Proposed Ordering Paragraphs**

17. A Net Value Billing Tariff is adopted to ensure equity and to implement a cost-effective compliance pathway for current Building Codes established by the California Energy Commission. With the exception of program elements related to compensation structure for exported energy, accessing the Equity Fund to support deployment of community solar in disadvantaged communities, and the possible need for additional Commission oversight of contract terms and conditions, which should be explored further as part of workshops and comments established in this decision, the Net Value Billing Tariff the elements proposed by the Coalition for Community Solar Access are adopted. Workshops concerning the remaining program elements shall occur within 120 days of the adoption of this decision. Rulemaking 20-08-020 remains open to address issue seven in the Scoping Memo and continuing matters related to this decision.

18. To ensure tariff language is standardized across all three Utilities, within 60 days of the adoption of this decision the Joint Utilities shall submit to the service list model Tier 3 tariff language designed to implement Ordering Paragraph 17 for review at workshops established in this decision.

19. Rulemaking 20-08-020 remains open to address issue seven in the Scoping Memo and continuing matters related to this decision.