

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.

R.20-08-020

**JOINT OPENING COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY
(U 338-E), PACIFIC GAS AND ELECTRIC COMPANY (U 39-E) AND SAN DIEGO GAS
& ELECTRIC COMPANY (U 902-E) ON THE ADMINISTRATIVE LAW JUDGE'S
RULING SETTING ASIDE SUBMISSION OF THE RECORD
TO TAKE COMMENT ON A LIMITED BASIS**

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Pursuant to the May 9, 2022 Administrative Law Judge’s Ruling Setting Aside Submission of the Record to Take Comment on a Limited Basis (the “Ruling”), Southern California Edison Company (SCE), Pacific Gas and Electric Company (PG&E), & San Diego Gas and Electric Company (SDG&E) (collectively, the Joint Utilities)¹ submit the following Opening Comments.

I.

INTRODUCTION

The Ruling reopened the record to solicit comments on three topics: (1) whether the Commission should use an Avoided Cost Calculator (ACC) adder as an alternative to the Market Transition Credit (MTC), (2) what mechanism, if any, should the Commission use to collect non-bypassable charges (NBC) based on gross consumption, and (3) what principles, if any, the Commission should adopt for a community solar program. The Joint Utilities provide comments on these three topic areas but encourage the Commission to adopt a new successor tariff as expeditiously as possible. Reform of the Net Energy Metering (NEM) program is necessary to address its growing outsized subsidy and remedy the inequity between participating and non-participating customers created by the program.

¹ Pursuant to Rule 1.8(d), PG&E and SDG&E have authorized SCE to file and sign this document on their behalf.

As the Commission itself noted in its report to the Governor and Legislature on affordability, NEM is one of “three critical and overlapping policy fronts” that “must be managed to address the risk that high electric rates and bills could slow California’s overall progress toward its electrification and climate goals, and harm some of the state’s most economically vulnerable residents.”² As shown in Table 1 below, the NEM subsidy significantly increases bills—by upwards of 20%—for the majority of customers who do not or cannot install a rooftop solar system. Because the NEM subsidy is embedded in electric rates, it is not transparent to customers, but rather is a cost that is hidden from customers and that is driving up electricity costs for non-participants who have disproportionately lower incomes.³

Table 1		
NEM Subsidy Impact on Non-Participant Rates		
	2021	2030
PG&E	12%	31%
SDG&E	21%	31%
SCE	10%	29%

The record of this proceeding shows that this trajectory is not only unreasonable and unfair for the reasons the Joint Utilities established in their testimony, but also unsustainable for the long term because the cost to nonparticipants will continue to grow with significantly increasing rate impact. The cost has grown even over the short period of time this proceeding has been pending. At the submission of proposals in this proceeding a year ago, the total NEM subsidy paid by non-participants was \$3.4 billion; since then, the rate of rooftop solar installations has increased and the annualized cost shift as of June 2022 has grown to \$4 billion statewide, with approximately \$54M in total subsidy added each month in 2022.

² CPUC 2022 Senate Bill 695 Report to the Governor and Legislature on Actions to Limit Utility Cost and Rate Increases Pursuant to P.U. Code Section 913.1, (May 2022), p. 17.

³ This lack of transparency is perhaps why public comments do not accurately reflect what public opinion on NEM would be if the subsidy was not embedded and hidden. It is unrealistic to think that the average customer knows that the Joint Utilities are required to purchase rooftop solar energy on their behalf at eight times the cost of alternatives (something not required of any other load serving entity or utility in California). In contrast, NEM customers know exactly how much the subsidy benefits them because, as shown in this proceeding, bill savings what primarily drives customers to install NEM-eligible generating facilities.

The mechanics of NEM’s impact on customer rates are well described in the CPUC’s report on affordability.⁴ In summary, each additional adoption of rooftop solar increases rates for non-participants because a smaller pool of remaining customers must pay for fixed infrastructure and policy costs, including the NEM subsidy. Without reform, this unsustainable cycle will continue *ad infinitum*, which is the precise harm AB 327 instructs the Commission to remedy.

There is no evidence in the record establishing that the Commission must maintain the current costly subsidy to achieve California’s greenhouse gas (GHG) reduction objectives. There is ample evidence, however, that non-participants who pay this increasing subsidy through higher rates receive no proportionate direct or indirect benefit for the expensive subsidy they pay to fund the NEM program. Given that utilities can more affordably procure a significant portion of the renewables necessary to achieve the state’s GHG reduction,⁵ and that evidence in this proceeding shows that the solar industry will continue to thrive under various reform scenarios,⁶ the Commission has the data and answers it needs to implement meaningful and much needed reform.

Setting aside the individualized harm to non-participants’ rates, the evidence in this proceeding also shows that the current NEM program operates counter to the state’s progress in realizing its important energy and environmental policy goals, including the electrification of transportation and buildings. Despite its enormous costs, the NEM program benefits a relatively small subset of residential customers – 12% for PG&E, 17% for SDG&E, and 10% for SCE. Fuel savings for EV owners in California are already lower than most regions of the United States.⁷ Economist James Bushnell’s assessment of NEM reform captured this concept succinctly, stating that “If we really cared about climate goals, we wouldn’t be focused on providing electrification incentives just for solar homes at the cost of everyone else.”⁸

⁴ CPUC, “2022 Senate Bill 695 Report: Report to the Governor and Legislature on Actions to Limit Utility Cost and Rate Increases Pursuant to Public Utilities Code Section 913.1,” p. 17 (May 2022), available at: [2022-sb-695-report.pdf \(ca.gov\)](#). (Hereinafter, the “CPUC Affordability Report.”)

⁵ Ex. IOU-01, pp. 7-8, 36-37, 67, and fn. 111.

⁶ Joint Utilities’ Opening Brief, pp. 31-39 (experiences in other states) and pp. 39-51 (industry trends) (filed August 31, 2021).

⁷ Rapeson and Muehlegger. 2022. *The Economics of Electric Vehicles*. Figure 1: Implicit variable cost savings per mile for EV relative to ICE. Available here: [econ_of_evs_rm.pdf \(ucdavis.edu\)](#).

⁸ James Bushnell. 2022. “Everyone Should Pay a ‘Solar Tax.’” Available here: [Everyone Should Pay a “Solar Tax” – Energy Institute Blog \(wordpress.com\)](#).

The embedded and non-transparent NEM subsidy is also regressive; it turns the concepts of incentives, the regulatory compact, and rate design on their heads. The customers who benefit from NEM are disproportionately wealthy, single-family homeowners,⁹ receiving subsidies by the CPUC's own estimate in the amount of \$1,400 - \$2,500 dollars per year¹⁰—and growing. Only approximately 10% of NEM customers are also on the CARE program. When low-income customers can install solar, they are significantly more likely to rely on third-party ownership models that (a) result in far less benefits than those realized by wealthy customers who buy their systems, and (b) fail to provide value other than bill savings such as increased property values.¹¹

These problems with the current NEM programs are the reasons why the Legislature passed AB 327, codified at Public Utilities Code section 2827.1, which generally requires the Commission to address the cost shift¹² by equalizing costs and benefits. The CPUC's analysis in this proceeding correctly shows that NEM costs significantly exceed the benefits of the program and raise rates for customers.¹³ By the CPUC's own assessment, the NEM program scores a 0.39 on the Total Resource Cost (TRC) cost effectiveness test, which means, even ignoring the regressive distributional impacts of the program, NEM is a poor investment – failing to return even 50 cents on the dollar for PG&E and SDG&E and providing less than 60 cents on the dollar for SCE.¹⁴ In fact, NEM fails to pass the TRC even under any of the rate reforms proposed in this proceeding, including those eliminating the subsidy.

The solar industry advances a definition for the phrase in AB 327 that “customer-sited renewable distributed generation continues to grow sustainably” that is irreconcilable and conflicts with the dictionary definition of the word “sustainably” and other statutory provisions, violating the rules of statutory construction. Specifically, representatives of the business interests of the solar industry contend that the phrase means indefinite continuation of the status quo, which is unsustainable.

⁹ Verdant Associates, “Net-Energy Metering 2.0 Lookback Study,” pp. 32-33, 35 (January 21, 2021) (referred to hereinafter as the “Lookback Study”).

¹⁰ Energy+Environmental Economics, “Cost Effectiveness of NEM Successor Rate Proposals under Rulemaking 20-08-020: A Comparative Analysis,” pp. 34-35 (June 15, 2021) (referred to hereinafter as the “E3 Comparative Analysis”).

¹¹ Ex. PAO-01, pp. 2-33 to 2-35.

¹² D.21-02-007, p. 39, Finding of Fact (“FOF”) 32 (“AB 327 addresses cost shifts.”)

¹³ Lookback Study, pp. 32-33.

¹⁴ E3 Comparative Analysis, pp. 19-20.

When AB 327 was enacted in 2013, the then NEM subsidy provided NEM customers, on average, with eight-to-twelve-year paybacks on their NEM systems (*Table 2*). Despite the legislative direction in AB 327, the subsidy has continued to grow and become so lucrative that NEM customers now realize a system payback in three to five years. Stated differently, instead of equalizing the costs and benefits, the divide has grown astronomically. That is the opposite of AB 327’s intended result.

Yet, the PD proposes to merely wind the clock to 2013 by proposing a 10-year payback period for solar + storage systems, even though the Commission’s own factual findings in 2014 found that “the costs and payback periods for installed PV systems have been steadily decreasing since the inception of NEM in California.”¹⁵ While the Joint Utilities’ appreciate the PD’s attempt to stem the trajectory of the current inequitable NEM framework, more can and should be done. In fact, since the submission of the record in this case, payback periods have decreased significantly and are currently calculated to range from 6-11 years under the PD’s Net Billing Tariff (NBT)—faster than the payback period that existed when the Legislature felt it necessary to mandate reform by enacting AB 327. Such an outcome is thus not only insufficient for policy reasons, but also contrary to law.¹⁶

Table 2					
NEM and Proposed Decision Payback Periods by Year and Utility (years, non-CARE)					
	Standalone Solar – NEM 2.0			Proposed Decision (no MTC)	
	2013¹⁷	2021¹⁸	2022¹⁹	2021²⁰	2022¹⁸
PG&E	8 to 12	4.5	3.7	14.5	11.4
SDG&E		3.2	2.8	7.4	5.9
SCE		5.4	4.2	16.5	11.3

To comply with the statutory directive, the Commission should go further than the PD contemplates by (1) matching the export compensation to the actual value of the exported energy, as

¹⁵ D.14-03-041, p. 35, FOF 1.

¹⁶ See Public Utilities Code § 2827.1 (requiring the Commission to address the cost shift by equalizing costs and benefits.)

¹⁷ D.14-03-041, p. 35, FOF 2.

¹⁸ E3 Comparative Analysis, p. 34; Ex. IOU-01, p. 105, Table IV-13.

¹⁹ Based on rates effective June 1, 2022 for each IOU, respectively.

²⁰ Proposed Decision Revising Net Energy Metering Tariffs and Subtariffs, Appendix B, p. B2 (December 13, 2021) (the “Proposed Decision”).

discussed below, and (2) recovering infrastructure and public policy costs, either through a transparent mechanism like the PD’s proposed Grid Participation Charge (GPC) or one of the mechanisms proposed by either The Utility Reform Network (TURN) or Sierra Club. The Commission’s priority must be a successor tariff that is equitable to all customers, unlike the status quo, and should reject any requests for unnecessary “glide paths” that would further delay the equity required by law since 2013.

II.

RESPONSES TO RULING QUESTIONS

A. The Glide Path

1. Explain why you would or would not support the ACC Plus residential customer glide path approach as an alternative to the current MTC approach.

The Joint Utilities assert that transition credits for Tariff customers are not necessary. In addition, necessary increases in electric rates over the past few months to support public safety, grid modernization, and decarbonization, have significantly reduced, and in some cases, negated the need for any transition credit under a reformed NEM structure to allow systems to meet the PD’s 10-year payback goal. Assuming the CPUC determines that transition credits above and beyond the PD’s payback goal are necessary—an assumption in this ruling with which the Joint Utilities disagree and contend is unsupported by the record evidence—the MTC (\$/kW) method is preferable to the ACC Plus approach.

First, and perhaps most importantly, as the parties representing the interests of the solar industry have conceded in written testimony and in hearings,²¹ decreasing export compensation incentivizes customers to install paired storage, which benefits the grid. Thus, increasing the value of exports relative to the PD, as an ACC Plus mechanism does, may discourage customers from installing paired energy storage systems because the benefits of using storage to offset onsite usage at retail rates are diminished when export credit rates are increased.

Second, from a practical customer perspective, the MTC provides a more predictable and certain subsidy and is easier to understand. In theory, both the MTC and ACC Plus can be set at levels that provide the exact same additional subsidy for a given PV system installed for a specific customer.

²¹ Joint Utilities’ Opening Brief, p. 64, fn. 188, fn. 189 (see record citations therein).

However, the MTC guarantees the same amount of subsidy for a given photovoltaic (PV) system size (since it only varies with system size), while the ACC Plus will vary according to how much generation the customer exports. Using the ACC Plus instead of the MTC makes the subsidy less transparent and more challenging to project when customers are assessing the financial benefits of investing in solar or solar plus storage. For example, the proposed monthly MTC for SCE would be a constant \$20.24 per month, based on a static installed kW system size. Converted to a kWh credit as a function of exports, the “Plus” credit during a given month could range from \$14 to \$27.

As a decision in this proceeding has been delayed, the underlying rates and facts underlying the purported need for additional subsidy no longer exist. Similar to SDG&E at the time of the PD, today PG&E and SCE require little to no MTC to achieve the PD’s 10-year payback objective.²² Thus, inclusion of any such incentive would conflict with the mandates set forth in AB 327.

2. All else equal, do you consider the ACC Plus glide path to be a more effective approach in ensuring that customer- sited renewable distributed generation continues to grow sustainably, compared to a glide path approach that sets export compensation rates at a declining percentage of the retail per-kWh rates, and/or is based on an MTC? Elaborate in your response.

If any glidepath is needed to ensure continued growth of the solar industry -- an assertion the Joint Utilities do not concede and contend is unsupported by the record -- having a pre-determined \$/kWh adder (ACC Plus) is a more effective glidepath and certainly preferable to continuing to base export compensation on retail rates, which is unreasonable and unfair to nonparticipants. As the Joint Utilities discussed in testimony and briefs,²³ because retail rate design reflects a balance of many competing priorities, utilizing retail rates to compensate distributed energy resource (DER) exports will result in overcompensation and fail to accurately provide market signals. Given that the NEM cost shift will continue to be a source of significant upward rate pressure under the PD, it is inappropriate to compensate DER exports based on the very rates they are pushing upwards. As the Commission knows, retail rates have risen since the Commission initiated this proceeding. When Solar Energy Industries Association (SEIA)/Vote Solar’s (VS’s) (collectively SEIA/VS) submitted testimony, the initial “step”

²² SDG&E’s MTC in the PD was \$0/kW, as paybacks under the PD were less than 10 years. PD, p. 122.

²³ Ex. IOU-01, p. 106-108; Joint Utilities’ Opening Brief, pp. 62, 91.

in their proposed glidepath would have compensated exports from a PG&E successor tariff residential customer at \$0.18/kWh on average, 333% higher than their actual value as calculated by the ACC (\$0.042/kWh). Using current rates, under SEIA/VS's proposed initial successor tariff, exports would be compensated at \$0.247/kWh, 486% higher than their actual value in contravention of AB 327.

While the PD clearly identifies the need to match value of exports to the defined value to the grid, under SEIA/VS's proposal, which would have set the value of exports as a function of retail rates, export compensation would have actually increased between June 2021 and June 2022, counter to the goals of the PD to provide accurate compensation and the equalization mandated by AB 327.

Further, linking export compensation to retail rates reduces certainty to participants relative to the PD's proposed export compensation. Retail rate design can shift significantly over time. If the CPUC wishes to give solar customers certainty regarding the level of export compensation, it should do so by locking in ACC-based compensation for a set period of time, as the PD proposes.

3. If the Commission adopts the ACC Plus, would Tariff customers be more likely to provide higher value to the electric grid than under a glide path approach that is based on a percentage of retail rates, since price signals for exports would reflect the hourly differences in export value to the system based on ACC values?

Yes, Tariff customers would be more likely to provide higher value to the grid under the ACC Plus approach, as compared to a system based on retail rates. Retail rates are the result of compromises across many different policy goals, which result in imprecise incentives. Based on the PD's hourly ACC export compensation, inclusion of an ACC Plus adder provides customers more granular price signals for each hour of the day. Under the ACC Plus approach, customers will still be receiving these more granular price signals.

ACC prices are updated every two years, meaning that updates to the ACC will provide customers with updated prices that can better reflect grid conditions. While in theory retail rates and TOU periods adjust to account for changes in costs, these changes can be slow. For example, the Commission has stated that base TOU periods should be in place for at least five years.²⁴ Additionally, the solar industry will likely, as it has historically, request and aggressively lobby for legacy treatments that insulate solar customers from rate changes. As the CPUC knows, those efforts have been successful.

²⁴ D.17-01-006, Appendix 1.

If the CPUC continues to link export compensation to retail rates, it will not only be inviting more arguments from parties that seek to prevent the Commission from setting rates that fairly and reasonably allocate costs to all customers, but it will also be preventing customers from receiving price signals that will be updated every two years via the ACC.

4. **If the Commission adopts the ACC Plus, should the Commission consider alternatives to the fixed ¢/kWh adder value, such as a multiplier (Y) defined as a fixed percent that would increase export compensation in all hours by the same percentage in all hours (i.e., hourly ACC value * (1+Y))? Why or why not?**

No, a fixed ¢/kWh adder is preferable to a multiplier. It is undisputed that a subsidy adder on export compensation improves the relative economics of a standalone solar system compared to solar + storage systems.²⁵ Given this, and the desire to incentivize adoption of solar + storage systems, the incentive should be as simple and non-distortionary as possible. The flat adder accomplishes both of those objectives. By contrast, using a multiplier would create inappropriately high subsidy adders in high value periods, resulting in export credits that can be higher than the retail on peak rate. Thus, using a multiplier may produce perverse outcomes, such as a battery discharging then recharging from the grid during the peak period.

²⁵ See, e.g., fn. 21, *supra*.

5. **If the Commission adopts the ACC Plus, should a single adder apply to both solar-only and solar + storage systems, or should separate adders apply to solar-only systems and solar + storage systems? If a single adder is used, should the focus of the design be the customer economics of solar-only systems or solar + storage systems? If separate adders are used by technology, how would the investor-owned utilities (Utilities) distinguish between solar-only systems and solar + storage systems in their interconnection portals, and how would Utilities verify the technology associated with the Tariff applications to ensure the correct adder is being used?**

If the Commission chooses to provide an adder to both solar-only systems and solar + storage systems, there should be only a single adder based on the economics of solar + storage systems. The primary effect of the adder is to increase the value of exports directly from the solar generator. By reducing the differential between exports and retail rates, the adder will tend to reduce the value storage can provide to the customer. Policy dictates that the Commission should not be changing the NEM program in ways to incentivize standalone solar. The Commission's goal should be to design a successor program that provides incentives, if any, only for paired storage systems.

Among other possible unintended consequences, separate adders would incentivize gaming by pairing PV systems with very small (and cheap) storage systems to get the higher paired system credit. Separate adders also create further complexity in interconnection and billing and are likely to lead to increased confusion.

6. **If the Commission adopts the ACC Plus, are there any potential impacts to how customers would dispatch battery systems that should be taken into consideration? For example, would the ACC Plus impact how solar + storage customers decide when to export versus consume behind-the-meter?**

Yes, having a flat adder will tend to reduce the incentive to store midday exports for later use onsite. If this adder is modest (perhaps greater than \$0.025/kWh, an approximately 50% increase over the value of solar as calculated by the CPUC), it is unlikely to have significant impacts on charging and discharging behavior. However, higher flat adders and multipliers (or other methods such as adders by

TOU period) can have unpredictable effects. For example, if a multiplier results in peak export credits higher than peak retail rates, customers may charge and discharge their batteries during the peak period, negating any actual generation capacity benefits while being overcompensated for their exports.

7. **Some parties expressed concerns that the proposed decision would lead to an abrupt change in bill savings for customer-generators and would not provide a smooth transition for the solar industry.**
 - a) **If the Commission adopts the ACC Plus, explain what the basis should be for determining the ACC Plus adder amount in Year 1 of the glide path and why. For example, should the ACC Plus amount target a certain payback period, or a certain level of bill savings, an approximate a percentage of retail rate, or some other metric? Provide any recommendations for what the ACC Plus amount should be in Year 1.**

As a threshold matter and as discussed above, there is no need for a glidepath to satisfy AB 327's requirements. No adder is appropriate. The CPUC is not required to provide a "smooth transition" for the solar industry and must consider the competing objectives of California's overall climate goals and affordability issues for all customers, which have not been prioritized within NEM for the many years the program has continued despite AB 327's mandates and the resulting harm to customers and policy objectives. Parties representing the business interests of the solar industry have aggressively and successfully fought to frustrate and delay necessary reform since the Legislature passed AB 327 in 2013. Those parties have therefore known about AB 327's mandate for nearly a decade and thus have already had a more than ample glidepath to adjust their business models. If the Commission nevertheless adopts transition credits, it should at least structure them to reach a reasonable payback expeditiously so that the program will finally comply with nearly decade old legislation.

Table 3 below compares the paybacks (a) without an MTC, (b) with an MTC aiming for a 10-year solar + storage payback as detailed in the PD, and (c) at current rates. Any final decision that enacts transition credits should implement them through a construct that calculates them based on current rates to achieve a payback period established in the decision, not rates that were in place a year ago when testimony was submitted. The CPUC may change other assumptions in its final analysis of the payback.

Table 3					
Solar and Storage Payback Analysis					
Utility	Customer Type	PD Payback Years – 2021 Rates (No MTC)	PD Payback Years – 2022 Rates ²⁶ (No MTC)	PD MTC – 10-year Payback – 2021 Rates (\$/kW-AC)	MTC Needed for 10-year Payback – 2022 Rates (\$/kW-AC)
PG&E	Non-CARE	10.5	9.1	\$1.62	\$0.00
PG&E	CARE	11.5	10.4	\$4.36	\$1.11
SCE	Non-CARE	11.2	8.7	\$3.59	\$0.00
SCE	CARE	11.6	9.9	\$5.25	\$0.00
SDG&E	Non-CARE	7.8	6.4	\$0.00	\$0.00
SDG&E	CARE	8.6	7.9	\$0.00	\$0.00

b) If the Commission adopts the ACC Plus, describe your proposed timeframe over which the ACC Plus is offered to prospective Tariff customers, the rate of step-down so the glide path ends at ACC-based values, and your rationale.

Regardless of whether the CPUC opts to perpetuate the subsidy for rooftop solar customers through an MTC or ACC Plus mechanism, the step-down rate should take no longer than the four years proposed in the PD. The PD assumed that NEM 2.0 eligibility would have ended by now; instead, if the final decision adopts the PD’s proposed implementation timeline, it is likely that NEM 2.0 eligibility will not end until 2023.

Meanwhile, over the course of this proceeding and during the delay in the Commission voting out a decision, which is in part due to dilatory tactics of representatives of the solar industry, the solar industry has accelerated its sales efforts to sell as many systems as possible under the over-compensatory status quo, resulting in a predictable “gold rush.” Just as they did in anticipation of the NEM 2.0 decision, the solar industry is using the prospect of a rule change to sign up more customers than they can install in the near term. Application volumes have increased and are well over the application and interconnection volumes that existed when the legislature passed AB 327.²⁷

²⁶ Rates effective 6/1/2022 for each IOU, respectively.

²⁷ CaliforniaDGStats.ca.gov accessed on June 9, 2022 demonstrates approximately 52,000 residential projects from “All IOUs” in Q4 of 2021 and Q1 of 2022, compared to 42,000 and 38,000 the previous year.

Thus, the industry's growth has been more than protected since 2013 and the evidence shows that the industry will continue to grow if the Commission adopts the Joint Utilities' proposal with no glidepath whatsoever.

8. **The proposed decision recommends giving low-income customers, as defined in the proposed decision, a higher MTC than non-low-income customers so these customers can achieve similar customer economics. This is reflected in the MTC amounts proposed in the proposed decision's Table 5.2. If the Commission adopts the ACC Plus, should the ACC Plus be a different amount in Year 1 of the glidepath for low-income customers compared to non-low-income customers? Should the ACC Plus be stepped down on a different timeframe or rate of change for low-income customers compared to non-low-income customers? Describe your rationale, including the basis for your proposed glide path for low-income customers (higher bill savings, lower payback period, etc.).**

As discussed above, in some cases, there is no longer a need to provide additional compensation as current rates yield payback periods less than the PD's 10-year objective. If the Commission decides it should provide subsidies that are more generous than what the PD proposes, a four-year transition schedule remains appropriate, and it should be afforded to lower income customers to prioritize their access to self-generation. The Joint Utilities agree with the PD's proposal to help new solar-adopting lower-income customers achieve a defined payback period by employing a \$600M subsidy program over a four-year period.

9. **If the Commission adopts the ACC Plus, describe whether and why it should (or should not) apply to nonresidential customers. If you believe it should apply to nonresidential customers, should the ACC Plus be a different amount in Year 1 of the glide path compared to residential customers? Should the ACC Plus be stepped down on a different timeframe or rate of change for nonresidential customers compared to residential customers? Describe your rationale, including the basis for your proposed glide path for nonresidential customers.**

The Commission should decline to adopt an ACC Plus methodology for the same reasons the PD proposes not to adopt a MTC for non-residential customers, and for the reasons the Joint Utilities explain above why a glidepath is not appropriate for any category of customers. The CPUC’s modeling indicated that reducing export compensation to the avoided cost does not push payback periods beyond the 10-year threshold for non-residential customers. Therefore, even if the CPUC adopts an ACC Plus methodology for residential customers, it should decline to do so for non-residential customers.

B. Non-Bypassable Charges on Gross Consumption

Recovering fixed policy and infrastructure costs through mechanisms such as the Grid Participation Charge (GPC) or the Sierra Club gross consumption mechanism for recovering NBCs are not only legal, but also are *required* to eliminate the burden of the NEM subsidy on non-participants. As described in the CPUC’s report to the Governor and Legislature on affordability, NEM raises rates for non-participating customers due to the “disparity between volumetric revenue recovery and fixed costs that do not vary with energy consumption.”²⁸ The Joint Utilities therefore implore the Commission to adopt such a mechanism to address the hidden, regressive, unfair, and unreasonable cost burdens that the NEM program places on all other customers.. ven if the Commission were to adopt a non-volumetric mechanism to recover these costs from *all* customers, E3, the Commission’s own consultant, noted the monthly amount would need to be very high to meaningfully address the cost shift.²⁹ It is therefore

²⁸ CPUC Affordability Report, p. 10.

²⁹ Alternative Ratemaking Mechanisms for Distributed Energy Resources in California, January 28, 2021, pp.23-24 (finding that for 2021, \$177/month would be necessary to recover all fixed costs and eliminate the cost shift); see also Ex. IOU-01, p. 109 (showing that a small, fixed charge would only slightly reduce the cost shift).

imperative that the Commission adopt a mechanism that recovers these fixed policy and infrastructure costs through a non-volumetric rate mechanism specifically for Tariff customers.

First, with regard to the threshold issue of legality, cost-based mechanisms to recover costs from NEM customers that are different than the cost-based rate mechanisms that recover the same costs for non-NEM customers are legal.³⁰ The Joint Utilities and TURN provided the Commission with extensive and thorough briefing on the legal framework for NEM under both state and federal law and established that such proposals are lawful.³¹ Assertions by the parties representing the interests of the solar industry in filed pleadings and ex-parte letters are without merit not only because they lack legal support, but also because the case law cited does not stand for the propositions represented.

In fact, neither FERC nor any federal court has ever exercised jurisdiction over NEM programs under PURPA and there are no cases in which any administrative or civil court has suggested, much less ruled, that fixed charges or basing NBCs on gross compensation violates any NEM customers' rights. The authorities the representatives of the solar industry have cited are inapposite. In fact, one case involves a charge by a state regulator in a state that does not even offer NEM to utility customers.

Rather than reiterate the briefing already provided, the Joint Utilities refer the Commission to the legal framework discussion in the Joint Utilities' Opening Brief and TURN's comprehensive analysis in its Reply brief.³² Both analyses completely resolve the legality of all such matters and should assuage any concerns regarding the legality of most aspects of the PD and modifications thereto as suggested by the Joint Utilities in these comments, the Joint Utilities' proposed reform tariff, and TURN's proposed reform tariff. It is, however, worth repeating that there is also no question of legality under state law. AB 327 itself expressly authorizes the Commission to adopt "fixed charges for residential customer generators that differ from the fixed charges allowed pursuant to subdivision (f) of Section 739.9" to achieve AB 327's directives. And again, as for federal law, no federal agency or court has considered, much less determined, that such charges are unlawful for NEM customers.³³

As for the specific mechanisms, a GPC, like the one proposed in the PD, is a simpler and more straightforward way to recover fixed costs from Tariff customers. The Joint Utilities continue to urge the

³⁰ Joint Utilities' Opening Brief, pp. 5-21; Joint Utilities' Reply Brief, pp. 34-42 (filed September 14, 2021); TURN Reply Brief, pp. 66-80 (filed September 14, 2021).

³¹ *Id.*

³² *Id.*

³³ Public Utilities Code § 2827.1(b)(7).

CPUC to approve the PD's proposed GPC so that customers will see the same, predictable charge on their bills every month, versus a charge on NBCs that will vary each month.

10. **If the Commission adopts the approach of collecting NBCs on gross consumption from Tariff customers, should the Commission consider collecting from all Tariff customers or only a subset of Tariff customers? For example, should the Commission consider collecting from all nonresidential and residential customers; only residential customers; only non-low-income residential customers; or all residential customers plus non-residential customers on certain rates? Explain your rationale.**

NBCs should be collected from all Tariff customers. Low-income customers are already exempt from some of these NBCs. Non-NEM customer generators have long paid these NBCs based on gross load, and the legislative exemption for NEM was only for NEM 1.0 customers. Any further exemptions should be granted on a time limited basis either directly or through compensatory mechanisms such as a higher initial MTC level.

11. **If NBCs on gross consumption are collected from Tariff customers, which of the following list of electric program and securitization charges should be considered as NBCs for Tariff customers, and why? If there are any additional existing electric program or securitization charges that parties believe should be collected as NBCs that are not on this list, please include them and explain your rationale.**

Utilities are instructed to clarify which of these charges do and do not apply to their customers.

- **Public Purpose Programs (currently NEM 2.0 customers pay on imports)**
- **DWR Bond Charge/Wildfire Fund (currently NEM 2.0 customers pay on imports)**
- **Competition Transition Charge (currently NEM 2.0 customers pay on imports)**
- **Nuclear Decommissioning (currently NEM 2.0 customers pay on imports)**
- **New System Generation**
- **Reliability Services**

- **PUC Reimbursement Fee**
- **Energy Cost Recovery Account**
- **Wildfire Hardening**
- **Local Generation**
- **Power Charge Indifference Adjustment – unbundled customers**

All costs included in the Joint Utilities’ Proposal, which include all the categories of costs above, as well as transmission, distribution, and generation, should be non-bypassable. As discussed in greater detail below, the Joint Utilities recommend that the Commission’s final decision require Tariff customers to pay many of these costs immediately and for others, such as fixed distribution and generation costs associated with providing a basic level of service regardless of the direction of electricity flow, to create a path to determine how to include them going forward.

At a minimum, the Commission should immediately authorize the investor-owned utilities (IOUs) to collect all the above listed NBCs, as well as transmission costs and the California Energy Commission (CEC) fee from Tariff customers.³⁴ If they are not included, Tariff customers will continue to avoid charges that should be and are intended to be collected from all customers.

In addition to AB 327’s mandate to equalize costs and benefits, the record evidence of this proceeding demonstrates that inclusion of these charges is just and reasonable. Thus, the Commission should ensure that the costs that are already defined by statute or Commission decision as non-bypassable remain non-bypassable for all customers, not just those who do not have the privilege of being able to install eligible onsite renewable generating facilities to serve their own load.³⁵ All the categories of costs listed in the ruling are driven by public policy or are related to costs incurred by the utility to ensure system reliability for the benefit of all customers, and therefore should be recovered from all customers.

The securitized “Wildfire Hardening” charge only currently applies to SCE, and “Energy Cost Recovery” only applies to PG&E. All other charges listed above apply to all utilities. “New System Generation” and “Local Generation” are different names for the same charge, with the former used by PG&E and SCE and the latter used by SDG&E.

³⁴ The Ruling’s categories, including the recommended inclusion of the CEC fee, total \$0.060/kWh for a non-CARE PG&E customer, \$0.072/kWh for a non-CARE SDG&E customer, and \$0.054/kWh for a non-CARE SCE customer. Including transmission, non-CARE totals are: \$0.108/kWh for PG&E, \$0.144/kWh for SDG&E, and \$0.077/kWh for SCE.

³⁵ D.07-09-016, D.13-10-019, D.06-07-029, and D.07-11-052.

In addition to the PUC Reimbursement Fee, the Commission also should include the CEC Fee, both of which are currently assessed on NEM customers' net consumption. These fees are charged to customers to ensure the operations of the CPUC and fund energy conservation and resources programs. These costs should not be avoided by Tariff customers, as these customers directly benefit from the CPUC and CEC operations. For PG&E, the Recovery Bond Charge and Recovery Bond Credit, which currently net to \$0, should also be included.

The Commission's NEM 2.0 decision – D.16-01-044, required NEM 2.0 customers to pay the following NBCs: (1) Public Purpose Program Charges (PPPC); (2) Department of Water Resources Bond Charge/Wildfire Fund; (3) Competition Transition Charge; and (4) Nuclear Decommissioning. The NEM 2.0 decision noted that non-bypassable charges support important programs that are used by or benefit all ratepayers.³⁶ It further noted charging these non-bypassable charges to NEM successor tariff customers was necessary to better align the responsibilities of customers on the NEM successor tariff with the responsibilities of the non-participating customers of the same class. The same logic applies here. However, the record evidence shows that the NEM 2.0 decision and program are insufficient to meet AB 327's mandate and that much more must be done to balance costs and benefits.

In addition, the following statutes require the Commission to collect certain NBCs from all customers. First, Public Utilities Code § 365.1(c)(2), governing Local and New System Generation Charges, provides that the net costs of procurement to satisfy system or local reliability needs pursuant to the Cost Allocation Method are allocated on a fully non-bypassable basis. These Cost Allocation Method resources provide local reliability to all customers, including rooftop solar customers who rely on the grid and its reliability and resiliency. Second, Public Utilities Code § 366.2(h)(2) provides that the Power Charge Indifference Adjustment (PCIA) shall be non-bypassable and should be treated as such for Tariff customers. Customers who depart IOU service and receive their generation from another source are still required to pay the above-market costs of resources that were procured on their behalf. Customers who adopt rooftop solar should not be treated differently. Third, AB 1054, the Securitized Wildfire Capital Costs/Energy Cost Recovery Account, directs the Commission to impose non-bypassable fixed recovery charges for the securitization of fire risk mitigation capital expenditures and other costs relating to catastrophic wildfires.

³⁶ D.16-01-044, p.90.

In addition to precedent, there are sound public policy reasons, supported by ample record evidence, that the unplanned deployment of rooftop solar does not defer necessary grid investments in distribution and transmission.³⁷ Thus, those costs should be recovered from Tariff customers on a non-bypassable basis. NRDC provided lengthy rebuttal testimony proving that NEM-driven rooftop solar and storage adoption have not reduced past and do not reduce future transmission build.³⁸ Transmission projects are not only built to meet increased capacity; some are policy-related projects that are necessary for the IOUs to meet Renewable Portfolio Standards (RPS), or for resiliency or safety upgrades.³⁹ It is therefore impossible that rooftop solar installations avoid or defer these transmission projects and their associated costs. These grid investments benefit all customers, including Tariff customers. Likewise, FERC's Reliability Services charges collect costs that provide all customers with increased reliability. It is therefore neither just nor reasonable for the Commission to allow Tariff customers to avoid those costs and shift them to nonparticipating customers.

Should the Commission adopt a proposal to assess NBCs on gross consumption, wildfire hardening costs should be included in the categories of NBCs. These costs are incurred to harden the grid and help protect and benefit all customers from natural disasters. Additional distribution costs should also be categorized as non-bypassable charges. The Commission should adopt a process to determine and allocate certain generation and distribution costs as non-bypassable to ensure fixed generation and distribution costs are collected. However, due to individual IOU structures and costs, parsing out distribution costs for each utility may prove to be a long process. Given the need for an expeditious decision in this proceeding, the Joint Utilities propose that the Commission defer a determination on the methodology to collect those costs to a later phase or proceeding. More specifically, the Joint Utilities propose that the Commission's final decision provide that the methodology should be determined in the sooner of each IOU's next respective General Rate Case Phase 2 proceeding, Rate Design Window, or when reviewing the NEM program three-years from the date of this final decision.

³⁷ Planned DER deployment has the potential to defer grid costs but given that adopting rooftop solar is an individual customer's choice, that fact is irrelevant here.

³⁸ Ex. NRD-02, pp. 20-26.

³⁹ Joint Utilities' Opening Brief, pp. 71, 96-97 and n. 298; and Joint Utilities' Reply Brief, pp. 13-16.

12. **If the Commission imposes additional electric program or securitization charges in the future through other proceedings, what is the process by which the Commission should determine whether and how those charges should apply to Tariff customers as NBCs?**

At the time that any potential NBCs, including securitization charges, are included in rates for all other customers, these new NBCs should also apply to Tariff customers unless the Commission has a record to support a determination that it is not just or reasonable to include them. For example, a new NBC might not be charged to CARE customers on policy or legal grounds, which would be determined in a specific proceeding authorizing such charges.

C. **Community Distributed Energy Resources**

13. **Would low-income customers and/or renters benefit from a community solar tariff program modeled on the Tariff structure compared to participation in the CSGT program? Please describe advantages and disadvantages between the two community solar models.**

Before addressing the potential benefits of a community solar tariff, if any, the Commission consider whether such proposals are outside of the scope of this proceeding and thus decline to consider them here, opting instead to defer them to another more appropriate proceeding. The Joint Utilities contend that as a matter of law, community solar proposals are not properly considered under any net billing arrangement or pursuant to AB 327, which is the subject of this proceeding. The Commission certainly has the authority to consider community solar proposals under its Section 701 authority, but the Joint Utilities contend that the Commission should exercise that authority in another proceeding. Such a proceeding already exists and is in its early stages, which will allow parties to introduce their community solar proposals in a proceeding devoted to such matters.

More specifically, Section 2827.1, by its express terms, is only applicable to “eligible customer generators.” That is the case because Section 2827.1(as) instructs that “*For the purposes of this section,* ‘eligible customer generator,’ ‘large electrical corporation,’ and ‘renewable electrical generating facility’

have the same meaning as defined in Section 2827.”⁴⁰ The unambiguous statutory definition of an eligible customer generator in Section 2827 requires the facility to be (1) onsite and (2) sized to load.⁴¹ The Joint Utilities’ Opening Brief in this proceeding discusses the sized to load requirement thoroughly and why it is an essential feature of any lawful net billing arrangement. To be clear: as a matter of state and federal law, and under AB 327, net billing arrangements are not available to renewable generators that are offsite and not sized to load.

In addition to the overarching language applying the “eligible customer generator” definition to the entirety of Section 2827.1, the discrete provision of the statute that instructs the Commission to create specific alternatives designed for growth among residential customers in disadvantaged communities (DACs) expressly limits those alternatives to “eligible customer generators.” The statute instructs the Commission to “Ensure that **the standard contract or tariff made available to eligible customer-generators** ensures that customer-sited renewable distributed generation continues to grow sustainably **and** include specific alternatives designed for growth among residential customers in disadvantaged communities.”⁴²

Community solar proposals cannot satisfy these legal requirements because community solar generating facilities are neither onsite nor sized to load. In other words, they are not eligible customer generators and thus are not lawfully eligible for any net billing tariff under AB 327 or any other state or federal law. Instead, alternatives for DACs under AB 327, should conform to the legal requirements of that statute’s section 2827.1 requirements.⁴³

⁴⁰ Emphasis added.

⁴¹ See Public Utilities Code § 2827(b)(4)(A) (““Eligible customer-generator” means a residential customer, small commercial customer as defined in subdivision (h) of Section 331 , or commercial, industrial, or agricultural customer of an electric utility, who uses a renewable electrical generation facility, or a combination of those . . . that is located on the customer's owned, leased, or rented premises, and is interconnected and operates in parallel with the electrical grid, and is intended primarily to offset part or all of the customer's own electrical requirements.”)

⁴² Public Utilities Code § 2827.1(b)(1).

⁴³ The current DAC Green Tariff and Community Solar Green Tariff were created in R.14-07-002, which was also dedicated to implementing Section 2827.1, but this legal issue was not raised in that proceeding. Legal issues like this one, even if overlooked, are not waived and the Commission is not bound by its prior decisions. *In re Pacific Gas & Electric Co.* (1988) 30 Cal.P.U.C.2d 189, 223-225; *Postal Telegraph-Cable Company v. Railroad Commission* (1925) 197 Cal. 426, 436; Public Utilities Code § 1708. Given that there is no legal impediment to the Commission evaluating such proposals through the parallel proceeding in which intervenor proposals are not yet due, the Commission should decline to consider or adopt community solar proposals in this proceeding.

Again, the CPUC certainly has the authority to design and direct the IOUs to implement those programs separate and apart from AB 327, and it has a perfect venue in which to do so. Specifically, each IOU recently filed an Application for Review of the DAC Green Tariff (DAC-GT) and Community Solar Green Tariff (CSGT) programs on May 31, 2022. In those proceedings, which the Joint Utilities assume will be consolidated, intervenors will have the opportunity to file rebuttal testimony advancing their own proposals to create new programs or modify existing ones. Because that proceeding is in its early stages and dedicated to those discrete issues, parties advancing community solar proposals for DACs will have a venue in which their proposals will receive greater attention and examination by the Commission and other parties. Thus, that proceeding is preferable to this one to assess such proposals as there is an insufficient record in this proceeding to do so.

In fact, the Application for Review proceeding will include examination of a report from the current DAC programs' independent evaluator (IE), Evergreen Economics, on the status, challenges, and opportunities for the DAC-GT and CSGT programs, which should be fundamental in understanding how customers may benefit from community renewables programs. The IOUs' Applications for Review discuss proposed recommendations for streamlining and improving the existing programs based on IOU findings and the IE report. Intervenors will have an opportunity to respond and make their own proposals. Thus, further examination of the potential benefits of community solar programs for DACs would not only be duplicative of the effort the Commission is conducting in the Applications for Review but could also result in conflicting and competing decision making.

14. **The CSGT program guarantees participants 20 percent bill savings, in addition to the California Alternate Rates for Energy (CARE) and Family Electric Rate Assistance (FERA) discounts. Should the Commission adopt a policy that any community solar program or tariff guarantee a certain level of bill savings for low-income participants and/or renters to increase participation and ensure consumer protections? If yes, how would a bill savings guarantee be monitored and enforced? Parties may wish to provide examples of how other states have incorporated a bill savings guarantee, as well as the level of guaranteed savings, into their community solar tariff programs, and lessons learned.**

The Joint IOUs do not support additional community solar programs that guarantee a certain level of bill savings. Such a program already exists—the CSGT program—and any need to modify this program would better be addressed along with the consolidated record in the DAC-GT/CSGT/GTSR Applications for Review.

Furthermore, additional programs intended to promote equity and access to renewables among the low-income community may lead to the opposite outcome if they guarantee bill savings while mandating above-market or subsidized procurement. While some low-income customers may benefit through program participation, many non-participants, including low-income customers, would be worse off by paying those higher procurement costs. Any bill savings or discounts associated with subscribing to one project or group of projects should be predicated on real, incremental grid benefits, so that non-participating customers are not left worse off due to the preferences of others. We note that all IOUs and load-serving entities (LSEs) are subject to statewide renewables goals, including the renewables portfolio standard (RPS) program and procurement ordered through the Commission’s integrated resource plan (IRP) process. IRP procurement based on least-cost best-fit principles will be a more cost-effective way to serve customers with renewable energy than hyper-targeted, resource-specific mandated procurement.

If the Commission pursues an additional community solar tariff, the program should comport with the customer-related policy goals it is trying to solve. This proceeding focuses on low-income and/or renters, but those customer groups should not necessarily be grouped together when considering the merits of shared renewables. If the Commission wishes to pursue a general market tariff or program

for the renter community or for other customers or groups of customers that may have their own renewables targets, it should establish guiding principles to ensure these programs or tariffs do not shift costs among customer groups. Fundamental to this question will be a discussion of the costs and benefits of community renewables. In addition, we note that the Title 24 requirements for rooftop solar allow jurisdictions to propose community solar alternatives to meet the solar requirements. The CEC has a specific cost-effectiveness threshold to demonstrate compliance, which is different from how the CPUC typically assesses cost-effectiveness. Since creating new programs for each of these market segments would cause confusion and not be an ideal solution, we reiterate that the Commission should defer these issues to the Application for Review proceedings in which it can carefully and thoughtfully determine and address the outstanding customer needs for each distinct segment/group, costs and benefits, and potential solution set for community renewables holistically, rather than designing one-off programs in separate proceedings.

The Commission should use the PD's proposed \$600M equity fund to support income-qualified customers to achieve bill neutrality/savings and/or a desired payback period. If the Commission wishes to pursue a program for the general market, including non-low-income renters, that group should not be eligible for equity funding.

Respectfully submitted,

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