

**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)

**CLEAN COALITION REPLY COMMENTS IN RESPONSE TO ADMINISTRATIVE  
LAW JUDGE'S RULING SETTING ASIDE SUBMISSION OF THE RECORD TO  
TAKE COMMENT ON A LIMITED BASIS**

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July 1, 2022

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**I. INTRODUCTION**

Pursuant to the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”) the Clean Coalition respectfully submits these reply comments in response to the questions posed in the Administrative Law Judge’s (“ALJ”) Ruling Setting Aside Submission of the Record to Take Comment on a Limited Basis, filed at the Commission on May 9, 2022. Our comments will focus on the detrimental impact that applying nonbypassable charges (“NBCs”) on gross consumption will have on the potential for sustainable growth of the Net Billing Tariff. The California Building Industry Association (“CBIA”) phrases this quite succinctly in opening comments with the statement, “If that happens [a solar tax], the CEC’s mandate for rooftop PV could be jeopardized as it may violate the cost-effectiveness criteria required by Public Resources Code §25402.1... A solar-only fee of any size is a direct disincentive to install solar or solar + storage.”<sup>1</sup> We are appreciative that the Commission has moved on from the Grid Benefits Charge but find the proposal to tax gross consumption to be another side of the same coin. Both the GPC and collecting NBCs on gross consumption must be viewed for what they are — changing the normal cost-recovery mechanisms to tax ratepayers who install distributed energy resources (“DER”). Given the increasing cost of living, high fuel prices, rising housing prices, inflation, and skyrocketing energy rates, approving the Sierra Club proposal is acting against the interests of Californians. Make no mistake, the pretense of an added benefit for low-income customers by not applying NBCs on gross consumption to the bill of CARE customers is just that, an illusion of savings. Not taxing low-income solar customers is

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<sup>1</sup> CBIA Opening Comments at p. 2-3

not the same as incentivizing DER deployments, it is just tightening the screws slightly less for residents of disadvantaged communities as opposed to everyone else. In fact, the entire proposal is counter to the narrative that has been the focus of this proceeding; promoting paired storage deployments to maximize grid benefits. If the Commission taxes gross consumption, it decreases the benefit of adding a storage system and reduces the likelihood that consumers will want to incur another significant expense in addition to deploying a generating resource.

## **II. DESCRIPTION OF PARTY**

The Clean Coalition is a nonprofit organization whose mission is to accelerate the transition to renewable energy and a modern grid through technical, policy, and project development expertise. The Clean Coalition drives policy innovation to remove barriers to procurement and interconnection of distributed energy resources (“DER”) — such as local renewables, demand response, and energy storage — and we establish market mechanisms that realize the full potential of integrating these solutions for optimized economic, environmental, and resilience benefits. The Clean Coalition also collaborates with utilities, municipalities, property owners, and other stakeholders to create near-term deployment opportunities that prove the unparalleled benefits of local renewables and other DER.

## **III. COMMENTS**

### **A. Nonbypassable Charges should not be collected on gross consumption for any customer class.**

The Clean Coalition agrees with Center for Biological Diversity, 350 Bay Area, PCF, CSE, Ivy Energy, and SEIA & Vote Solar that NBCs should not be charged based on gross consumption.<sup>2</sup> CSE makes the important point that part of the reason VNEM is not more successful is because it charges NBCs on gross consumption, treating renters differently than

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<sup>2</sup> Center for Biological Diversity Opening Comments at p. 8, 350 Bay Area Opening Comments at p. 2, PCF Opening Comments at p. 12, CSE Opening Comments at p. 5, Ivy Energy Opening Comments at p. 2, and SEIA and Vote Solar Opening Comments at p. 14.

homeowners; extending this model to all Net Billing Tariff customers would represent a failure to learn from the lessons of past regulation.<sup>3</sup>

In opening comments, multiple parties assert that the Commission should collect NBCs on gross consumption by incorrectly relying on past PUC decisions for precedent or suggesting that changes are necessary because NEM 2.0 failed to collect all relevant NBCs. Both of these arguments should be rejected; the Commission conducted a lengthy stakeholder proceeding and approved a final decision based on proper procedure, which specifies the four NBCs that should be collected based on imports from the grid. Parties relying on revisionist history to justify the collection of NBCs on gross consumption for the Net Billing Tariff attempt to characterize the success of the entire proceeding as dependent on this issue, creating the illusion that NBCs are the only way to fix the purported cost shift. This is a false narrative and ignores the fact that the Joint IOUs (and other parties) did not study NBCs before deciding on a Grid Benefits Charge, nor was a Petition for Modification on D. 16-01-044 filed to attempt to change the NBCs collected from NEM 2.0 customers.

**a. NRDC errs by attempting misstating D. 16-01-044 to justify collection of NBCs on gross consumption.**

NRDC states in opening comments that page 89 of D. 16-01-044 the Commission, “recognized that NBCs can be charged to NEM customers based on their gross consumption, as distinct from net consumption,” but this is a complete misreading of the text that is only possible with a partial quote.<sup>4</sup> The Decision does not mention gross consumption and certainly does not suggest that NBCs can be collected on a such a basis. Rather, the full quote is that “NEM successor tariff customers must pay nonbypassable charges on each kWh of electricity they consume from the grid in each metered interval.”<sup>5</sup> Considering that an incorrectly interpreted statement is the legal basis for NRDC’s logic on NBCs, the Commission should not be persuaded by this argument.

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<sup>3</sup> CSE Opening Comments at p. 5

<sup>4</sup> NRDC Opening Comments at p. 10

<sup>5</sup> D. 16-01-044 at p. 89

**B. The Commission should consider the precedent/economic effects of collecting NBCs on gross consumption**

The other concerning aspect of the debate surrounding NBCs is the lack of consideration about what kind of a precedent this sets for future DER programs and what the actual effect of a measure would be on NEM customers (and payback periods), particularly as rates continue to skyrocket. PCF notes the six ratemaking principles that conflict with applying NBCs on gross consumption, including, “2. Rates should be based on marginal cost; 3. Rates should be based on cost-causation principles; 4. Rates should encourage conservation and energy efficiency; 5. Rates should encourage reduction of both coincident and non-coincident peak demand; . . . 7. Rates should generally avoid cross-subsidies, . . . 9. Rates should encourage economically efficient decision-making.”<sup>6</sup> Different party proposals (with varying types of NBCs) appear to violate these principles to different degrees, but all certainly conflict with principle 4, 5, and 9. Energy efficiency, as the Clean Coalition mentioned in opening comments, is an important principle that will become increasingly valuable for ratepayers as rates continue to escalate at rates that far outpace inflation. Adding a tax for customers who choose to reduce their load is an example of a price signal that is damaging rather than beneficial. With the proposal to levy NBCs on gross consumption, the Commission is still very much at risk of pushing customers away from NEM and potentially away from exporting to the grid at all. Unfortunately, the detrimental nature of this proposal is not nearly as clear because there is a lack of clarity about the real economic effect of increasing the number of NBCs and allocating them based on gross consumption.

Therefore, the Clean Coalition believes that before any proposal on allocating NBCs based on gross consumption should be modeled using the same tool that was used for initial party proceedings. The lack of specificity of the actual toll that NBCs charged on gross consumption would have on Net Billing Tariff customers is hindering the debate. For example, using basic calculations on the NBCs that the Joint IOUs are advocating for, the cumulative cost is greater than \$0.05/kWh, which is very close to the proposed export compensation rate (without considering the MTC or ACC+ glide path). In other words, if implemented, the only way that a NEM customer could make any profit to pay back the system is via state subsidies (created for a market transition) that will disappear at some point. This cannot be considered a sustainable or

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<sup>6</sup> PCF Opening Comments at p. 13

fair program. Even the Sierra Club proposal, charging NBCs based solely on Public Purpose Programs, would cost around \$0.025/kWh, slightly under 50% of the base ACC compensation rate. After decoupling the export compensation rate from the retail rate, devaluing NEM by more than 60%, adding NBCs to gross consumption is an unreasonable addition that will undoubtedly damage the cost-effectiveness of the program.

**C. Parties that argue for the collection of NBCs on gross consumption have not explained the difference between a (partially) departing load and energy efficiency.**

In our opening comments, the Clean Coalition used the example of Façade-Integrated Solar (“FIS”), generating technologies that should be categorized as energy efficiency, to underscore exactly why collecting NBCs on gross consumption is an overreach that limits ratepayer choice. The Joint IOUs comments prove exactly this, by attempting to treat all NEM customers as departing load and suggesting that they must be charged the PCIA. The Joint IOUs erroneously point to PUC Public Utilities Code § 366.2(h)(2) as evidence, even though the entire statute focused on Community Choice Aggregators exclusively and thus, does not remotely apply to NEM facilities.<sup>7</sup> Regardless, the impetus of the argument is that any reduction in load can be considered a departing load that the utilities are entitled to charge as if the entire load were leaving the system. The precedent that the Commission would set by approving NBCs on gross consumption could be used as justification for taxing any type of load reduction, whether that is due to energy efficiency like FIS or a microgrid islanding. The Clean Coalition urges the Commission to reject this argument, ensuring that all ratepayers have the right to self-consume.

**D. Clean Coalition agrees with Ivy Energy that Community DER should not be a replacement for onsite deployments of energy.**

As mentioned in our opening comments, the Clean Coalition supports a Community DER option, in addition to, not in place of, VNEM and NEM-A. As Ivy Energy concludes, “Shared onsite clean energy resources through programs like VNEM can provide greater opportunities for efficiently optimizing shared loads at the building/site level, while providing grid benefits and demand flexibility that can accrue to provide a system-wide reliability benefit, in addition to

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<sup>7</sup> The Joint IOUs Opening Comments at p. 18

renter bill savings.”<sup>8</sup> Around 17 million Californians (close to 44% of total residents), live in a property that they rent, which makes ownership options for solar systems difficult.<sup>9</sup> The Commission should maximize the options that this group of Californians can utilize, including by extending V-NEM and fixing the credits for NEM-A.

#### **IV. Community Distributed Energy Resources CONCLUSION**

The Clean Coalition respectfully submits these reply comments and urges the Commission to reject all proposals on applying NBCs to gross consumption. We also request that the proceeding focus on extending V-NEM and fixing NEM-A, in addition to adding Community DER options.

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<sup>8</sup> Ivy Energy Opening Comments at p. 7

<sup>9</sup> <https://calbudgetcenter.org/app/uploads/2021/01/IB-Renters-Remediated.pdf>