BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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Application of Pacific Gas And Electric Company (U39E) for Review of the Disadvantaged Communities – Green Tariff, Community Solar Green Tariff and Green Tariff Shared Renewables Programs.	A.22-05-022 (Filed May 31, 2022)
And Related Matters	A.22-05-023 A.22-05-024

REPLY BRIEF OF THE CENTER FOR BIOLOGICAL DIVERSITY

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SUMMARY OF RECOMMENDATIONS

- To meet the requirements of AB 2316, the Commission should reject any proposals for premiums or additional charges in addition to applicable rate schedules.

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REPLY BRIEF OF THE CENTER FOR BIOLOGICAL DIVERSITY

Pursuant to Rule 13.11 of the Rules of Practice and Procedure of the California Public Utilities Commission ("Commission) and the *Administrative Law Judge's Ruling Updating Procedural Schedule and Requiring Use of Briefing Outline* dated April 21, 2023, the Center for Biological Diversity ("Center") respectfully submits this Reply Brief.

INTRODUCTION

The Commission established the Green Tariff Shared Renewables ("GTSR") program in 2015 pursuant to Senate Bill ("SB") 43.[1] The GTSR program is intended to "expand[ ] access to all eligible renewable energy resources to all ratepayers who are currently unable to access the benefits of onsite generation."[2] The GTSR program has two components: a Green Tariff ("GT") option and an Enhanced Community Renewables ("ECR") option. With the GT option, a

[1] *See* D.15-01-051, Decision Approving Green Tariff Shared Renewables Program for San Diego Gas & Electric Co., Pacific Gas & Electric Co. & Southern California Edison Co. Pursuant to Senate Bill 43 (Jan. 29, 2015).
[2] Senate Bill 43, § 2831(b).

customer pays the difference between their current generation charge and the cost of procuring 50 to 100 percent renewables.[3] With the ECR option, a customer can purchase a share of a community solar (or other community renewable) project directly from a developer, and in exchange will receive a credit from their utility for the avoided cost of procuring other generation for that customer.[4]

The Power Charge Indifference Adjustment ("PCIA") is an exit fee charged by Investor-Owned Utilities ("IOU") in California to customers leaving the utilities for Community Choice Aggregators ("CCA") or direct access. The amount recovered by the IOUs through the PCIA is very large, running close to $4 billion in recent years.[5] The PCIA has developed over time as a result of California Public Utility Code Sections 366.1 and 366.2, which require the Commission to ensure that customers leaving the utility do not burden remaining utility customers with costs that were incurred to serve the departing customers.

As will be explained in more detail, the application of the PCIA, or any other premium that participating customers would pay in addition to their otherwise applicable rate schedule,[6] to customers in the GTSR program, specifically the ECR or successor program that is designed to serve environmental justice communities, poses significant barriers to the community solar program's success and runs directly counter to the legislative intent of AB 2316, pursuant to which the Commission undertook this proceeding. In AB 2316, the California Legislature set out three broad intentions: (1) "create a community renewable energy program so that all

[3] California Public Utilities Comm'n, *Green Tariff/Shared Renewables Program*, available at https://www.cpuc.ca.gov/industries-and-topics/electrical-energy/electric-rates/green-tariff-shared-renewables-program.
[4] *Id.*
[5] California Community Choice Association, *The Power Charge Indifference Adjustment*, *available at* https://cal-cca.org/pcia/.
[6] *See e.g.* PG&E-02, PG&E's Amended Supplemental Testimony at 17 (March 15, 2023).

Californians, especially those unable to host a rooftop system, realize the benefits of distributed generation through a cost-effective program that provides benefits to all ratepayers;" (2) "facilitate community renewable energy options that can help the state cost effectively meet the energy efficiency mandates in the California Building Standards Code;" and (3) "support robust low-income customer participation in the community renewable energy program."[7]

The IOUs' opening briefs fail entirely to address the challenges the PCIA, or other premium on top of any relevant rate schedule, pose to the success of the program in supporting robust low-income customer participation, or to offer any meaningful solution. Accordingly, in this Reply Brief, the Center wishes to address concerns about such added charges as they apply to the GTSR, ECR, or any successor program intended to deliver community benefits to environmental justice communities. The Commission should reject the proposed premiums on top of a customer's applicable rate, especially for low-income participants, in any modified or new program created as a result of this proceeding.

DISCUSSION

A. Premiums Based on the PCIA or Other Methodology Foreclose Robust Participation by Low-Income Customers.

(Addressing Commission Outline for Opening and Reply Briefs Part (C)(b)(iii))

(i) Premiums make Community Solar Financially Unattainable for Low-Income Communities.

Additional rate premiums pose an immediate and significant financial barrier for low-income communities who might otherwise participate in the community solar programs. The history of lack of subscription under the ECR program illustrates this problem. Further, as the

[7] Assembly Bill No. 2316, Public Utilities Commission: customer renewable energy subscription programs and the community renewable energy program, § 2 (Ward, 2022).

California Energy Commission's Low Income Barriers Study details, "[s]takeholders within the solar industry note that the possibility of an exit fee for leaving a utility's customer base, such as the Power Charge Indifference Adjustment (PCIA), may make joining a community solar program organized under GTSR cost-prohibitive."[8] Additional rate premiums proposed and to be determined by the PCIA, are thus fundamentally at odds with the plain language and the legislative intent of AB 2316,[9] which requires that the community renewable program must support "robust" participation from low-income customers.

As TURN and other parties detail, the PCIA has proven particularly problematic for the ECR program, because it is highly volatile, increasing by hundreds of millions of dollars in recent years.[10] In 2021, the mayor of San Jose pointed out that the PCIA had gone up 900% in PG&E's service territory since 2013.[11] For low-income customers and communities who cannot afford an unexpectedly high electricity bill, this shows that any additional premium can make participating in community solar simply too risky and thus out of reach. We concur with the Solar Energy Industries Association: "[t]he payment of a premium, in and of itself, narrows the pool of customers which will take service under the tariff."[12]

(ii) The PCIA Methodology Fails to Adequately Account for the Avoided Costs Associated with Community Solar and Other Distributed Renewables.

[8] California Energy Comm'n, Final Report for the SB 350 Low-Income Barriers Study, Part A: Overcoming Barriers to Energy Efficiency and Renewables for Low-Income Customers and Small Business Contracting Opportunities in Disadvantaged Communities, 54 (2016), *available at* https://assets.ctfassets.net/ntcn17ss1ow9/3SqKkJoNIvts2nYVPAOmGH/fe590149c3e39e51593231dc60eeeeff/TN214830_20161215T184655_SB_350_LowIncome_Barriers_Study_Part_A__Commission_Final_Report.pdf.
[9] AB 2316, *supra* note 7.
[10] *Supra* note 5; *see also* TURN Opening Brief at 11.
[11] Sam Liccardo, *Californians should be seeing red over electricity rate hikes*, CalMatters, June 14, 2021, https://calmatters.org/environment/2021/06/californians-should-be-seeing-red-over-electricity-rate-hikes/.
[12] *See* SEIA Opening Brief at 8, citing Exhibit SEIA-01(McLaughlin), p. 19, lines 6-8.

An additional problem with the PCIA is that it charges customers for all the costs of the IOUs' generation portfolios, without adequately taking into account the avoided costs associated with community solar and other distributed renewables. The PCIA acts, as the Commission has put it, as a "cost-effectiveness proxy," [13] serving to ensure that the benefits electricity customers receive from the transition to renewable energy are not outweighed by the costs of maintaining the preexisting grid infrastructure that was built and procured with the expectation of serving those customers. However, the PCIA fails to adequately credit the avoided costs associated with distributed renewables like community solar[14]—these include avoided line losses, reduced need to build new transmission lines, and reduced wildfire mitigation costs, to say nothing of non-energy benefits like improved local air and water quality, local job creation, and land use implications such as avoided impacts to biodiversity and habitats.

(iii) Applying the PCIA or Other Premiums to Community Solar Programs Creates Perverse Incentives for Utilities.

In addition, applying the PCIA to the ECR (or any successor program), can result in perverse incentives for the IOUs and accounting behaviors that support utility profits rather than a fundamental purpose of the program—to achieve "robust participation" by low-income communities in community solar programs. For example, the opening brief of the Clean Power Alliance of Southern California and California Choice Energy Authority ("SoCal CCA") indicates that Southern California Edison has procured three contracts specifically to serve its GTSR program. Although these contracts and the resources spent on them should aim to support

[13] California Public Utilities Comm'n, Guidance Document for the Disadvantaged Communities Green Tariff (DAC-GT) and Community Solar Green Tariff (CSGT) Program 2022 Applications for Review, at 5 (2022) *available at* https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/solar-in-disadvantaged-communities/2022-gap-applications-guidance-template.pdf.
[14] California Public Utilities Comm'n, Resolution E-5028, 33 (Sept. 26, 2019), *available at* https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M316/K479/316479825.PDF.

the robust participation of low-income communities in community solar, SCE has always considered any excess generation from these projects to be part of its PCIA-eligible generation portfolio.[15] For the utility to use ratepayer resources to purchase generation capacity specifically for a program intended to speed deployment of community solar, and then use that generation capacity to form the basis of an exit fee that disincentivizes deployment of community solar, illustrates how the PCIA or other rate premiums run counter to both the California Legislature's and the Commission's purposes in establishing these programs.

B. The Commission Should Eliminate Any Premiums, or at a Minimum, Exempt Low-Income Participants.

(Addressing Commission Outline for Opening and Reply Briefs Part (D)(i)-(iv))

For all these reasons, we urge the Commission to eliminate additional charges on top of applicable rates for community solar participants. In the alternative, we urge the Commission, at a minimum, to structure any new or modified community solar program to exempt low-income customers from such added premiums, whether calculated under the PCIA or other methodology. We recognize that the Commission has in the past expressed reluctance to take such a step, pointing to the fact that SB 43 requires that the GTSR program "be implemented in a manner that ensures nonparticipating ratepayer indifference for the remaining bundled service, direct access, and community choice aggregation customers" and arguing that removing the PCIA for GTSR participants would violate this requirement.[16] However, we respectfully urge that if, as referenced above, the full avoided costs associated with community solar are taken into account, the required indifference can be achieved without the PCIA entirely, in particular for low-income participants as required by AB 2316.

[15] SoCal CCAs Opening Brief at 21.
[16] *Supra* note 13.

CONCLUSION

The Center appreciates this opportunity to provide recommendations to the Commission to ensure the timely adoption of a community solar program that allows all Californians, and particularly those who live in low-income communities, to benefit from the cleaner, more just, and more reliable energy future distributed renewable energy offers.

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