

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE
STATE OF CALIFORNIA**



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Order Instituting Rulemaking to
Establish Energization Timelines.

Rulemaking 24-01-018
(filed January 24, 2024)

**CENTER FOR BIOLOGICAL DIVERSITY
OPENING COMMENTS ON ORDER INSTITUTING RULEMAKING**

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On behalf of
the Center for Biological Diversity

February 19, 2024

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Pursuant to the Order Instituting Rulemaking of the above captioned proceeding, the Center for Biological Diversity (“Center”) respectfully submits the following opening comments.

I. INTRODUCTION

The Center is a non-profit membership organization advancing the conservation of endangered species and the protection of their habitats against the climate emergency. As part of that mission, the Center strives to reduce the environmental impacts of energy policy and development, including greenhouse gas emissions and harm to imperiled plants and wildlife, and overcome barriers to clean energy resources in disadvantaged communities (“DACs”).

Investor-owned utilities’ (“IOUs”) monopolization of the distribution system presents a conflict of interest with developing much needed interconnection between distributed energy resources (“DERs”) and the distribution system. Traditional interconnection investments at the distribution level align with the functioning of an antiquated centralized electrical system; however, the worsening climate emergency necessitates the prioritization of more resilient distributed renewable generation like rooftop solar and battery storage that provide greater community benefits. This is particularly true for DACs, which have long histories of

experiencing disproportionate impacts from “polluting facilities, unreliable service, shutoff policies, and climate-harming emissions.”¹

Therefore, Section II of this comment raises several points for the Commission’s consideration in implementing Senate Bill 410 and Assembly Bill 50. Subsection A addresses the IOUs’ inherent conflict of interest with enhancing distribution interconnection for more robust DER deployment. Subsection B outlines considerations for ensuring the protection and prioritization of DACs and other Environmental and Social Justice (“ESJ”) communities in distribution interconnection. Subsection C discusses potential penalties for failure to meet the set interconnection timeline. Finally, subsection D discusses the need for reporting requirements to ensure accountability to ratepayer questions and concerns.

II. COMMENTS

A. IOUs Have an Inherent Conflict of Interest in Maximizing DERs Through Enhanced Distribution System Interconnection.

There is an inherent conflict of interest between an IOU’s duty to maximize profits for its shareholders, and investment of their own capital to further new decentralized and local power generating infrastructure. At the distribution level, IOUs may still prioritize hardware upgrades rather than DERs, unless IOUs are able to generate profit from the increased incorporation of these non-wire alternatives. Moreover, the IOUs’ prioritization of hardware upgrades often comes at a greater cost to ratepayers than distributed renewable generation.² Despite the benefit

¹ See e.g. Howard Crystal et. al, Rooftop-Solar Justice (2023), available at <https://www.biologicaldiversity.org/programs/energy-justice/pdfs/Rooftop-Solar-Justice-Report-March-2023.pdf> (citing *Climate, Environmental, and Energy Justice: Integrating Justice into Electricity System Design and Decision-Making*, in *Advancing Equity in Utility Regulation*, Lawrence Berkeley National Laboratory (2021), available at https://etapublications.lbl.gov/sites/default/files/feur_12_-_advancing_equity_in_utility_regulation.pdf).

² See Maria McCoy, *Utility Millions Take Down Popular Measure*, Episode 197 of *Local Energy Rules* (Nov. 22, 2023), <https://ilsr.org/utility-millions-popular-measure-maine-ler197/> (last visited Feb. 14, 2024).

to ratepayers, the IOUs' continued preference against increased DER interconnection in favor of their own profit from an antiquated and centralized system exemplifies an inherent conflict of interest that the Commission should consider and address in all aspects of this proceeding.

B. The Commission Should Specifically Target Interconnection Issues that are Plaguing Disadvantaged Communities.

DACs experience reduced access to clean energy solutions. Although there is a desire to adopt solar in DACs, these communities have disproportionately low solar adoption rates even in areas where a relatively high potential for solar exists.³ This disparity is attributed in part to the type of infrastructure examined (e.g., higher rates of DER connection exist for single-unit households than for multi-unit housing), the racial and ethnic demographics of the homes (e.g., communities of color have lower rates of DER adoption), and in particular to this proceeding, grid limitations, such as the distribution system's current ability to serve customers and the environmental conditions to which the system is exposed.⁴ In other words, the distribution system is disproportionately unable to meet local needs in DACs. The growing gap in DER accessibility raises concerns that a lack of DER interconnection, especially within DACs, will exacerbate existing environmental, socioeconomic, and public health inequities.⁵ The Commission should confront this issue in this proceeding by, at a minimum, identifying what upgrades are necessary in DACs to ensure increased DER interconnection and equitable access to clean energy resources.

³ See Anna M Brockway, Jennifer Conde, Duncan Callaway, *Inequitable Access to Distributed Energy Resources Due to Grid Infrastructure Limits in California*, NATURE ENERGY (2021) available at <https://escholarship.org/content/qt6pc2k2tv/qt6pc2k2tv.pdf?t=qzdfmm>.

⁴ See *id.* at 7.

⁵ See *id.* at 2.

Furthermore, the Commission should address how costs for interconnection and distribution system upgrades in DACs will be absorbed by shareholders rather than ratepayers, warranted by the IOUs' *past* obligations to serve these communities. This is a salient consideration as it is the responsibility of the regulators and IOUs to ensure reliability and resiliency for all, and opportunities for equitable DER adoption should be prioritized for DACs that have long been neglected.

Goal 1 of the Commission's ESJ Action Plan seeks to "consistently integrate equity and access considerations throughout CPUC regulatory activities," which includes systematic consideration of ESJ issues in all proceedings.⁶ The Center requests that the Commission therefore consider DACs and other ESJ communities in all aspects of this proceeding.

The proceeding's focus on DACs and other ESJ communities should include prioritization of DAC benefits, and critical facilities or resources under development in DACs, including community resilience hubs.⁷ Similarly, the Commission should also leverage this opportunity to meet an overall goal of the ESJ Action Plan and state climate policy to decrease pollution burdens in DACs. This proceeding should therefore explore the potential to prioritize interconnection of resources that would displace sources of industrial pollution in DACs, for instance, diesel particulate matter, or facilitating rooftop solar on indirect sources, such as warehouses.

Finally, the Commission must ensure that all aspects of this proceeding address barriers to DACs. For instance, reporting requirements and follow-up action to correct delays may have

⁶ See CPUC, *ESJ Action Plan 2.0*, available at <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/news-and-outreach/documents/news-office/key-issues/esj/esj-action-plan-v2jw.pdf>

⁷ See e.g. Asian Pacific Environmental Network, SEIU, Blue Green Alliance, *Resilience Before Disaster*, available at <http://apen4ej.org/wp-content/uploads/2020/10/Resilience-Before-Disaster-FINAL-UPDATED.pdf>.

to include specific mechanisms to ensure adequate participation by DAC residents or community-based organizations serving those residents.

C. The Commission Should Consider Penalties to Ensure Timely Action and Ratepayer Protections.

The IOUs' unnecessary elongation of interconnection times have caused customers to incur longer payback periods and potentially abandon DER projects altogether. The Commission should address this behavior in at least two ways in order to disincentivize it.

First, the Commission should consider imposing fiscal penalties on IOUs for delayed interconnection times exceeding a reasonable time limit; importantly, such penalties should be taken out of IOU shareholder profits, and not passed onto ratepayers.

Second, the Commission should consider creating a public platform where consumers can lodge complaints about utility interconnection delays in order to boost transparency of potential interconnection delays.

Finally, delaying interconnection can be used as an anti-competitive tactic to compel solar project homeowners and other local developers from pursuing their projects. The Commission should recognize the antitrust implications of this behavior and consider avenues to actively combat this anti-competitive behavior.

D. The Commission Should Incorporate Robust Reporting and Response Requirements.

The Commission outlined that the proceeding will address the Commission's responsibilities under SB 410 and AB 50, including its responsibility to "establish a procedure for customers to report energization delays per Section 934(a)(2)."⁸ The Center recommends that the Commission also determine the manner in which it plans to respond to such customer reports

⁸ R.24-01-018 Order Instituting Rulemaking (January 24, 2024) at 2.

and institute a timeline by which a response to customers must be made regarding such energization delays.

III. Conclusion

For the foregoing reasons, the Center respectfully requests that the Commission carefully consider the above issues in the proceeding.

Dated: February 19, 2024

Respectfully submitted,

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