

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



FILED

04/02/24

04:04 PM

A2205022

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
Program.

Application 22-05-022

And Related Matters.

Application 22-05-023

Application 22-05-024

**REPLY COMMENTS OF THE PUBLIC ADVOCATES OFFICE ON THE
PROPOSED DECISION MODIFYING GREEN ACCESS PROGRAM TARIFFS
AND ADOPTING A COMMUNITY RENEWABLE ENERGY PROGRAM**

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April 2, 2024

I. INTRODUCTION

Pursuant to Rule 14.3 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure, the Public Advocates Office at the California Public Utilities Commission (Cal Advocates) submits these reply comments in response to comments filed on the March 4, 2024, *Proposed Decision Modifying Green Access Program Tariffs and Adopting a Community Renewable Energy Program* (PD).¹

Cal Advocates provides the following responses to parties' comments:

- The PD should be revised to align the project megawatt (MW) capacity limit of the community renewable energy program with federal investment tax credit requirements, as pointed out in The Utility Reform Network's and Solar Landscape's comments.
- The Commission should disregard several parties' claims that the PD's Community Renewable Energy Program should be rejected because it is unlikely to attract much developer participation. The PD rightly includes an opportunity for evaluation of the approved programs at a future date.

II. DISCUSSION

A. **The PD Should Be Revised to Align the Project MW Capacity Limit of the Community Renewable Energy Program with Federal Investment Tax Credit Requirements.**

In opening comments, The Utility Reform Network (TURN) and Solar Landscape note that the 20 MW program capacity limit for the adopted community renewable energy program is not permitted under Public Utilities Code 769.3(c)(6).² Cal Advocates agrees with TURN and notes that the Commission must require facilities under the

¹ *Decision Modifying Green Access Programs Tariffs and Adopting a Community Renewable Energy Program*, "Proposed Decision" or "PD," A.22-05-022 *et al.*, March 4, 2024.

² *Opening Comments of the Utility Reform Network on the Proposed Decision on Administrative Law Judge Hymes*, A.22-05-022 *et al.*, March 25, 2024, at 4-5; *Opening Comments of Solar Landscape Origination, LLC on Proposed Decision*, A.22-05-022 *et al.*, March 25, 2024, at 2.

community renewable energy program to qualify for the enhanced federal investment tax credit (ITC) per Assembly Bill (AB) 2316. In relevant part, AB 2316 provides:

The commission shall ensure that a community renewable energy facility participating in the community renewable energy program is eligible for an enhanced federal investment tax credit available as a qualified low-income economic benefit project pursuant to subsection (e) of Section 48 of Title 26 of the United States Code.³

The enhanced federal investment tax credit requires facilities to have a maximum net output of less than 5 MW.⁴ Therefore, to comply with AB 2316, the Commission must revise the capacity limit for projects under the new community renewable energy program to 5 MW.

B. Evaluation of the Approved Programs at a Future Date is the Appropriate Vehicle for Assessment of Whether There is Adequate Program Participation.

Parties comment that the new Community Renewable Energy Program may have little to no developer participation, and recommend on that basis that the Commission should reject the program as designed in the PD.⁵ These parties err by prematurely

³ Public Utilities Code Section 769.3(c)(6).

⁴ *Opening Comments of the Public Advocates Office on Administrative Law Judge's Ruling Setting Aside Submission of the Record to Seek Comments on Aspects of Net Value Billing Tariff Proposal*, A.22-05-022 *et al.*, November 27, 2023, at 4-5.

⁵ *Comments of the Solar Energy Industries Association on Proposed Decision Modifying Green Access Program Tariffs and Adopting a Community Renewable Energy Program*, A.22-05-022 *et al.*, March 25, 2024, at 13-14; *Opening Comments of Solar Landscape Origination, LLC on Proposed Decision*, A.22-05-022 *et al.*, March 25, 2024, at 2-3; *Opening Comments of Renewable Properties on Proposed Decision Modifying Green Access Program Tariffs and Adopting a Community Renewable Energy Program*, A.22-05-022 *et al.*, March 25, 2024, at 3-4; *Comments of the Coalition for Community Solar Access on Proposed Decision Modifying Green Access Program Tariffs and Adopting a Community Renewable Energy Program*, A.22-05-022 *et al.*, March 25, 2024, at 2; *Opening Comments of California Environmental Justice Alliance, Vote Solar, and Natural Resources Defense Council on Proposed Decision Modifying Green Access Program Tariffs and Adopting a Community Renewable Energy Program*, A.22-05-022 *et al.*, March 25, 2024, at 3-4; *Comments of Dimension Renewable Energy on Proposed Decision Modifying Green Access Program Tariffs and Adopting a Community Renewable Energy Program*, A.22-05-022 *et al.*, March 25, 2024, at 3-4; *Comments of Cypress Creek Renewables, LLC on the Proposed Decision Modifying Green Access Program Tariffs and Adopting a Community Renewable Energy Program*, A.22-05-022 *et al.*, March 25, 2024, at 11-12; *Opening Comments of the Utility Reform Network on the Proposed Decision on Administrative Law Judge Hymes*,

concluding that there will be little participation in the Community Renewable Energy Program. The PD requires an evaluation of all of the community solar programs (Modified Green Tariff, Modified DAC-GT and the new community renewable energy program) within three years of the adoption of the decision.⁶ The PD's inclusion of the opportunity for further evaluation of program outcomes allows adequate time to observe whether the newly created program, in addition to the modifications of the current programs, are sufficient to promote the goals of AB 2316. Prejudging the outcomes of the new incentive program before participation rates are observed is unreasonable, arbitrary, and capricious. Therefore, the Commission should reject these parties' comments as premature and speculative.

III. CONCLUSION

Cal Advocates respectfully requests that the Commission update the capacity limit for projects under the new community renewable energy program to 5 MW. In addition, the Commission should reject parties' unsubstantiated claims that the new Community Renewable Energy Program will attract no interest, and instead rely on the evaluation opportunity created in the PD.

A.22-05-022 *et al.*, March 25, 2024, at 3; *Valta Energy Comments on Administrative Law Judge's Proposed Decision Modifying Green Access Program Tariffs and Adopting a Community Renewable Energy Program*, A.22-05-22 *et al.*, March 25, 2024, at 12; *Clean Coalition Comments on Proposed Decision Modifying Green Access Program Tariffs and Adopting [sic] a Community Renewable Energy Program*, A.22-05-022 *et al.*, March 25, 2024, at 4-9; *Comments of PearlX Infrastructure LLC on Proposed Decision Modifying Green Access Program Tariffs and Adopting a Community Renewable Energy Program*, A.22-05-022 *et al.*, March 25, 2024, at 5; *Comments of the Center for Biological Diversity on Proposed Decision Modifying Green Access Program Tariffs and Adopting a Community Renewable Energy Program*, A.22-05-022 *et al.*, March 25, 2024, at 5-6.

⁶ PD at 172-173 (Ordering Paragraph 14).

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