

**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.

And Related Matters.

Application 22-05-022

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**REPLY COMMENTS OF CYPRESS CREEK RENEWABLES, LLC
ON THE PROPOSED DECISION MODIFYING GREEN ACCESS PROGRAM
TARIFFS AND ADOPTING A COMMUNITY RENEWABLE ENERGY PROGRAM**

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Pursuant to Rule 14.3 of the California Public Utilities Commission’s (“Commission”) Rules of Practice and Procedure, Cypress Creek Renewables, LLC (“Cypress Creek”) replies to the comments submitted in response to the March 4, 2024, Proposed Decision Modifying Green Access Program Tariffs and Adopting a Community Renewable Energy Program (“Proposed Decision”). Although there is sufficient evidence in the record to approve the Net Value Billing Tariff (“NVBT”) as proposed by the Coalition for Community Solar Access (“CCSA”), Cypress Creek supports the modifications to the NVBT outlined in the comments from CCSA and the Solar Energy Industries Association (“SEIA”) offered to address the Proposed Decision’s stated concerns, including (1) reasonable geographic restrictions for siting of community solar projects and (2) seeking a determination from the California Energy Commission (“CEC”) that NVBT resources should be treated as load modifiers.¹

Additionally, Southern California Edison Company’s (“SCE”) PURPA-based proposal, which the Proposed Decision endorses, remains unworkable despite the attempted clarifications

¹ Comments of CCSA on Proposed Decision Modifying Green Access Program Tariffs and Adopting a Community Renewable Energy Program (“CCSA Opening Comments”) at 10, 12 (Mar. 25, 2024); SEIA Opening Comments On Proposed Decision Modifying Green Access Program Tariffs And Adopting A Community Renewable Energy Program (“SEIA Opening Comments”) at 10-11 (Mar. 25, 2024).

SCE offered in its comments. The Commission should reject the Proposed Decision and adopt the NVBT as proposed by CCSA and supported by the majority of parties in this proceeding.²

I. SUPPORT FOR MODIFICATIONS TO THE NVBT

SEIA correctly explains that, notwithstanding the Proposed Decision’s flawed analysis of the NBVT, the identified concerns with the NVBT in the Proposed Decision can be readily addressed.³ To that end, if the Commission is unwilling to adopt the NVBT as proposed by CCSA, the Commission should accept modifications to the NVBT offered by SEIA and CCSA.⁴ Cypress Creek highlights its support for two of these modifications in particular.

First, the Proposed Decision states the Commission cannot confirm whether NVBT projects would avoid transmission and distribution costs because there is a lack of certainty that projects would be sited close to subscribers.⁵ Cypress Creek has previously explained why geographic limitations on siting of community solar projects make development more challenging, and that other successful community solar markets have not included such restrictions.⁶ Stringent and arbitrary geographic restrictions, such as those required under the Green Tariff Shared Renewable (“GTSR”) programs, significantly limit the ability of projects to secure participating

² Proposed Decision at 67 (“The NVBT is supported by Arcadia, Cypress Creek, Clean Coalition, CBIA, CUE, and SEIA. Additionally, TURN, CEJA, *et al.*, and Cal Advocates support the NVBT if suggested modifications are made.”); *see also* SEIA Opening Comments at 15; Opening Comments of The Utility Reform Network (“TURN”) on the Proposed Decision of Administrative Law Judge Hymes (“TURN Opening Comments”) at 1 (Mar. 25, 2024); Opening Comments of Arcadia Power, Inc. on the Proposed Decision Modifying Green Access Program Tariffs and Adopting A Community Renewable Energy Program at 2 (Mar. 25, 2024); Opening Comments of California Environmental Justice Alliance, Vote Solar, and Natural Resources Defense Council Comments on Proposed Decision Modifying Green Access Program Tariffs and Adopting A Community Renewable Energy Program (“CEJA *et. al.* Opening Comments”) at 2 (Mar. 25, 2024).

³ *See* SEIA Opening Comments at 9.

⁴ *See* CCSA Opening Comments at 8-14; SEIA Opening Comments at 9-11.

⁵ *See* Proposed Decision at 101.

⁶ *See* Surrebuttal Testimony of Matthew Kozey Submitted on Behalf of Cypress Creek at 7 (Apr. 28, 2023).

customers and increases development costs.⁷ However, projects can succeed even with geographic constraints if the constraints are reasonable. While the Commission should not conclude that geographic restrictions are necessary to determine that projects built pursuant to the NVBT will result in avoided transmission and distribution costs, SEIA correctly argues that the Commission could easily address this perceived concern by adopting the Public Advocates Office’s (“Cal Advocates”) proposal to require projects sited in a Local Reliability Area (“LRA”) serve customers in that same LRA.

Second, the Proposed Decision also finds that NVBT resources do not avoid capacity costs because utilities and community choice aggregators cannot claim Resource Adequacy credits.⁸ However, as parties have explained, NVBT projects should be treated as load modifiers, consistent with how other distribution-sited energy resources are treated.⁹ Given this, the Commission could adopt SEIA’s proposal to condition receipt of generation capacity value for NVBT projects on a CEC determination that these resources will be treated as load modifiers.¹⁰

II. SCE’S PURPA-BASED PROPOSAL MUST BE REJECTED

SCE notes in its comments that “one could misunderstand” one of the Proposed Decision’s Findings of Fact to suggest that developers must share a percentage of PURPA-based

⁷ See Opening Testimony of Matthew Kozey Submitted on Behalf of Cypress Creek at 20-21 (Jan. 20, 2023).

⁸ Proposed Decision at 101.

⁹ See *supra* note 1; see also Valta Energy Comments On Proposed Decision Modifying Green Access Program Tariffs and Adopting A Community Renewable Energy Program at 4-5 (Mar. 25, 2024); TURN Opening Comments at 9-10; Reply Comments of Solar Landscape on Cost- Effectiveness Considerations at 3 (Aug. 10, 2023).

¹⁰ See SEIA Opening Comments at 11.

compensation received from the utility with subscribing customers.¹¹ SCE then asks the Commission to clarify that the Proposed Decision is not proposing to deprive generation facilities of full compensation to which they are entitled under PURPA, but rather, use non-customer funded sources such as federal and state incentives to provide subscriber bill credits.¹² However, even adopting SCE’s clarification will not sufficiently incentivize development of community solar plus storage resources.

As discussed in multiple parties’ comments, PURPA Standard Offer and ReMAT contracts have resulted in very few projects.¹³ Furthermore, SCE provides no explanation of how using “non-customer funded sources like state and federal incentives”¹⁴ creates a sustainable project finance ecosystem or sustainable bill credits for subscribers. SCE also fails to explain what happens when those funds are depleted. The PURPA-based proposal endorsed in the Proposed Decision remains commercially unworkable, despite SCE’s attempted clarifications, and must be rejected.

III. CONCLUSION

This proceeding record demonstrates widespread support for the NVBT proposal because it not only complies with relevant laws but is the only commercially viable option presented. The Commission should adopt the NVBT with the modifications proposed by CCSA and SEIA offered

¹¹ Opening Comments of SCE on the Proposed Decision of Administrative Law Judge Hymes Modifying Green Access Program Tariffs and Adopting A Community Renewable Energy Program (“SCE Opening Comments”) at 4 (Mar. 25, 2024).

¹² *See id.*

¹³ CEJA et. al. Opening Comments at 3; Comments of Center for Biological Diversity On Proposed Decision Modifying Green Access Program Tariffs And Adopting A Community Renewable Energy Program at 5-6 (Mar. 25, 2024); Clean Coalition Comments on Proposed Decision Modifying Green Access Program Tariffs And Adopting A Community Renewable Energy Program at 7-9 (Mar. 25, 2024); Comments of Cypress Creek on Proposed Decision Modifying Green Access Program Tariffs and Adopting A Community Renewable Energy Program at 11 (Mar. 25, 2024).

¹⁴ SCE Comments at 4.

