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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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.

Application 22-05-022

And Related Matters.

Application 22-05-023

Application 22-05-024

**ADMINISTRATIVE LAW JUDGE'S RULING SEEKING COMMENT
ON COMMUNITY RENEWABLE ENERGY AND MODIFIED
GREEN TARIFF PROGRAMS**

This ruling provides notice and opportunity to comment on the California Public Utilities Commission's (Commission or CPUC) consideration of program implementation and associated issues for a Community Renewable Energy (CRE) Program and the modified Green Tariff Program established by Decision (D.)24-05-065.

Parties may file comments addressing this ruling within 20 days after the issue date of this ruling; comments shall be limited to ten (10) pages. Parties may file reply comments no later than 10 days after the final date to file comments.

**1. Considerations for Community
Renewable Energy Program in
Light of Solar for All Requirements
and Guidance**

The Inflation Reduction Act (IRA), signed into law by President Biden in 2022, created a \$27 billion Greenhouse Gas Reduction Fund and includes

\$7 billion for grant awards through the Solar for All competition. On Earth Day 2024, the US Environmental Protection Agency (U.S. EPA) announced 60 awards.¹ The state of California was among the largest awardees, receiving just under \$250 million to develop and implement new California Solar for All initiatives. The Commission intends for CRE Program project developers to take advantage of several state and federal funds and incentives, including Assembly Bill (AB) 102 (Budget Act of 2023) and Solar for All grant funding.²

California's application consisted of proposals from a coalition of state agencies including the CPUC, the California Employment Development Department, and the California Energy Commission. All Solar for All funded projects will result in 100 percent of the award enabling low-income and disadvantaged communities to deploy and benefit from eligible zero emissions technologies. California's Solar for All Work Plan is included with this ruling as Attachment 1 and also available on the Commission's website at the following uniform resource locator: <https://www.cpuc.ca.gov/solarforall>.

Throughout the application and award process, the U.S. EPA provided additional guidance that augmented direction in the original Notice of Funding Opportunity. The Solar for All grant requirements and U.S. EPA guidance, discussed further below, require reconsideration of CRE Program implementation and associated issues. To the extent that parties' comments to the June 5, 2024 ruling regarding CRE Program implementation are inconsistent

¹ U.S. EPA, April 22, 2024 news release <https://www.epa.gov/newsreleases/biden-harris-administration-announces-7-billion-solar-all-grants-deliver-residential>

² D.24-05-065 *Decision Modifying Green Access Program Tariffs and Adopting a Community Renewable Energy Program*, issued June 7, 2024 (D.24-05-065) at 126, Finding of Fact 61 and Conclusion of Law 10. AB 102, Budget Act of 2023, Section 244 appropriated \$33 million to the Commission with additional requirements.

with the Solar for All grant requirements and U.S. EPA guidance,³ this ruling invites parties to modify or update previously submitted proposals and reconsider impacts on expected program designs and implementation plans. Parties are invited to address the following specific questions.

Timing and Compliance Considerations

1. Solar for All funding requires a five-year “period of performance,” including a hard deadline for spending (not encumbering) funds. At the end of the five-year period, all remaining unspent funds will be returned to the federal government.⁴ Given (1) that the period of performance will end on April 30, 2029; and (2) the lead time necessary to plan, finance, construct and interconnect community solar projects, how can funding be prudently allocated to the CRE Program in alignment with the U.S. EPA’s five-year spending requirement? How should the Commission minimize and mitigate any risk of project failure, both within the five-year period and beyond the five-year period?
2. The U.S. EPA states that it will not disburse Solar for All grant funds at the time of award and will instead require an invoice- or reimbursement-based funding structure.⁵ How can this invoice- or reimbursement-based funding structure work with a CRE Program project as envisioned in D.24-05-065? Explain how program funding and financing design could satisfy these federal funding requirements.
3. Should upfront incentives be provided to CRE Program projects and why? If upfront incentives were to be provided to CRE Program projects, at what project

³ *Administrative Law Judge’s Ruling Directing Responses to Questions Regarding Implementation of Decision 24-05-065*, issued June 5, 2024.

⁴ U.S. EPA, Frequent Questions about Solar for All: Draw Down
<https://www.epa.gov/greenhouse-gas-reduction-fund/frequent-questions-about-solar-all#period>

⁵ U.S. EPA, Frequent Questions about Solar for All: Draw Down
<https://www.epa.gov/greenhouse-gas-reduction-fund/frequent-questions-about-solar-all#draw-down>

- milestone should an incentive be provided? What type of clawback provision, if any, should the Commission require of CRE Program administrators?
4. Ordering Paragraph 1(b) of D.24-05-065 states that “[s]ubscribing customers will receive a flat monetary credit on their monthly bill based on a percentage of each project’s overall revenue share paid for through external funding or incentives.” Subsequent to D.24-05-065’s issuance, the U.S. EPA released additional guidance requiring 20 percent household savings, defined as “calculated based on the average household’s entire electric utility bill, including both the energy portion of the bill and the fixed cost portion, in the household’s utility territory.”⁶ How might previously submitted or new party proposals comply with this additional guidance?
 5. In comments to the proposed decision that the Commission adopted (D.24-05-065), Pacific Gas and Electric Company highlighted that “builders needing to meet the requirements of Title 24 present a potential additional source of funds supporting the development of Community Renewable Energy Program projects, as doing so is likely to be more cost effective than putting solar panels on the roof of every home they build.”⁷ How might non-ratepayer funding such as private philanthropic funds, new construction/builder in-lieu of fees or payments, or other sources supplement the CRE Program?
 6. Government Code Section 11019.3, enacted through Assembly Bill (AB) 590 (Stats. 2023, Ch. 535) and expanded by AB 3017 (Stats. 2024, Ch. 664), permits (but does not mandate) state agencies administering grant programs to advance up to 25 percent of grant funds to eligible

⁶ U.S. EPA, Frequent Questions about Solar for All: Meaningful Benefits <https://www.epa.gov/greenhouse-gas-reduction-fund/frequent-questions-about-solar-all#meaningful>; U.S. EPA Notice of Funding Obligation EPA-R-HQ-SFA-23-01 at 79.

⁷ *Opening Comments of Pacific Gas and Electric Company (U39E) to the Proposed Decision Modifying Green Access Program Tariffs and Adopting a Community Renewable Energy Program*, filed March 25, 2024 at 7.

recipients, which include 501(c)(3) nonprofits and federally recognized Indian tribes.⁸ Please comment on whether this statute should apply to the \$33 million made available through AB 102 (Stats. 2023, Ch. 38) and how this may impact the CRE Program given the five-year deadline to disperse Solar For All funding.

**Renewable Market Adjusting Tariff Considerations
for Community Renewable Energy Program**

Community choice aggregators (CCAs) are eligible to participate in the CRE Program and have proposed using a version of the Public Utility Regulatory Policies Act (PURPA) Standard Offer Contract or Renewable Market Adjusting Tariff (ReMAT) tariff as their foundational tariff. Additionally, multiple parties have suggested that changes be made to the current requirements of the ReMAT tariff.

7. Please provide additional detail on foundational tariff(s) to be used by CCAs. If a foundational tariff similar to ReMAT is to be used by participating CCAs, please provide details on how such a tariff will be similar to or different from the investor-owned utility (IOU) ReMAT tariff and/or any specific proposals for how the IOU ReMAT tariff might be modified for CCAs.
8. If the Commission were to consider changes to ReMAT for the purpose of the CRE Program, what venue/process should be used to consider any proposed changes to ReMAT (i.e., CPUC proceeding, advice letter submission, resolution, legislation, etc.)?

Applying Solar for All Funds to an Existing Program

9. Would it be more feasible, efficient, and/or prudent to apply Solar for All community solar grant funds toward an existing program such as the Disadvantaged Communities

⁸ Full text of Gov. Code Section 11019.3:

https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=11019.3.

Green Tariff (DAC-GT)? If so, please provide justification and, where necessary, further detail as to how the Solar For All funds could be applied to an existing program and meet the U.S. EPA requirements and guidance outlined and referenced above.

Further Solar for All Grant Considerations

California's Solar for All Work Plan includes U.S. EPA requirements listed below. Please propose how the CRE Program may be modified to include the following topics:

10. Federal Requirements:⁹

- Incorporating the Good Jobs Principles and EO 14082
- Build America, Buy America Act (BABA) standards¹⁰
 - Residential-serving community solar projects, which EPA deems “structures, facilities, and equipment that generate, transport, and distribute energy” per 2 CFR 184.4(c) are deemed infrastructure for the purpose of BABA applicability.
 - “Recipients of an award of Federal financial assistance from a program for infrastructure are hereby notified that none of the funds provided under this award may be used for an infrastructure project unless:
 - 1) All iron and steel used in the project are produced in the United States – this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
 - 2) All manufactured products used in the project are produced in the United States – this means the manufactured product was manufactured in the United

⁹ California Solar for All Work Plan at 14.

¹⁰ <https://www.tn.gov/content/dam/tn/environment/energy/documents/solar-for-all/2024.10.30-BABA-Follow-Up-FAQs.pdf> at 3; Nonavailability waiver of Section 70914(a) of P.L. 117-58, Build America, Buy America Act 2021, <https://www.epa.gov/system/files/documents/2025-01/epa-solar-waiver-oggrf-sfa.pdf>

States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard that meets or exceeds this standard has been established under applicable law or regulation for determining the minimum amount of domestic content of the manufactured product; and

3) All construction materials are manufactured in the United States – this means that all manufacturing processes for the construction material occurred in the United States. The construction material standards are listed below.”¹¹

- Davis Bacon and Related Acts (DBRA)¹²
 - Davis-Bacon Act, which requires payment of prevailing wage rates for laborers and mechanics on construction contracts of \$2,000 or more; and¹³
 - Copeland “Anti-Kickback” Act, which prohibits a contractor or subcontractor from inducing an employee into giving up any part of the compensation to which he or she is entitled; and
 - Contract Work Hours and Safety Standards Act, which requires overtime wages to be paid for over 40 hours of work per week, under contracts in excess of \$100,000.
 - After contracts are approved, recipients must comply with oversight requirements to confirm compliance with DBRA provisions.
 - DBRA does not apply to: 1) financial assistance used exclusively for pre-construction or post-construction activities and 2) financial assistance to end-users that

¹¹ EPA General Terms and Conditions effective October 1, 2023 or later*
https://www.epa.gov/system/files/documents/2023-09/fy_2023_epa_general_terms_and_conditions_effective_october_1_2023_or_later.pdf

¹² DBRA Requirements for EPA Subrecipients: <https://www.epa.gov/grants/dbra-requirements-epa-subrecipients>

¹³ The Secretary of Labor’s wage determinations are available at <https://sam.gov/content/wage-determinations>.

are owners or tenants of single-family or multifamily properties who ultimately selects the contractor or installer and executes the contract, 3) financial assistance to Federally Recognized Tribal Entities who ultimately selects the contractor or installer and executes the contract, or 4) financial assistance provided is less than \$250,000 for a project and end-user who ultimately selects the contractor or installer and executes the contract.

- Subawards to For-Profit Entities Terms and Conditions¹⁴

11. Technology, Project Siting and Quality Control Considerations:

- Eligible Technology types as defined in the award terms and conditions:
 - Residential-Serving Community Solar: A solar photovoltaic power-producing facility or solar energy purchasing program from a power-producing facility, with up to 5 megawatts (alternating current) nameplate capacity, that delivers at least 50 percent of the power generated from the system – by delivering at least 50 percent of the benefits (e.g., financial savings, renewable energy credits) derived from the power generated by the community solar system – to residential customers within the same utility territory as the facility.
 - Associated Storage: Infrastructure to store solar-generated power for the purposes of maximizing residential-serving community solar deployment that is deployed in conjunction with an eligible residential-serving community solar project. Stand-alone energy storage infrastructure is not an eligible zero-emissions technology.
 - Enabling Upgrades: Investments in energy and building infrastructure that are necessary to deploy or maximize the benefits of residential-serving community solar

¹⁴ California Solar for All Work Plan at 30.

project. Enabling upgrades must satisfy all of the following criteria to be an eligible zero-emissions technology: (1) an investment in energy or building infrastructure and (2) necessary to deploy or maximize the benefits (i.e., financial savings or resiliency benefits) of a residential-serving community solar project as defined above.

- Warranties and quality control of solar output performance¹⁵
- Consumer Protection Requirements
 - Provide written disclosures to participants containing information in clear and understandable language regarding all costs associated with a consumer's transaction;
 - Require that all in-person and telephone marketing that directly interacts, transacts, or contracts with consumers be conducted in a language in which the consumer subject to the marketing is able to understand and communicate; and
 - Maintain a process for receiving, monitoring, and resolving consumer complaints, including ensuring that complaints are appropriately addressed and referring complaints, when necessary, to the appropriate government regulatory agency
- Free and Fair Choice to Join a Union
 - In accordance with the EPA General Terms and Conditions, grant funds may not be used to support or oppose union organizing, whether directly or as an offset for other funds.
- National Historic Preservation Act, Archeological and Historic Preservation Act and Uniform Relocation Assistance and Real Property Acquisition Policies Act

¹⁵ California Solar for All Work Plan at 35; U.S. EPA Notice of Funding Obligation EPA-R-HQ-SFA-23-01 at 56.

- Notify and work with the CPUC and U.S. EPA if potential sites should fall under these Acts.
- Workplan Considerations:
 - Siting plan considerations¹⁶

12. Community Considerations

- Community benefit agreements¹⁷
- Community based organizations¹⁸
- Community ownership¹⁹
- Workforce requirements²⁰

13. Equity and Outreach Considerations:

- Environmental and Social Justice considerations²¹
- Continuous engagement via advisory boards, annual developer forums, or surveys²²
- Technical assistance²³

14. Tribal Inclusion Considerations:

- California's Work Plan states "California is reserving \$19M of its IOU-S4A Community Solar budget to encourage the development of projects on tribal lands. Should these funds not be fully allocated after three years, funds will return to the general allocation of IOU-

¹⁶ California Solar for All Work Plan at 59 "IOUs and CCAs to develop siting plan or requirements to include as part of their procurement documentation and should include the following elements if applicable: climate hazards, greenspace, pollinators, building resilient assets, and agrivoltaics."

¹⁷ California Solar for All Work Plan at 59.

¹⁸ California Solar for All Work Plan at 39.

¹⁹ California Solar for All Work Plan at 14.

²⁰ California Solar for All Work Plan at 15, 33, 42.

²¹ California Solar for All Work Plan at 42, 53-54.

²² California Solar for All Work Plan at 44.

²³ California Solar for All Work Plan at 35-36, 46.

S4A Community Solar funds.”²⁴ Please specify how the CRE Program can better meet the needs of Tribes in California and whether and how certain criteria or prioritization should be applied to projects benefitting Tribes.

2. Modified Green Tariff Considerations

Cost Recovery

15. D.24-05-065 states that a future ruling will pose questions regarding an evaluation of stranded legacy Green Tariff costs and appropriate cost recovery mechanisms.²⁵ The June 5, 2024 ruling asked parties to 1) document stranded Green Tariff legacy costs and 2) explain what the cost recovery process should be for these costs, and who would pay them.²⁶ San Diego Gas & Electric Company (SDG&E) provided opening comments and the San Diego CCAs (San Diego Community Energy and Clean Energy Alliance) provided opening comments and reply comments. Subsequently, both SDG&E and the San Diego CCAs addressed this issue in SDG&E’s 2023 Energy Resource Recovery Account (ERRA) Compliance Proceeding, Application (A.)24-06-001. SDG&E has proposed to recover stranded Green Tariff Shared Renewables costs through an equal cents per kilowatt-hour rate from all customer classes via the public purpose program surcharge.
- a. Does SDG&E’s proposal comply with AB 2838 (Stats. 2022, Ch. 418) and/or other applicable sections of the Public Utilities Code?
 - b. Should SDG&E quantify these stranded costs by customer class and collect such costs on a pro rata basis by customer class instead?

²⁴ California Solar for All Work Plan at 38, 42-43, 46.

²⁵ D.24-005-065 at 151.

²⁶ June 5, 2024 Ruling Directing Responses to Questions Regarding the Implementation of D.24-05-065 at 10, Question 15.

- c. If cost recovery is approved, what mechanism should be used to collect the funds from customers?

Program Oversight

Pursuant to AB 2838 (Stats. 2022, Ch. 418), the modified Green Tariff Program is no longer a mandatory, statutorily directed program offering.²⁷ Currently, the utilities submit and the Commission reviews and approves the program's procurement contract submissions, tariff schedule updates, various form updates, forecasts for bill charges and credits, and marketing implementation plans among other submissions.

16. Given that the program is fully funded by participants and completely voluntary, should the Commission continue the same level of oversight of the program, its tariffs, and other implementation details through advice letters, reporting, annual forums, and advisory board meetings? Is procurement oversight through IOU Procurement Review Group (PRG) meetings and cost oversight through Energy Resource Recovery Account (ERRA) proceedings sufficient?

IT IS RULED that:

1. Parties may file comments addressing this ruling within 20 days after the issue date of this ruling; comments shall be limited to ten (10) pages.
2. Parties may file reply comments no later than 10 days after the final date to file comments.

Dated April 1, 2025, at San Francisco, California.

/s/ VALERIE U KAO
Valerie U. Kao
Administrative Law Judge

²⁷ D.24-05-065 at 142.