

DRAFT

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Consumer Protection and Enforcement Division

Agenda ID- 18365

RESOLUTION UEB-004

June 11, 2020

R E S O L U T I O N

RESOLUTION UEB-004. CITATION PROGRAM TO ENFORCE COMPLIANCE WITH NET ENERGY METERING SOLAR CONSUMER PROTECTIONS ADOPTED IN DECISION (D) D.16-01-044, D.18-09-044, D.20-02-011, PURSUANT TO PUBLIC UTILITIES CODE SECTIONS 2102-2105, 2107, 2108 & 2114.

SUMMARY

PROPOSED OUTCOME:

Approves citation program for enforcing the Net Energy Metering consumer protection requirements enacted in Decisions (D.)16-01-044, D.18-09-044 and D.20-02-011.

SAFETY CONSIDERATIONS:

There are no safety considerations associated with this resolution.

ESTIMATED COST:

There are no costs associated with this resolution.

INTRODUCTION

This Resolution establishes a citation program under the administration of the Director of the Consumer Protection and Enforcement Division (CPED)

or his/her designee to enforce compliance with the consumer protection measures authorized by the California Public Utilities Commission (CPUC), in Decisions (D.)16-01-044, D.18-09-044 and D.20-02-011, collectively referred to as the “Net Energy Metering Program (NEM) Consumer Protection Decisions,” or “NEM Decisions.” This citation program is applicable to Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E), collectively referred to as the investor owned utilities (IOUs) that provide grid interconnection services for residential rooftop solar customers taking service under the CPUC’s NEM tariff.¹ This citation program does not cover interconnection applications for new home construction.²

Specifically, this citation program enforces IOU compliance with the CPUC’s enhanced interconnection data collection provisions. These provisions require the IOUs: 1) to collect provider Contractors State Licensing Board (CSLB) licensee information, 2) to collect verifications that customers have received the CPUC Solar Consumer Protection Guide and the CSLB solar disclosures document, 3) to collect attestations that customers were given a choice to sign the guide electronically or by hand, 4) to collect additional financial information regarding the solar transactions including, but not limited to, which financial institutions were involved, and 5) to collect equipment verifications and warranties. The IOUs shall respond to requests by CPED for information related to the implementation of the consumer protection requirements in this citation program.

This Resolution establishes a Solar Transaction Record (STR) that consolidates the required consumer protection documents and information collected by the IOUs. The Solar Transaction Record shall be submitted to CPUC staff for review upon request for citation enforcement purposes. In order to achieve the consumer protection goals established in the NEM Decisions, this

¹ Net Energy Metering (NEM) allows customers who generate their own energy with solar units or other renewable sources to receive a financial credit on their electric bills for any surplus energy fed back to their utility grid. Information regarding the NEM program is available at <https://www.cpuc.ca.gov/general.aspx?id=3800>, for details regarding the NEM tariff program. Accessed March 19, 2020.

² See D.18-09-044 at Ordering Paragraph (OP) 3.

Resolution also establishes IOU interconnection application reporting requirements.

Citations will be issued against the IOUs for:

1. Failure to submit an STR within three (3) business days of request. \$3,000 per violation and \$500 for each additional day of delay.
2. Submittal of an incomplete or inaccurate STR. An inaccurate STR is one that contains documents not listed in STR Sections A-F below. \$2,000 per violation.
3. Failure to submit a monthly report of noncompliant interconnection applicants to the CPUC, as specified herein. \$20,000 per violation.
4. Failure to suspend future interconnection access for a noncompliant provider as directed by CPED. \$50,000 per violation, and \$5,000 per day for continual failure to suspend.
5. Failure to publish and maintain an updated and accurate Suspended Providers List. \$5,000 per violation, and \$500 per day for continual failure to update errors or omissions.

This citation program does not cover all violations that may occur subject to D.20-02-011, and D.18-09-044, nor is it intended to. Nothing in this Resolution diminishes, alters, or reduces the CPUC's existing authority to oversee implementation of the NEM tariff.

BACKGROUND

The NEM Decisions adopted several consumer protection requirements aimed at curtailing fraud and misrepresentation during rooftop solar photovoltaic (PV) system solicitations. D.16-01-044 required IOUs to collect equipment verifications,³ warranties,⁴ and authorized the CPUC's Energy

³ Verify that all major solar system components are on the verified equipment list maintained by the CEC. D.16-01-044, at p. 101.

⁴Under D.16-01-044, equipment is required to be verified as having safety certification from a Nationally Recognized Testing Laboratory (NRTL), and a warranty of at least 10 years is provided on all equipment and installations. See OP13.

Division (ED) to develop a consumer protection guide⁵ for IOU customers considering installing solar rooftop energy systems.

In response, ED hosted a public workshop in October 20, 2016, to solicit stakeholder input on the appropriate content for the Solar Consumer Protection Guide. Party comments and replies at the workshop were collated on February 9, 2017. On October 5, 2018, the CPUC issued D.18-09-044 to adopt the proposed Solar Consumer Protection Guide.

D.18-09-044 established a process for distributing the Solar Consumer Protection Guide to consumers, and required providers to collect a wet signature from customers receiving the guide.⁶ IOUs were directed to modify their interconnection portals to collect uploaded signature pages of the CPUC Solar Consumer Protection Guide and copies of the signed CSLB Solar Disclosure document,⁷ and to verify that every interconnection applicant had a valid CSLB license number.

In D.20-02-011, the CPUC revised the Solar Consumer Protection Guide to modify the “wet” signature requirement implemented in D.18-09-044, and to allow electronic signatures, provided that customer attestations were incorporated and collected by the IOUs to prevent fraudulent and high-pressure sales tactics.⁸ D.20-02-011 authorized CPED to propose a citation program to enforce compliance with the NEM Decisions’ consumer protection requirements, as reasonable and necessary for the protection of customers participating in the NEM program.⁹

⁵ Formerly referred to as the “solar consumer information packet”

⁶ D.18-09-044 at p. 33, Conclusions of Law (CL) 3, OP 1-2.

⁷ On August 23, 2018, the CPUC approved Resolution M-4836 which endorsed CPUC “Collaboration with the CSLB to draft Consumer Disclosures required by AB 1070 (2017).” Located here:

⁸ See D.20-02-011 at p. 8. In response to D.18-09-044, solar industry groups CALSSA and SEIA filed a petition for modification of the “wet” signature requirement of the consumer information packet; arguing that requiring wet signatures as a fraud prevention measure conflicts with Electronic Signatures in Global and National Commerce (E-SIGN) Act as well as to the Uniform Electronic Transactions Act (UETA). The petition was rejected and appealed to the California Appellate Court. The appellate proceeding was stayed to permit the Commission to consider the merits of the petition under the terms of the E-SIGN Act and UETA. In D.20-02-011, the Commission found it reasonable to provide customers with the option to sign the solar transaction document electronically as well as by wet signature, provided that additional measures were put in place to prevent consumer fraud.

⁹ See D.20-02-011 at p. 8-12.

DISCUSSION

Pursuant to California Public Utilities (Pub. Util.) Code Section 2101, the CPUC has the power to act as an enforcement agency and to ensure that penalties are promptly prosecuted and collected. IOUs are subject to enforcement action and penalties pursuant to Sections 2102-2105, 2107, 2108 and 2114. D.20-02-011 further authorizes CPED to propose additional requirements “necessary to implement the consumer protection standards adopted” in that Decision.¹⁰ Therefore, this Resolution adopts the following measures for the Interconnection Citation Program:

INTERCONNECTION CITATION PROGRAM

1. Solar Transaction Record (STR)

Contents of the Record

The IOUs shall compile and generate an Solar Transaction Record for an approved residential solar PV interconnection agreement, and transmit it to the CPUC electronically within three (3) business days of request. The purpose of the Solar Transaction Record is to provide the CPUC with the information necessary to investigate and prosecute violations of the consumer protection requirements adopted in the NEM Decisions. Failure to submit a complete, timely, and accurate Solar Transaction Record upon request of the CPUC is a citable offense. The Solar Transaction Record shall comprise of:

- A. STR Summary page as described in Appendix A.
- B. NEM Solar Equipment Certifications and Attestations Pursuant to D.16-01-044:
 1. A copy of the customer attestation that the components of the attached solar photovoltaic (PV) system are on the verified equipment list maintained by the California Energy Commission (CEC).¹¹

¹⁰ Id. at p.21

¹¹ D.16-01-044 at p.101, and Conclusion of Law (CL) 27.

2. A certification by the IOU that equipment and components to be interconnected, other than what is listed on the CEC verified equipment list in B1, is verified as having safety certification by the NRTL according to the requirements of D.16-01-044.¹²
 3. A copy of the certification or documentation that a warranty of at least 10 years has been provided on all equipment and its installation.¹³
- C. NEM Customer Attestations Pursuant to D.18-09-044 and D.20-02-011:
1. A copy of the attestation document uploaded to the IOU interconnection portal, that is signed by the solar customer indicating that the customer has read and received the Solar Consumer Protection Guide, and the CLSB Solar Disclosures Document.¹⁴
- D. CLSB Licensee Verifications Pursuant to D.18-09-044 and D.20-02-011:
1. Verification by the IOU that the interconnection applicant possessed a valid CSLB license as described in Appendix A herein, in order to interconnect with the IOU distribution system. The IOUs are required to collect this information by modifying their interconnection application portal to collect CSLB license information for every applicant other than customers who self-install.¹⁵
- E. NEM Customer E-signature Choice Attestations Pursuant to D.20-02-011:
1. A copy of the attestation document uploaded to the IOU interconnection portal, that is signed by the customer indicating that prior to signing the Solar Consumer Protection Guide, the solar customer received a complete copy of the guide in their preferred language, by their choice of hardcopy or electronic

¹² Id. at CL 27.

¹³ Id. at p. 101 and OP 13.

¹⁴ D.18-09-044 at OP 3.

¹⁵ D.18-09-044 at OP 4.

means;¹⁶ and that the customer was provided the option to sign the guide electronically or in handwriting.¹⁷

2. A copy of the attestation document uploaded to the IOU interconnection portal, that is signed by the customer indicating that prior to signing the Solar Consumer Protection Guide, the customer was offered, in their preferred language, a default option to sign the guide by wet signature instead of electronic signature.¹⁸
3. For customers who opt to sign the Solar Consumer Protection Guide electronically, a copy of the attestation document uploaded to the IOU interconnection portal, that is signed by the customer indicating that the customer of record or authorized individual entering into the solar contract had a pre-existing email address that was created and controlled by the customer prior to the sale, lease, or power purchase agreement for the solar unit. Where a customer does not attest to having a preexisting email address, the utilities must require the interconnection applicant to upload copies of the handwritten guide.¹⁹
4. For customers who opt to sign the Solar Consumer Protection Guide electronically, the utilities shall include in the STR a copy of the separately uploaded electronic audit trail document exported from the electronic signature software program used to capture the customer's electronic signature.²⁰ At minimum, the audit trail must verify:^{21,22}
 - a. The date and time when a link to the guide was emailed to the customer at their pre-existing email address;
 - b. For each instance in which the guide was accessed:

¹⁶ D.20-02-011 at p.9

¹⁷ Id. at p.10

¹⁸ Id. at p.11

¹⁹ Id. at p.11

²⁰ Id. at p.12

²¹ D.20-02-011 at p.12-13.

²² The electronic audit trail may be supplemented by an addendum that captures any missing information in the audit trail.

1. The date and time when the guide was accessed;
2. The Internet Protocol (IP) address used to access the guide;
- c. The date and time when the customer signed the guide electronically;
- d. The customer's pre-existing e-mail address, to which the solar provider must return a copy of the signed guide;²³
- e. The date and time when a copy of the initialed and signed document was emailed to the customer;
- f. The electronic audit trail may be supplemented by an addendum that captures any missing information in the audit trail.

F. Solar Transaction Financial Disclosures Pursuant to D.20-02-011:²⁴

1. The Solar Transaction Record should identify whether the applicant applied to interconnect a system that is Property Assessed Clean Energy (PACE) financed, and identify the name, address, and California Department of Business Oversight (DBO) license numbers for the PACE program administrators financing the solar unit, and any PACE solicitors associated with the transaction. This requirement is waived if the PACE-financed solar system is not financed by a DBO licensed PACE administrator, however, the IOUs are required to collect the name and address of the unlicensed third-party PACE financier for the unit.
2. The IOUs shall clearly indicate in the STR whether the solar installation interconnection application is not financed by PACE. For installations interconnection applications not financed by PACE, IOUs are directed to include in the STR the specific name(s), and type (bank, credit card company, provider in-house financing,

²³ Note, if the customer opts to sign the information packet electronically in person during a door to door solicitation, the audit trail requirements still apply.

²⁴ D.20-02-011 at p. 15

etc.) of all institution(s) financing the solar transaction. If the applicant reports that there is no associated financial institution, the STR shall indicate whether the applicant has entered that the project was paid for via cash.²⁵

2. Noncompliant Interconnection Application Reporting Requirement

The IOUs shall monitor their interconnection applications monthly to identify applicants who fail to supply the required consumer protection verification, attestation and disclosure documents as outlined in D.16-01-044, D.18-09-044 and D.20-02-011. The IOUs shall submit to CPED a monthly report that identifies noncompliant applications submitted in the month in aggregate by provider, by the 10th day of the following month. For the purposes of this requirement, a non-compliant application is an installation application submitted to the IOU interconnection portal that has failed to comply with the consumer protection requirements outlined in D.16-01-044, D.18-09-044 and D.20-02-011, due to the applicants failure to upload the required attestations, verifications, or certifications required therein. The IOUs shall include in the monthly report the total number of interconnection applications submitted by the provider for the same month. A provider's total number of noncompliant applications, as a percentage of its total number of interconnection applications submitted for the same month, will represent the provider's noncompliance rate for that month.

Following CPED's review of the monthly report, CPED may direct the IOUs to issue a Notice of Suspension of future interconnection access to any provider who has a monthly noncompliance rate of five (5) percent or more for three consecutive months. The suspension shall apply to the IOUs' service territory. The IOUs may be directed to prevent the provider from submitting any subsequent interconnection applications until the provider submits a future compliance plan to the IOUs. Failure by the IOUs to suspend interconnection access for a noncompliant provider as directed by CPED is a citable offense.

²⁵ D.20-02-011 at p.15-16

3. Suspended Providers List

Pursuant to the reporting requirements above, the IOUs shall publish, on their public facing websites, a list of all providers whose interconnection access has been suspended for submission of noncompliant applications. The Suspended Providers List shall be preceded by a notice on the IOUs websites that clearly and conspicuously inform customers that due to noncompliance with consumer protection requirements, such providers are not permitted to interconnect any solar rooftop systems to the IOUs' grid effective the date specified. The IOUs may take additional actions as necessary to forewarn customers of potential delays and consequences of working with providers on the Suspended Providers List.

The IOUs shall update the Suspended Providers List monthly to prevent error, omission, delay, or misinformation to applicants and consumers. A link to the most up to date version of the Suspended Providers List shall be made available on the IOUs' interconnection application pages.

CITATION PROCEDURES

Content

The citation served upon the utility by CPED will include:

1. A specification of each alleged violation, including citation of the resolution, decision, order, and/or Public Utilities Code section violated;
2. A statement of the facts upon which each alleged violation is based, including supporting documents;
3. The amount of the fine;
4. A statement that the IOU may pay the amount of the penalty set forth in the citation and the conditions for payment, or alternatively, the IOU may file an appeal of the citation within 30 days pursuant to Resolution ALJ-377 or its successor resolution;

5. An explanation on how to file an appeal, including the right to have a hearing, to be represented at the hearing, to request a transcript, and to request an interpreter; and,
6. The form for Notice of Appeal.

Service of Citation

Citations will be served by first class mail and transmitted electronically by email to the IOU's designated regulatory contact.

Response

Within 30 days after the date of the citation, the IOU shall remit the full amount of the penalty with notice to CPED, or serve a Notice of Appeal to CPED. Before the expiration of the 30-day deadline, CPED or an administrative law judge (ALJ) may extend the time for response upon a finding of good cause shown.

Unless otherwise specified, a requirement to notify CPED or to serve CPED means to send a written communication by United States Postal Service Mail or an express mail service to the address specified in the citation. **These written communications should not be filed with the Commission's Docket Office.** In addition to communications by mail service, CPED may allow electronic submissions.

Payment of Penalty; Default

An IOU submitting payment of penalty shall mail or deliver the payment to the CPUC's Fiscal Office, 505 Van Ness Avenue, San Francisco, CA 94102, in the form of certified check or money order, payable to the California Public Utilities Commission. The IOU's representative shall write on the face of the check or money order "For deposit to the State of California General Fund per Resolution UEB-004."

If the IOU pays the full amount of the penalty within the time allowed, the citation shall become final. Failure to pay the full amount of the penalty by the due date specified in the Notice or the extension date, or to file a Notice of Appeal will place the IOU in default, the citation shall become final, and the IOU will have forfeited its right to appeal the citation. A late payment is subject to a penalty of 10 percent. Payments are considered late if they are received after the due date specified in the Notice or after the extension date.

Appeal

Currently, Resolution ALJ-377 governs the appeal process for all CPUC citation programs unless otherwise noted in Resolution ALJ-377 or its successor resolution. Any appeal of a citation issued under this Resolution shall comply with the procedures set forth in Resolution ALJ-377 or any successor resolution(s) setting forth the appeal process for all CPUC citation programs.

Notice

In compliance with Pub. Util. Code Section 311(g), the CPUC on April 27, 2020 provided notice to all interested parties on record that this draft Resolution is available for public comment at the CPUC's website <http://www.cpuc.ca.gov/>. Additionally, CPED informed these parties of the availability of the conformed Resolution at the same website.

Comments

The Draft Resolution was mailed for comment on March 27, 2020, in accordance with Public Utilities Code section 311(g) (1) and Rule 14 of the Rules of Practice and Procedure.

Six parties filed comments on May 18, 2020. Comments were filed by the California Low-Income Consumer Coalition ("CLICC"), the Solar Energy Industry Association ("SIEA"), the California Solar and Storage Association ("CALSSA"), San Diego Gas and Electric Company ("SDG&E"), and joint

comments were filed by Southern California Edison (“SCE”) and Pacific Gas and Electric Company (“PG&E”), herein referred to as the “Joint IOUs.” Replies were filed by SIEA and the Joint IOUs on April 26, 2020.

All comments have been read and reviewed, and to the extent that they were accepted this resolution will be amended, and to the extent that they were seen as outside the scope of the changes to the citation program that this resolution introduced, they have been denied. Key changes will be updated in future revisions. The reply comments further discuss the same issues, so they are not discussed separately.

THEREFORE, IT IS ORDERED that:

1. The NEM Interconnection Citation Program described above is hereby adopted.
2. This Resolution is effective 60 days following its adoption.

I certify that the foregoing Resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on June 11, 2020, the following Commissioners voting favorably thereon:

—

/s/ ALICE STEBBINS
Executive Director

**Resolution UEB-004
APPENDIX A - Solar Transaction Record**

Section 1. Summary

Utility (IOU):

Applicant Name:

Applicant Type:

(contractor, installer, solar company, etc.)

Date Application

Submitted:

Date Application

Completed:

Application Status:

(current)

Approved/Denied?

Date Approved:

STR Section	Items Received (list)	Received Date:
Financial Information		
CSLB License Validation		Date License Submitted: Date License Validated: Notes:
Customer Verifications		
Equipment Verifications		

Section 2: Financial Information

The Investor Owned Utilities (IOUs) shall clearly indicate in the Solar Transaction Record (STR) whether the solar interconnection application is financed by Property Assessed Clean Energy (PACE) loans. The STR shall include:

(1) Is the project PACE financed? Yes/No

(a) If yes, then name, address, and DBO license numbers for the PACE Program Administrators financing the solar unit that are listed on the application; and

- (b) Name, address, and DBO license number for all PACE solicitors associated with the transaction that are listed on the application.

For interconnection applications not financed by PACE, utilities are directed to include in the STR the specific name(s), and type (bank, credit card company, provider in-house financing, etc.) of all institution(s) financing the solar transaction. If the applicant reports that there is no associated financial institution, the STR shall indicate whether the applicant has entered that the project was paid for via cash.²⁶ The IOUs shall include in the STR a copy of all solar purchase contracts, checks, finance contracts, and bank statements uploaded by the applicant.

Section 3: Validation of CSLB Licenses

The STR shall include a page(s) with the following:

- (1) The name and CSLB license number²⁷ of the installer/provider completing the interconnection application on behalf of the customer
- (2) The CSLB license number for all Home Improvement Salespersons (HIS) listed on the application, or otherwise connected to the installer/provider in (1) completing the interconnection application on behalf of the customer
- (3) Date and time the utility verified the CSLB license information provided by the applicant installer/provider and HIS, was valid and active with the CSLB. For purposes of this item, the IOUs utilities shall confirm that the licensee operational status is valid by checking the CSLB website at <https://www.cslb.ca.gov/>.

Section 4: Customer Verifications

The utilities shall include in the STR a copy of the signature page(s) from the solar consumer information packet uploaded to their interconnection portals by the applicant. The signature page(s) shows verification by the solar customer that the customer has read and received the solar consumer information packet, and the CLSB Solar Disclosures Document.²⁸

²⁶ D.20-02-011 at p.15-16.

²⁷ D.18-09-044 at OP 4.

²⁸ D.18-09-044 at OP 3.

Section 5: Customer Attestations

The STR shall include a page containing:

- (1) The name of the customer and address where the solar system is installed.
- (2) A copy of each separately uploaded attestation pages from the NEM solar consumer information packet showing:
 - a) Attestation from the customer that prior to signing the information packet, the solar customer received a complete copy of the packet in their preferred language, by their choice of hardcopy or electronic means;²⁹ and that the customer was provided the option to sign the information packet electronically or in handwriting.³⁰
 - b) Attestation from the customer that prior to signing the information packet, the customer was offered, in their preferred language, a default option to sign the information packet by wet signature instead of electronic signature.³¹
 - c) For customers who opt to sign the solar information packet electronically, attestation from the customer that the customer of record or authorized individual entering into the solar contract had a pre-existing e-mail address that was created and controlled by the customer prior to the sale, lease, or power purchase agreement for the solar unit. Where a customer does not attest to having a preexisting email address, the IOUs must require the interconnection applicant to upload copies of the handwritten information packet.³²
 - d) For customers who opt to sign the solar information packet electronically, the IOUs shall include in the STR a copy of the separately uploaded electronic audit trail document exported from the electronic signature software program used to capture the customer's electronic signature.³³ At minimum, the audit trail must verify:³⁴

²⁹ D.20-02-011 at p.9

³⁰ Id. at p.10

³¹ Id. at p.11

³² Id. at p.11

³³ Id. at p.12

³⁴ D.20-02-011 at p.12-13.

- i. The date and time when a link to the information packet was emailed to the customer at their pre-existing email address;
- ii. For each instance in which the information packet was accessed:
 1. The date and time when the information packet was accessed;
 2. The Internet Protocol (IP) address used to access the information packet;
- iii. The date and time when the customer signed the information packet electronically;
- iv. The customer's pre-existing email address, to which the solar provider must return a copy of the signed information packet;³⁵ and
- v. The date and time when a copy of the initialed and signed document was emailed back to the customer.
- vi. The electronic audit trail may be supplemented by an addendum that captures any missing information in the audit trail.

Section 5: Equipment Verifications

The utilities shall include in the STR page(s) listing the date and time the following equipment verifications were conducted, and any associated results:

- A. NEM Solar Equipment Certifications and Attestations Pursuant to D.16-01-044
 1. A copy of the customer attestation that the components of the attached solar photovoltaic (PV) system are on the verified equipment list maintained by the California Energy Commission (CEC).³⁶
 2. A certification by the IOU that equipment and components to be interconnected, other than what is listed on the CEC verified equipment list in B1, is verified as having safety certification by the NRTL according to the requirements of D.16-01-044.³⁷

³⁵ Note, if the customer opts to sign the information packet electronically in person during a door to door solicitation, the audit trail requirements still apply.

³⁶ D.16-01-044 at p.101, and Conclusion of Law (CL) 27.

³⁷ Id. at CL 27.

3. A copy of the certification or documentation that a warranty of at least 10 years has been provided on all equipment and its installation.³⁸

Section 6: Signatory Information

In this section the IOUs shall include the name, title, and dated signature, and contact information for staff responsible for preparing the STR.

³⁸ Id. at p. 101 and OP 13.