

## PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



October 16, 2020

Agenda ID 18365  
RESOLUTION UEB-004  
October 22, 2020

TO: PARTIES TO Service List(s) R.14-07-002, A.16-07-015

Enclosed is the Consumer Protection and Enforcement Division (CPED) draft Resolution UEB-004 Revision 2 (Rev. 2). This resolution establishes a new citation program authorizing CPED to enforce Investor Owned Utility compliance with enhanced Net Energy Metering interconnection application consumer protection requirements pursuant to Decision (D.) 20-02-11, D.18-09-044 and D.16-01-044.

It will appear on the agenda at the next Commission meeting on October 22, 2020. The Commission may vote on this Resolution at that time or it may postpone a vote until a later meeting. When the Commission votes on a Draft Resolution, it may adopt all or part of it as written, amend, modify or set it aside and prepare a different Resolution. Only when the Commission acts does the Resolution become binding on the parties.

In Revision 2 the following changes have been made to the draft Resolution:

- The draft Resolution addresses pertinent issues raised by parties' informal comments following the September 25, 2020 public workshop.
- CPED is now the designated approver of applicants' Compliance Plans, in response to concerns IOUs raised following the workshop regarding litigation exposures.
- Clarifies parameters of IOU compliance with the STR requirement and provides examples of noncompliant submissions.
- Adds a ten (10) calendar day grace period from the date of the applicant's Suspension Notice to when actual Suspension takes effect.
- Rejects CALSSA's citation program proposal because its "collect and transmit" standard is flawed and conflicts with D.18-09-044's requirement to "track and store" the consumer protection documents.
- Finds that CALSSA's audit proposal based on "increased scrutiny" alone as an inadequate substitute for the proposed citation program. Increased scrutiny resulting from CALSSA's proposal does not provide sufficient deterrence from applicant wrongdoing. Instead, the proper deterrence is the threat of applicant suspension from interconnection access built into the proposed citation program.
- Recommends the expansion of the CPUC's spot audit program as suggested by CALSAA to support the CPUC's consumer protection goals, but not in lieu of the citation program.

UEB-004 Revision 1 (Rev.1) was re-published on August 20, 2020. In Revision 1 the following changes were made to the draft Resolution in response to comments:

- All penalties were reduced from prior amounts.
- The Solar Transaction Record (STR) changed to an online portal.
- The STR definition of accuracy was modified to clarify the language concerning "accuracy." This change addressed IOUs misinterpretation of "accuracy" language to mean they would have to manually review each document required for the STR. Revision clarified that the IOUs will be cited for submission of an "incomplete" STR, as defined in the Resolution.
- The STR was modified to reflect the updated Solar Consumer Guide changes. The Consumer Guide now incorporates all the attestations required in D.20-02-011. IOUs are still required to upload a separate audit trail if applicable.
- IOU non-compliance reporting obligations were moved from monthly to quarterly.
- Additional provisions were made for timing and notices to applicants prior to suspension and placement on the Suspended Applicant List.
- The Suspended Applicant List will be generated and maintained by the IOUs and published by CPED to the CPUC website.
- Preliminary cost estimates provided by the IOUs have been included. IOU costs submitted include co-mingled estimates for pre-existing obligations to comply with D.18-09-044, and D.20-02-011, and are not solely for the draft Resolution.

Any questions regarding Revision 2 shall be submitted in electronic format to:

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DRAFT

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

**Consumer Protection and Enforcement Division**

**Agenda ID- 18365**

**RESOLUTION UEB-004**

**October 22, 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.**

**SUMMARY**

**PROPOSED OUTCOME:**

Approves the Net Energy Metering (NEM) Citation Program applicable to Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E), collectively Investor Owned Utilities (IOUs), to enforce the consumer protection requirements enacted in Decisions (D.)16-01-044, D.18-09-044 and D.20-02-011 (collectively, the NEM Decisions).

**SAFETY CONSIDERATIONS:**

There are no safety considerations associated with this resolution.

**ESTIMATED COST:**

Based on the IOUs estimates, the average annual compliance costs per IOU is \$1,100,000. These unverified estimates include comingled costs associated with the implementation of the NEM Decisions and are not solely those resulting from this Resolution. Separately, SCE and SDG&E estimate an average of

\$100,000 each, while PG&E estimates approximately \$700,000, in one-time Information Technology (IT) implementation costs for the online Solar Transaction Record portal directed in this Resolution.

## **INTRODUCTION**

This draft 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 adopted by the California Public Utilities Commission (CPUC), in the NEM Decisions. This citation program is applicable to the IOUs that provide grid interconnection services for residential rooftop solar customers taking service under the CPUC's NEM tariff.<sup>1</sup> This citation program does not cover IOU interconnection applications for solar systems that are a part of new home construction,<sup>2</sup> multi-family buildings, or solar thermal systems.

Specifically, this citation program enforces the IOUs' compliance with the CPUC's enhanced interconnection data collection provisions.<sup>3</sup> 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.

This draft Resolution establishes the Solar Transaction Record (STR) which consolidates the required consumer protection documents and

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<sup>1</sup> 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.

<sup>2</sup> See D.18-09-044 at Ordering Paragraph (OP) 3.

<sup>3</sup> D.20-02-011 at p. 20-21.

information collected by the IOUs. The STR shall be accessible to Commission staff through an online portal maintained by the IOUs, and shall include the required elements listed in Appendix A. To achieve the consumer protection goals established in the NEM Decisions, this draft Resolution also establishes reporting requirements for noncompliant interconnection applications, and a suspension protocol for chronic noncompliant applicants.

The following violations are subject to citations:

1. Submission of an incomplete STR. An incomplete STR is one that omits the document types listed in Appendix A, or contains other document types not listed in Appendix A. \$1,000 per violation.
2. Failure to submit a quarterly report of noncompliant interconnection applicants to CPED, as specified herein. \$1,000 per violation, and \$1,000 for each day the violation continues.
3. Failure to issue a Suspension Warning Notice as directed herein. \$5,000 per violation, and \$1,000 for each day the violation continues.
4. Failure to issue Notice of Suspension as directed herein. \$5,000 per violation, and \$1,000 for each day the violation continues.
5. Failure to suspend future interconnection access- for a noncompliant applicant as directed herein. \$10,000 per violation, and \$5,000 for each day the violation continues.
6. Failure to place a non-compliant applicant on the Suspended Applicant List. \$5,000 per violation, and \$1,000 for each day the violation continues.
7. Failure to generate, maintain and report to CPED an accurate Suspended Applicant List. \$5,000 per violation, and \$1,000 for each day the violation continues.

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 draft

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,<sup>4</sup> warranties,<sup>5</sup> and authorized the CPUC's Energy Division (ED) to develop a consumer protection guide<sup>6</sup> 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 received by 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 (Solar Guide) to consumers, and required providers to collect a wet signature from customers receiving the guide.<sup>7</sup> 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,<sup>8</sup> and to verify that every interconnection applicant had a valid CSLB license number.

In D.20-02-011, the CPUC revised the Solar Guide to modify the "wet" signature requirement implemented in D.18-09-044, to allow electronic

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<sup>4</sup> Verify that all major solar system components are on the California Energy Commission (CEC) verified equipment list. D.16-01-044, at p. 101, Conclusions of Law (CL) 27.

<sup>5</sup> Under 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. OP13.

<sup>6</sup> Formerly referred to as the "solar consumer information packet."

<sup>7</sup> D.18-09-044 at p. 33, CL 3, OP 1-2.

<sup>8</sup> 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:

<https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M223/K678/223678653.PDF>.

signatures, and to provide that customer attestations are incorporated and collected by the IOUs to prevent fraudulent and high-pressure sales tactics.<sup>9</sup>

D.20-02-011 also 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.<sup>10</sup> Significantly, the decision directed CPED to incorporate fines and penalties into the citation program to address enforcement of the providers' CSLB license number, CSLB Home Improvement Salesperson (HIS) number, Department of Business Oversight (DBO) license information for Property Assessed Clean Energy (PACE) loan program administrators (PAs), financial information, customer attestations, and "additional requirements adopted as necessary to implement the consumer protection standards adopted herein."<sup>11</sup>

CPED mailed the draft Resolution for comment on April 27, 2020. Six (6) parties filed comments on May 18, 2020 as follows: California Low-Income Consumer Coalition (CLICC), the Solar Energy Industry Association (SEIA), the California Solar and Storage Association (CALSSA), and all three of the affected IOUs (PG&E, SCE, SDG&E, collectively the Joint IOUs or IOUs).

On the same day, the Joint IOUs also filed a Petition for Modification (PFM) of D.20-02-011 requesting cancellation of the citation program and expansion of the spot audit program ordered in that decision.<sup>12</sup> On May 26, 2020 replies were filed by CALSSA, SEIA and the Joint IOUs.

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<sup>9</sup> 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.

<sup>10</sup> See D.20-02-011 at p. 8-12.

<sup>11</sup> See D.20-02-011 at p. 21.

<sup>12</sup> Petition for Modification of Decision 20-02-011 of Southern California Edison Company (U 338-E), Pacific Gas and Electric Company (U 39-E) and San Diego Gas & Electric Company (U 902-E), at p. 15-16.

Following the public comment period on August 20, 2020, CPED revised the draft Resolution, and re-published it for the September 11, 2020 CPUC voting meeting (Revision 1). In line with Public Utilities (P.U.) Code section 311 (g) (1) and Rule 14 of the Rules of Practice and Procedure, Revision 1 was not mailed for public comment, as changes in the revised draft primarily responded to party comments and recommendations.

On August 24, 2020, the IOUs issued a letter to the CPUC in protest of the citation program. Summarily, the IOUs argued in the letter they “firmly believe the citation program is misplaced, additional changes are required if the Commission is to adopt the resolution, and that the Commission and all stakeholders would benefit from a thorough vetting of the proposed program.”<sup>13</sup> The IOUs requested the CPUC hold a workshop to allow parties additional opportunity to “understand the program and share their perspectives.”<sup>14</sup>

On September 25, 2020 CPED and ED held a noticed public workshop via WebEx to “discuss the citation program ... to address any questions regarding implementation of the program, discuss associated costs and impacts on the [IOUs] interconnection timelines, and to give stakeholders the opportunity to put forward changes to the proposed citation program consistent with D.18-09-044, and D.20-02-011, that could achieve the Commission’s fraud-prevention objectives while minimizing the impact on interconnection timelines.”<sup>15</sup> The workshop notice issued on September 10, 2020 provided parties an opportunity to submit alternative proposals to the current citation program, to present such proposals at the workshop, and to submit informal comments on all submissions and information reviewed at the workshop to the NEM Rulemaking (R) Service List (R.14-02-007) for up to 5 days following the workshop.

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<sup>13</sup> Joint IOUs letter to the CPUC, “NEM Citation Letter to the Commissioners 8-24-20”, sent by e-mail only on August 24, 2020 at 12:54 pm PST, at p. 1.

<sup>14</sup> Id.

<sup>15</sup> CPED “Public Workshop Notice: Workshop on Proposed NEM Citation Program” issued on September 10, 2020 to parties on the R.14-07-002 NEM OIR Service List. A courtesy copy of the Public Workshop notice and materials was mailed to the current service lists of R.17-07-007, R.19-09-009, and R.20-05-012.



Seventy (70) individuals attended the workshop including representatives of CLICC, CALSSA, SEIA, representatives of the small and multijurisdictional utilities (SMJU), The Utility Reform Network (TURN), the Delores Huerta Foundation, CSLB, Department of Business Oversight (DBO), and the Joint IOUs. CALSSA was the only party during the workshop to offer and present changes to the proposed citation program.

On September 30, 2020, the IOUs, CALSSA and SEIA submitted informal comments in response to the workshop. This revised Resolution (Revision 2) responds to issues raised at the workshop, addresses CALSSA's proposal, and responds to post-workshop comments filed by CALSSA, SEIA and the IOUs.

## **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.<sup>16</sup> In that Decision, the Commission authorized CPED to propose a citation program to enforce the collection of data provided to the IOUs during the interconnection application process, data which could then be utilized to identify and deter solar fraud.<sup>17</sup>

The purpose of the proposed citation program is to primarily enforce the consumer protection requirements enacted in D.16-01-044, D.18-09-044, and D.20-02-011. Namely, to ensure that the IOUs are receiving, tracking, and storing the consumer protection documents and data ordered by the NEM Decisions. By ensuring these documents are received by the IOUs as part of the interconnection application, the citation program deters fraud by enforcing proper disclosures at

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<sup>16</sup> Id. at p.21

<sup>17</sup> See D.20-02-011 at p. 8-12

the point of sale. Additionally, it requires continued compliance with the disclosure requirements as a condition for continued access to interconnections.

IOUs, CALSSA and SEIA in comments following the public workshop expressed concerns regarding the CPUC's decision to adopt a citation program, rather than an alternative method to address solar fraud.<sup>18</sup> The IOUs argue that a citation program is unnecessary, because they purport to have excellent compliance with the NEM Decisions' consumer protection requirements.<sup>19</sup> CALSSA and SIEA also question whether the proposed citation program can deter fraud, as the program does not require validation of the consumer protection documents collected by the IOUs.<sup>20</sup>

To these points, we emphasize that the CPUC is at liberty to adopt programs for compliance with its directives to protect utility consumers in vulnerable communities. Further, the CPUC's initial semi-annual spot audit<sup>21</sup> results uncovered a level of noncompliance across all three IOUs that to CPED, negates the IOUs characterization of excellence. Notwithstanding, the proposed citation program is designed not only to elicit IOU compliance, but more importantly it deters applicant wrongdoing by establishing a mechanism for suspending interconnection access to non-compliant applicants. CPED believes that suspending interconnection access is far more effective as a deterrent than CALSSA's proposal of increased scrutiny.

In initial comments on the draft Resolution, CALSSA recommended several measures to expand the Commission's spot audit program directed in D.20-02-011. On the same day comments were filed, the IOUs also filed a Petition

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<sup>18</sup> PG&E Informal Comments on CPUC NEM Citation Program Workshop held on September 25, 2020 Submitted on September 30, 2020 at p. 3; SCE Informal Comments on the September 25, 2020 Workshop on Revision 1 to Draft Resolution UEB- 004 Implementing a Citation Program Against the Investor-Owned Utilities (IOUs) at p. 3; SDG&E Informal Comments on R. 14-07-002 – NEM Citation Program Workshop at p. 3.

<sup>19</sup> PG&E Informal Comments at p. 3; SCE Informal Comments) page 5; SDG&E Informal Comments at p. 3.

<sup>20</sup> The Solar Energy Industries Association Comments On Workshop Addressing Draft Resolution UEB-004: Citation Program to Enforce Compliance with Net Energy Metering Solar Consumer Protections Adopted in Decisions 16-01-044, 18-09-044, and 20-02-011 at p. 2-3; Informal Comments of the California Solar & Storage Association on September 25 Workshop on Resolution UEB-004 of the Consumer Protection and Enforcement Division at p. 2.

<sup>21</sup> In D.18-09-044 the CPUC adopted a semi-annual spot audit program of a conservative sample of 100 IOU interconnection applications per utility, to verify the compliance with the NEM Decisions' consumer protection requirements.

for Modification of D.20-02-011, also requesting expansion of the spot audits in lieu of the citation program.<sup>22</sup> During the public workshop, and in comments following the workshop CALSSA renewed its proposal to the CPUC, now urging the CPUC to adopt an expanded audit program in lieu of the citation program. SCE and SDG&E also expressed interest in CALSSA's proposal.

CALSSA proposed expansion of the spot audits to 1000 applications per each utility semi-annually. From these audits, the IOUs would create a "Watch List" using two criteria; 1) notification to CPED by IOU of incomplete /noncompliant applications, and 2) complaints received by the CPUC. Under CALSSA's proposal, interconnection access would not be revoked for noncompliant actors but Watch List member applications would be "scrutinized" and audited monthly in increasing increments, at the application stage.<sup>23</sup> Finally, CALSSA proposes that the IOUs should be cited only when they do not "collect and transmit"<sup>24</sup> the consumer protection documents and for failing to transmit the information to CPED and CSLB.

CPED finds that CALSSA's citation program proposal does not comply with the standards for the consumer protection documents ordered in the NEM Decisions. CALSSA defines the IOU's obligations as "collect and transmit" rather than "track and store" as ordered in D.18-09-044. This misstatement of the standard in D.18-09-044 conflicts with the expressed "track and store" obligation adopted in that Decision. In contrast, CPED's citation program is a targeted ministerial mechanism designed to elicit specific compliance with the NEM Decision's consumer protection requirements under the "track and store" standard imposed by D.18-09-044.

The citation program is designed to enforce the requirement that IOUs obtain the specified transactional document types and data required by the CPUC in their interconnection portals. In order to achieve a streamlined

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<sup>22</sup> Petition for Modification of Decision 20-02-011 of Southern California Edison Company (U 338-E), Pacific Gas and Electric Company (U 39-E) and San Diego Gas & Electric Company (U 902-E), at p. 15.

<sup>23</sup> Informal Comments of the California Solar & Storage Association on September 25 Workshop on Resolution UEB-004 of the Consumer Protection and Enforcement Division at p. 4-5.

<sup>24</sup> Id. at p.6.

approach, the proposed citation program chose the minimal standard of compliance for citation purposes as requiring the IOUs cognition that the document is the correct type that is ordered in the NEM Decisions.

On the other hand, the spot audit determines whether the required documents *are accurate* (i.e. properly completed and signed by the customer). This determination of accuracy is not ministerial and in fact *would be* burdensome to the IOUs at the application stage, in light of the other demands imposed by managing the interconnection application process.

CPED does not believe that CALSSA's proposal to expand the spot audit program *alone* is an adequate substitute for the proposed citation program. CPED disagrees that the increased scrutiny resulting from CALSSA's proposed expansion of the spot audit program provides sufficient deterrence from applicant wrongdoing. Instead, the proper deterrence is the threat of applicant suspension from interconnection access built into the proposed citation program.

However, as ordered in D.20-02-011, IOU spot audits are a beneficial enhancement the CPUC's consumer protection goals, and as such CPED recognizes the benefits of expanding the semi-annual spot audits ordered in D.20-02-011 to screen for applicant noncompliance that can only be determined by verification of application details. Therefore, CPED recommends the CPUC consider expanding the current IOU spot audit program enacted in D.20-02-011, as a compliment to, but not in lieu of the NEM Citation program.

## **NEM CITATION PROGRAM**

This draft Resolution adopts the following measures for the NEM Citation Program:

### **1. Solar Transaction Record (STR)**

#### **A. Contents of the STR**

The online STR shall contain the following Sections as described in Appendix A, and shall be accessible via the online portal landing page:

1. Transaction Summary page as indicated in Appendix A.

2. NEM Solar Equipment certifications pursuant to D.16-01-044.
3. Uploaded Solar Consumer Guide containing NEM customer attestations, certifications, and verifications pursuant to D.18-09-044 and D.20-02-011. Pursuant to the requirements of D.20-02-011, a copy of the electronic audit trail shall be included for all customers who opt to sign the guide electronically.
4. Uploaded CLSB Solar Energy System Disclosure Document pursuant to D.18-09-044 and D.20-02-011.
5. Uploaded Solar Purchase Contract pursuant to D.18-09-044, D.20-02-011.
6. Solar Transaction Financial Disclosures Pursuant to D.20-02-011.<sup>25</sup>

### **B. Format of the STR**

The IOUs shall compile and generate the STR for approved residential rooftop PV interconnection agreements, that shall be available via an online portal accessible to CPUC staff. The STR provides the CPUC staff with the information necessary to review compliance with the consumer protection requirements adopted in the NEM Decisions.

The STR shall be accessible to CPUC staff via an online portal generated and maintained by the IOUs. The IOUs shall ensure the portal is accessible only to CPUC staff and IOU personnel. The STR portal shall be accessed by CPUC staff via a secure online user accounts requiring entry of a user identification (ID) and password. The STR portal user interface shall be designed to provide view-only access, and download options for the documents and information required in Appendix A.

An incomplete STR is one that, upon review by CPUC staff, omits the document types listed in Appendix A, or contains other document types not listed in Appendix A. Failure to generate a complete Solar Transaction Record is citable at \$1,000 per violation.

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<sup>25</sup> D.20-02-011 at p. 15

In comments following the public workshop, the IOUs requested additional guidance regarding the STR requirements.<sup>26</sup> An STR is complete when it contains the documents types required by the NEM decisions, which are enumerated in Appendix A. As indicated above, to allay burdens to the IOUs interconnection process, the IOUs are not required to manually review these documents for typographic accuracy or completion (as this has been deferred to the spot audits). So long as the IOU receives the required document from the applicant, the IOU will be deemed compliant and will not be subject to a citation.

One example of noncompliance would be receipt of an STR that does not contain the requisite CSLB disclosure document or financial disclosures, yet contains all other documents required by the NEM Decisions. Another example of noncompliance is receipt of an STR that contains other document types in place of the required purchase contract, such as a sales brochure or contact card. In contrast, an IOU that receives an STR containing prior versions of the Consumer Guide, CSLB Disclosure documents, or other documents would not be subject to a citation. However, the applicant should be notified and provided copies of the most recent Consumer Guide and CSLB Disclosures when available. Although the IOUs are not required to manually audit the consumer protection documents; persistently errant applicants, when identified, should be flagged by the IOU to CPED for action in its noncompliance reports.

CALSSA and the IOUs argue that the standard for completeness of the STR necessitates manual review.<sup>27</sup> This is not accurate. In response to earlier drafts of this Resolution, the IOUs equated “manual review” with the standard of review adopted in the spot audit program enacted by D.20-02-011.<sup>28</sup> Using this standard as a baseline, D.18-09-044 clearly does not require this audit-type level review for every interconnection application. As stated herein, D.18-09-044

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<sup>26</sup> PG&E Informal Comments page 3; SCE Informal Comments) page 5; SDG&E Informal Comments page 3.

<sup>27</sup> CALSSA Informal Comments at p. 2.

<sup>28</sup> See IOUs comments on the draft Resolution discussed below.

requires that the IOUs “track and store” the required documents, and explicitly negates “manual review” of those documents at the application stage.<sup>29</sup>

However, D.18-09-044 does not exempt the IOUs from any review of these documents *whatsoever*. In developing the citation program, CPED interprets the “track” language of D.18-09-044, not to require the laborious *manual* review suggested by the IOUs; but at minimum, *cognitive* review of the documents submitted to ensure they are the intended types. This basic level of review can be accomplished either by a cursory visual inspection of the document, or through compatible Automated Document Recognition (ADR) software tools using Optical Character Recognition (OCR) technology that is widely commercially known, available, and is the current standard for many portable document formats (PDFs).<sup>30</sup> As noted by PG&E, such tools may “definitively address the objectives of the Citation Program without the need for IOU manual review.”<sup>31</sup> It is up to the IOUs to apply whichever of these means deemed suitable to achieve the needed compliance.

## **2. Noncompliant Interconnection Application Reporting**

The IOUs shall monitor their interconnection applications monthly to identify non-compliant applicants. For the purposes of this requirement, a non-compliant applicant is one that fails to supply the required consumer protection certifications and documents as outlined in the NEM Decisions. By the tenth (10th) calendar day of the month after the end of each quarter, the IOUs shall submit to CPED a report (Noncompliant Applicant Report) that identifies:

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<sup>29</sup> D.18-09-044 at p.32 and OP3.

<sup>30</sup> Optical Character Recognition or optical character reader is the electronic or mechanical conversion of images of typed, handwritten or printed text into machine-encoded text, whether from a scanned document, a photo of a document, a scene-photo or from subtitle text superimposed on an image. Automatic Document Recognition software automatically identifies documents processed by OCR and categorizes them according to predefined rules. For an example of how ADR works, see [https://www.conduent.com/solution/business-operations-solutions/document-management-and-automation/?utm\\_campaign=TRP-TRP-2020.05-AMER-TRP-TRP-Search-PPC&utm\\_medium=ppc&utm\\_source=google&utm\\_content=search&utm\\_term=&gclid=EAIaIQobChMIus7R4-17AIVZBh9Ch3AIA9PEAMYASAAEgIGlvD\\_BwE](https://www.conduent.com/solution/business-operations-solutions/document-management-and-automation/?utm_campaign=TRP-TRP-2020.05-AMER-TRP-TRP-Search-PPC&utm_medium=ppc&utm_source=google&utm_content=search&utm_term=&gclid=EAIaIQobChMIus7R4-17AIVZBh9Ch3AIA9PEAMYASAAEgIGlvD_BwE), accessed 10/11/20. This reference does not endorse any specific product or service provided by Conduent.

<sup>31</sup> PG&E Informal Comments at p. 2.

- A. The monthly total number of noncompliant applications for the quarter aggregated by applicant.
- B. The monthly total number of interconnection applications submitted by the applicant for the quarter.
- C. The applicant's monthly noncompliance rate, which is defined as the total number of its noncompliant applications, as a percentage of its total number of interconnection applications submitted for the same quarter.
- D. For applicants who claim to be customers by using the "self-applicant" checkbox, provide the monthly number of applications submitted in the quarter by applicant.<sup>32</sup>

The IOUs currently permit an applicant to skip the consumer protection requirements by selecting a "self-applicant" checkbox at the start of the interconnection application process. Checking "self-applicant" bypasses some of the consumer protection measures required by the NEM Decisions based on the presumption that the "self-applicant" is the actual customer.<sup>33</sup> Grouping of high application non-compliance rates by the "self-applicant" election will allow the CPUC to take enforcement action against applicants attempting to exploit this loophole to circumvent the NEM Decisions' consumer protection requirements.

Thus, the IOUs shall also monitor self-applicants to help identify non-customer applicants that may circumvent the consumer protection requirements using a self-applicant election. Failure by the IOU to submit a Noncompliant Applicant Report to the CPED by the tenth 10th calendar day deadline is subject to citation at \$1,000 per violation, and \$1,000 for each day the violation continues.

### **3. Noncompliance Notification and Suspension Procedures**

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<sup>32</sup> The IOUs permit an applicant to skip the consumer protection requirements by selecting a "self-applicant" checkbox at the start of the interconnection application process. Checking "self-applicant" bypasses the consumer protection measures required by the NEM Decisions presuming that the "self-applicant" is the actual customer.

<sup>33</sup> Self-applicants would still submit information under Sections 2, 5, and 6 of Appendix A of this Resolution.



Following CPED's review and investigation into the IOUs quarterly reports, CPED may direct the IOUs to issue a Suspension Warning Notice (Warning) to applicants who have a quarterly noncompliance rate of five (5) percent or more for each month in the previous quarter, or three or more consecutive months within two (2) successive quarters. The IOUs shall issue the Warning within five (5) calendar days of CPED's request. Failure to issue a Warning within five (5) calendar days is subject to citation at \$5,000 per violation, and \$1,000 for each day the violation continues.

The Warning must require the applicant to submit a Compliance Plan to the IOU and CPED within ten (10) calendar days of the Warning. The Compliance Plan shall describe in detail the corrective measures the applicant will take to bring their noncompliant interconnection applications below the 5% threshold described herein. The Compliance Plan shall at minimum:

1. Describe any circumstances and events leading to the applicant's noncompliance with the consumer protection requirements,
2. Describe in detail all corrective measures the applicant has taken to redress and remedy harm to consumers resulting from its noncompliance, including any attempts to provide customers with the correct consumer protection documents; and
3. Describe in detail specific plans or measures the applicant has implemented to ensure future compliance with the consumer protection measures required for interconnection.

CPED shall review and approve or reject the applicant's Compliance Plan within ten (10) calendar days of receipt, notify the IOUs of its decision, and the IOU shall then inform the applicant the result of CPED's review of the Compliance Plan. If CPED rejects the applicant's Compliance Plan, CPED may direct the IOU to issue a Notice of Suspension (Suspension) of future interconnection access to the noncompliant applicant. The IOU shall immediately suspend the applicant's interconnection access by rejecting any future interconnection applications as directed by CPED. Failure to suspend

interconnection access includes failure to reject any interconnection application submitted by a suspended applicant after the Notice of Suspension date.

The suspension shall only apply to incoming applications submitted at least 10 calendar days after the Suspension Date and shall affect all applications with a solar purchase contract date effective at least 10 calendar days after the Suspension date (known as the minimum “10-day grace period”). Applications contracted or submitted during the minimum 10-calendar day grace period shall not be suspended or restricted. The Suspension shall apply to the IOUs’ service territory in which it was issued and shall remain in effect until the applicant submits a Compliance Plan that is approved by the IOU. Failure to issue the Suspension within five (5) calendar days as directed by CPED is a citable violation at \$10,000 per violation, and \$5,000 for each day the violation continues. Applicants may be subject to future suspension according to the above procedures, based on subsequent violations of the compliance threshold.

The IOUs argued in comments that to avoid litigation exposure, the IOUs should not be given discretion to approve or deny applicant Compliance Plans ordered in this Resolution.<sup>34</sup> We have modified this draft resolution to reflect CPED as the approver of the required Compliance Plans. Further, we make plain here that all suspensions, suspension warning notices, and suspension notices to applicants resulting from applicant noncompliance are at the direction of CPED.

#### **4. Suspended Applicant List**

Pursuant to the reporting requirements above, IOUs shall generate and maintain a current list of all applicants whose interconnection access have been suspended by the IOU. The IOU shall place an applicant on the Suspended Applicant List (List) on the same date the Suspension is issued. Failure to place a non-compliant applicant on the List is subject to citation at \$5,000 per violation, and \$1,000 for each day the violation continues.

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<sup>34</sup> PG&E Informal Comments at p. 3; SCE Informal Comments at p. 5; SDG&E Informal Comments at p. 3.

An applicant who later submits a Compliance Plan that is approved by CPED shall have its suspension lifted and interconnection access reinstated within five (5) calendar days. The IOUs shall report the list of suspended applicants (if any) to CPED for publication on the CPUC website. The IOUs shall include information directing prospective solar customers and interconnection applicants to the most up to date version of the List on their interconnection portal application page, and public facing websites. The List shall clearly and conspicuously disclose to the public that listed applicants are not permitted to interconnect any residential solar rooftop systems to the IOUs' grid effective the date specified. The IOUs may take necessary actions to forewarn customers of potential delays and consequences of working with suspended providers.

An applicant shall remain on the List until they submit a Compliance Plan that is approved and/or until their interconnection access is reinstated as directed by CPED. Accepting or processing an interconnection application from a suspended applicant is subject to citation. The IOUs shall update the List at least daily as needed to prevent error, omission, delay, misreporting, and misinformation to the public. The IOUs shall report to CPED any change to the List, within 24-hours of the change. The List for each IOU territory will be available on the CPUC public website and a link to the current List shall be noticed and included within the CPUC Solar Consumer Guide. Failure to generate, maintain and report to CPED an accurate Suspended Applicant List is citable at \$5,000 per violation, and \$1,000 for each day the violation continues.

## **CITATION PROCEDURES**

### **Content**

The citation issued to an IOU 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 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, and to request a transcript; and,
6. The Notice of Appeal form.

### **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.

Unless otherwise specified, a requirement to notify CPED or to serve CPED means to send a written communication by 1) United States Postal Service mail or an express mail service to the address specified in the citation and 2) by transmitting by email to the signatory of the citation and the Director of CPED. **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 pursuant to Resolution UEB-004." A copy shall be contemporaneously sent to CPED as described above.

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(s). 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 the draft Resolution is available for public comment at the CPUC's website [www.cpuc.ca.gov/](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 (SEIA), 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), Pacific Gas and Electric Company (PG&E), referred to as the Joint IOUs. The Joint IOUs also filed a Petition for Modification (PFM) of D.20-02-011 on May 18, 2020. Replies were filed by SEIA and the Joint IOUs (including SDG&E) on May 26, 2020.

All comments were read and reviewed, and to the extent that they were accepted this Resolution was amended to incorporate those comments; to the extent that they were seen as outside the scope of the changes to the citation program, they have been denied. Reply comments further discussed the same issues, so they were not addressed separately.

### CLICC Comments

CLICC supports Draft Resolution UEB-004 including the penalty provisions.<sup>35</sup> CLICC proposes that the Commission enhance the citation program by lowering the threshold of allowable monthly non-compliant applications for providers with the largest shares of the residential market, and to limit the number of months that an applicant can submit an excessive number of non-compliant applications to five (5) in a twelve (12) month period, at which point the IOU would automatically suspend the applicant for three months, without direction from CPED.<sup>36</sup>

We recognize CLICC's concern that larger providers with greater market access have greater potential for fraudulent activities.<sup>37</sup> Future analysis of market data will determine if a more tailored enforcement approach is warranted. Therefore, at this time we decline to adopt CLICC's recommendation and maintain the threshold to be applied to all participants uniformly. We also

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<sup>35</sup> CLICC opening comments at p. 2.

<sup>36</sup> CLICC opening comments at p.7.

<sup>37</sup> Id. at p.7.

decline to adopt CLICC's proposal for automatic suspensions<sup>38</sup> and maintain notice provisions in the program to provide applicants fair warning and opportunity to comply with the Commission's consumer protection requirements.

CLICC further proposes that we address the self-applicant loophole.<sup>39</sup> The purported loophole occurs when the IOUs permit an applicant to skip the consumer protection requirements by selecting a "self-applicant" checkbox at the start of the interconnection application process. Checking "self-applicant" bypasses the consumer protection measures required by the Commission based on the presumption that the "self-applicant" is the actual customer. CPED's review of the IOU interconnection application audit results uncovered that applicants are selecting the "self-applicant" option to bypass consumer protection requirements.<sup>40</sup> We recognize that some providers may use the "self-applicant" loophole to side step the consumer protection requirements to evade suspension.<sup>41</sup> Therefore, we adopt CLICC's recommendation, and in Revision 1 required that the IOUs group high application noncompliance rates by self-applicants, as a category, and report this to CPED in monthly reports.

CLICC additionally recommends that the Commission use the fines collected to fund customer restitution. All penalties collected from CPUC enforcement activities are directed to the General Fund pursuant to P.U. Code Section 2104.

### SEIA Opening Comments and Replies

SEIA filed comments and replies opposing the Draft Resolution and urged the Commission to "eliminate" the Solar Transaction Record (STR) and requirements to suspend interconnection privileges for non-compliant providers.<sup>42</sup> SEIA's main position is that the citation program exceeds the

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<sup>38</sup> CLICC opening comments at p.8.

<sup>39</sup> Id.

<sup>40</sup> IOU interconnection application spot audit results reported to ED on May 29, 2020, pursuant to D.18-09-044 OP 10.

<sup>41</sup> Id.

<sup>42</sup> SEIA comments at p.2.

parameters set by the NEM Decisions because the STR and monthly reporting measure “veers dramatically” from the requirements of D.20-02-011.<sup>43</sup>

SEIA argued the Draft Resolution does not point to “any statutory authority or directive in the Decisions” justifying the regular monitoring of interconnection applications, or monthly reports to the CPED.<sup>44</sup> We disagree. The Commission has broad authority to establish programs within its jurisdiction and directed CPED to develop a citation program that enforces the consumer protection requirements of the NEM Decisions. The STR collates relevant information to allow CPED to investigate and act on violations of the NEM Decisions and as such, is appropriately incorporated in this Citation program.

SEIA then argues that IOU review of interconnection applications is confined to spot audits.<sup>45</sup> We disagree. The NEM Decisions do not confine review of interconnection applications to the monthly spot audits. In fact, the NEM Decisions require the IOUs to “track and store,” the consumer protection documents as they come in to their interconnection portals.<sup>46</sup> The directives to “track and store” necessitates that during the application stage when the consumer protection documents are submitted to the IOUs, they are initially reviewed by the IOU to confirm receipt. IOU visual observation of the documents submitted, and confirmation that the required documents are received, are the bare minimum tasks sufficient to meet the “tracking” directive in the NEM Decisions. Therefore, review of the consumer protection documents attached to the IOU interconnection applications is not solely confined to IOU spot audits, although, the “track and store” review standard directed during the application process is not as thorough as the “manual review” directed for the IOU spot audits.<sup>47</sup>

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<sup>43</sup> SEIA comments at p.2.

<sup>44</sup> SEIA comments at p.3.

<sup>45</sup> Id.

<sup>46</sup> D.18-09-044 at p.32 and OP3.

<sup>47</sup> Id at OP3.



As stated above, we agree with SEIA (and other parties on this point) that validation<sup>48</sup> of each document uploaded to the IOU interconnection portal was not anticipated by the NEM Decisions as part of the “track and store” requirement. Therefore, Revision 1 clarified that citations will be issued to the IOU when the STR for the interconnection application is deemed incomplete because it fails to contain the required consumer protection documents listed in Appendix A, or contains an incorrect document in place of the required consumer protection document (i.e., a cat picture).

SEIA further argues that the Draft Resolution must be modified to correct alleged “errors” regarding the inclusion of financial information and attestations required by the NEM Decisions in the STR.<sup>49</sup> We disagree. No such errors exist. The items contested by SEIA, namely, equipment verifications,<sup>50</sup> e-signature attestations and audit trail attachments,<sup>51</sup> and financial disclosures,<sup>52</sup> are all required by the IOUs interconnection applications according to the NEM Decisions.

Finally, SEIA argues that the Commission lacks jurisdiction to suspend solar applicant’s access to the interconnection portal via the citation program and to do so implicates the due process rights of solar providers.<sup>53</sup> We disagree.

The Commission has independent authority to request and collect information from IOUs.<sup>54</sup> Additionally, under P.U. Code section 761, the Commission has broad authority to adopt rules affecting IOU services, and the provision of access to utility infrastructure, including the interconnection grid.<sup>55</sup> This authority is firmly rooted in the Commission’s legislative mandate to

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<sup>48</sup> SEIA comments p.3.

<sup>49</sup> SEIA comments p.3-5.

<sup>50</sup> D.16-01-044 at p.101, CL 27, OP 13; and D.18-09-044 at OP 3.

<sup>51</sup> D.18-09-044 at OP 4; also D.20-02-011 at p.9-11, OPs 2-4.

<sup>52</sup> D.20-02-011 at. 17-19, 22, and OP 8.

<sup>53</sup> SEIA comments p.5-9.

<sup>54</sup> See Public Utilities (P.U.) Code Sections 313, which states “ The commission may require, by order served on any public utility, the production within this State at such time and place as it designates, of any books, accounts, papers, or records kept by the public utility in any office or place without this State, or, at its option, verified copies in lieu thereof, so that an examination thereof may be made by the commission or under its direction.”.

<sup>55</sup> P.U. Code sections 313-314, and 761.

oversee all matters related to public utilities and the provision of utility services to utility customers under the California constitution.<sup>56</sup>

Further, pursuant to its enforcement authority and consumer protection mandate,<sup>57</sup> the Commission is within its jurisdiction to implement rules that suspend interconnection access to any participant who violates its rules and orders established to protect consumers and ensure reliability of IOU services.<sup>58</sup> More directly, the Commission is charged to “prescribe such reasonable terms, conditions, and requirements as it deems appropriate” for interconnection.<sup>59</sup> While P.U. Code section 218.3(c) excludes oversight of solar provider business affairs, it does not exempt solar providers from enforcement of the Commission’s orders and rules affecting the business of public utilities.<sup>60</sup> The conditions of access to the IOUs interconnection grid are set by the Commission.<sup>61</sup> and it has not recognized a solar providers business related right to access the IOUs grid outside of the Commission’s oversight.<sup>62</sup>

However, to provide additional notice and opportunity for applicants to comply prior to any actual suspension of interconnection privileges, Revision 1 requires the IOUs issue a Suspension Warning Notice in which the applicant will be afforded ten (10) days to submit a Compliance Plan, and a subsequent Notice of Suspension five (5) days prior to suspension of interconnection access. Additionally, submission of Compliance Plan may prevent any actual suspension if submitted within the ten (10) day period and pending customers would still be permitted to interconnect. These revisions provide ample notice and opportunity to the applicant to comply with the measures adopted herein.

### CALSSA Comments

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<sup>56</sup> Cal. Const. art. XII, Section 6. P.U. Code section sections 2101, and 761, 762.

<sup>57</sup> P.U. Code section 762.

<sup>58</sup> P.U. Code section 2101, 761 and 762.

<sup>59</sup> P.U. Code section 2812.5.

<sup>60</sup> P.U. Code section 2101.

<sup>61</sup> P.U. Code section 2812.5,

<sup>62</sup> We note here that if any such right is assigned, it would be owned by the energy producing utility customer requesting interconnection affecting their utility service, and not the business selling the solar rooftop system. See P.U. Code section 2811.

CALSSA filed comments opposing the draft Resolution and repeating many of the arguments asserted by SEIA regarding their interpretation of the NEM Decisions and jurisdiction limits and seeking to remove the suspension and Suspended Applicants List requirements. Responses to those arguments are addressed in our response to SEIA's comments.

Additionally, CALSSA alleges the interconnection applicant suspension requirement infringes on federal law based on CALSSA's interpretation that federal rules implementing the Public Utility Regulatory Policies Act of 1978 (PURPA), grants solar providers a right to interconnect to the IOUs interconnection grid.<sup>63</sup> We disagree. Contrary to CALSSA's interpretation, PURPA does not limit the Commission's authority to set the terms and conditions of interconnection to the IOU grid.

CALSSA also argues that collection of financial data for solar transactions implicates customer privacy concerns.<sup>64</sup> We agree, and note that the IOU's tariffs, and our previous decisions contain extensive rules on how sensitive utility customer data is managed to protect customers and prevent privacy breaches.<sup>65</sup> Further, the required information is currently collected by applicants as part of the solar transaction, and applicants consent to disclose such information to the IOUs via the interconnection application process.

Finally, CALSSA recommends adoption of several measures to expand the IOU spot audits in lieu of the citation program proposed in the draft Resolution. As discussed above, CALSSA's proposed expansion of IOU spot audits is not adopted here because the proposal relies on the flawed "collect and transmit" interpretation of D.18-09-044's "track and store" requirements. Additionally, as stated above the added scrutiny from the spot audit does not provide adequate deterrence to noncompliant applicants compared to the threat of suspension from noncompliance built into the proposed citation program. CPED agrees the

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<sup>63</sup> CALSSA opening comments at p.6.

<sup>64</sup> CALSSA opening comments at p.12-13.

<sup>65</sup> See D1107056, Attachment B, <https://docs.cpuc.ca.gov/PublishedDocs/PUBLISHED/GRAPHICS/140370.PDF>, accessed 6/15/2020.

expansion of the spot audit program could further support the CPUC's consumer protection goals, but not in lieu of the proposed citation program.

## IOU Comments

### **IOU Comments on Draft Resolution**

SDG&E filed opening comments arguing that the citation program necessitates manual review<sup>66</sup> of each interconnection application and will result in significant costs, and delays in the interconnection process, and customer harm.<sup>67</sup> PG&E and SCE opening comments repeat these arguments,<sup>68</sup> and add that the CPUC should modify the Draft Resolution 1) to accurately reflect D.20-02-011's intended scope and take into account the realities of the interconnection application process, 2) to adjust fines for recordkeeping violations without safety implications, and again 3) to provide a reasonable cost recovery mechanism.<sup>69</sup>

We recognize compliance with the NEM Decision's will necessitate incremental efforts by the IOUs. As indicated above, we agree that manual review and verification of every interconnection application is not intended, and changes in Revision 1 clarify the IOU's obligations to "track and store" the required documents as facilitated by the STR.<sup>70</sup> These changes should alleviate IOU concerns regarding delays and more clearly reflect the IOUs existing interconnection application processes, because the citation program does not necessitate manual audit of the consumer protection documents during the IOUs application process. We further revised the monthly reporting requirement to a quarterly requirement in response to the IOUs' concerns regarding additional compliance efforts. Given the transition to online delivery of the STR, Revision 1 also removes penalties for manual bookkeeping and delivery violations.

We disagree with the IOUs assertions that the suspension procedures in the citation program result in customer harm. Suspensions for noncompliance

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<sup>66</sup> SDG&E opening comments at p.4.

<sup>67</sup> SDG&E opening comments at p.4-5.

<sup>68</sup> SCE & PG&E joint opening comments at p.7-10, and p.13.

<sup>69</sup> SCE & PG&E opening comments at p.2, and again at p.13.

<sup>70</sup> D.18-09-044 at p.32 and OP3.

only affect *future* interconnection applications contracted and submitted after at least 10 days of the suspension date, and even so, only after ample opportunity for corrective actions. Existing applications prior to the suspension event are not withheld or restricted. This procedure in fact prevents customer harm by detecting and suspending bad actors before additional customers are harmed in subsequent transactions.

The IOUs further argue that the citation program places the IOUs in an undue enforcement role and reflects a misapprehension of the interconnection process because it will result in disproportionate impacts to installers rather than solar providers. As to the interconnection application process, we appreciate that the parties interacting on behalf of the customer are varied. In many instances, solar installers, providers, and salespersons are interrelated and connected to the solar transaction chain in various degrees.

However, the NEM Decisions direct the IOUs to collect these essential consumer protections documents from the applicant, regardless of the applicant's role in the transaction, and the applicant must submit this information to interconnect. Interconnection is an essential component of the solar transaction chain, and the IOUs are gatekeepers of their interconnection portals. Therefore, the IOUs are suitably positioned to enforce the CPUC's consumer protection standards for access to the grid. While the IOUs will be responsible for communicating with applicants, Revision 2 further accounts for these concerns by clarifying that all suspensions, suspension warning notices, and suspension notices to applicants resulting from applicant noncompliance are at the direction of CPED.

The NEM Citation program protects consumers by ensuring they receive the necessary disclosures to avoid fraudulent solar sales that can be significantly costly and harmful. Further, the program provides the CPUC necessary information to coordinate with other regulatory agencies (CSLB, DBO) to deter and prosecute solar fraud. The incremental impact on interconnection applications is reasonable considering the substantial benefit to solar customers who are protected from these costly fraudulent transactions.

### IOU Estimated Compliance Costs

In comments on the draft Resolution the IOUs raised arguments regarding additional costs due to the NEM Citation program. Subsequently, the IOUs submitted unverified estimates of onetime combined costs averaging \$307,566 per IOU to implement the online STR portal, and averaged annual compliance costs of \$1,142,139, per IOU. (See Table) In estimating these costs, the IOUs comingled costs associated with the implementation of activities previously ordered in the NEM Decisions. As such, these estimates do not accurately represent costs solely resulting from this Resolution.

#### IOU Estimated NEM Citation Program Compliance Costs\*

IOU	Annual Estimated Compliance Costs <sup>71</sup>	Estimated Onetime IT Costs for Online STR
PG&E	\$1,385,688	\$710,500
SCE	\$940,730	\$100,000
SDG&E	\$1,100,000	\$112,200
<b>Totals:</b>	\$3,426,418.00	\$922,700.00
<b>Average:</b>	<b>\$1,142,139</b>	<b>\$307,566</b>

\*Costs estimated by IOUs include comingled costs for other NEM Decision directives.

This Resolution does not award costs. To the extent that the IOUs seek recovery of costs associated with the activities directed in this Resolution, such costs must be itemized separately from costs incurred for other activities in compliance with the NEM Decision directives. Costs regarding the IOUs obligation to “track and store” the required consumer protection documents are not within the scope of the citation program, as this requirement was ordered in D.18-09-044, and not in this Resolution.<sup>72</sup> The IOUs may seek recovery of incremental costs incurred from the NEM Citation program in their General Rate Case (GRC) filings in line with existing interconnection costs.

<sup>71</sup> IOUs response to ED Data Request UEB-004-01 seeking cost data, dated June 29, 2020, replies on July 10, 2020.

<sup>72</sup> D.18-09-044 at Conclusion of Law (CL) 12, and p.41 acknowledges administrative costs to the IOUs for fulfilment of the consumer protection measures adopted in that Decision..

### **Joint IOU Petition for Modification Comments**

In addition to comments on the draft Resolution, the Joint IOUs filed a PFM of D.20-02-011, to recall the citation program on procedural grounds, in favor of IOU spot audits and a solar applicant registration program. As indicated above, these issues (procedural, spot audits, and registration program) raised in comments on the draft Resolution are deferred to the CPUC's response on the Joint IOUs PFM.

#### **THEREFORE, IT IS ORDERED that:**

1. The NEM Interconnection Citation Program described above is hereby adopted.
2. The IOUs may seek recovery of costs associated with the NEM Citation program in their General Rate Case (GRC) filings in line with existing interconnection costs, and shall itemize costs incurred for compliance with this Citation program separately from costs incurred from compliance with directives in D.16-01-044, D.18-09-044, and D.20-02-011.
3. This Resolution is effective 120 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 October 22, 2020, the following Commissioners voting favorably thereon:

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/s/ RACHEL PETERSON  
Acting Executive Director

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

**Section 1. Transaction Summary**

Utility (IOU):

Application Number:

Applicant Name:

Applicant Type:

(contractor, installer, solar company, etc.)

Applicant CSLB License No.:

Application HIS License No.:

(if applicable)

Date Application Submitted:

Date Application Completed:

Application Status:

(Approved/Denied)

Status Date:

**Section 2: NEM Solar Equipment Certifications*****NEM Solar Equipment Certifications and Attestations Pursuant to D.16-01-044.***

The utilities shall include in the STR an itemized list of the date and time these equipment certifications were provided by the applicant, including any technical deviations:

A. Certification that the components of the attached solar photovoltaic (PV) system are on the verified equipment list maintained by the California Energy Commission (CEC).<sup>73</sup>

B. Certification that the equipment and components to be interconnected, other than what is listed on the CEC verified equipment list, is verified as having safety certification by the NRTL according to the requirements of D.16-01-044.<sup>74</sup>

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<sup>73</sup> D.16-01-044 at p.101, and Conclusion of Law (CL) 27.

<sup>74</sup> Id. at CL 27.



C. Certification or documentation that a warranty of at least 10 years has been provided on all equipment and its installation.<sup>75</sup>

### **Section 3: CPUC Solar Consumer Guide**

#### ***CPUC Solar Consumer Guide Signature Pages pursuant to D.18-09-044.***<sup>76</sup>

The STR shall include a complete copy of the uploaded Solar Consumer Guide pursuant to D.18-09-044. The Consumer Guide incorporates the customer signature pages containing NEM customer attestations that are signed by the customer as required under D.18-09-044 and D.20-02-011.<sup>77</sup> For customers who opt to sign the CPUC Solar Consumer Guide 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.<sup>78</sup>

### **Section 4: CSLB Solar Energy System Disclosure Document**

#### ***CLSB Licensee Verifications and Disclosure Documents pursuant to D.18-09-044.***<sup>79</sup>

The STR shall include a complete copy of the uploaded CLSB Solar Energy System Disclosure Document signed by the customer pursuant to D.18-09-044.

### **Section 5: Solar Purchase Contract**

#### ***Solar Purchase Contract Pursuant to D.18-09-044 and D.20-02-011.***<sup>80</sup>

The STR shall include a copy of the solar installation and purchase contract, incorporating the terms of agreement governing the sale of the solar rooftop PV system to the interconnection customer.

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<sup>75</sup> Id. at p. 101 and OP 13.

<sup>76</sup> D.18-09-044 at OP 3.

<sup>77</sup> As of September 30, 2020, the latest revision of the CPUC Solar Consumer Guide incorporates all the customer attestations and certifications required in D.20-02-011 ordering paragraphs (OPs) 2-3. In the event that the guide is modified to exclude any of these attestations, the IOUs will be required to include the separately uploaded attestations into the STR, and failure to do so will be a citable violation commensurate with failing to include a copy of the most updated version of the Consumer Guide.

<sup>78</sup> D.20-02-011 at OP 2.

<sup>79</sup> D.18-09-044 at OP 4.

<sup>80</sup> D.18-09-044 at p. 3, OP 12, and D.20-02-011 at p. 15

**Section 6: Solar Transaction Financial Disclosures*****Solar Transaction Financial Disclosures Pursuant to D.20-02-011.***<sup>81</sup>

- (1) The IOUs shall clearly indicate in the STR whether the solar interconnection application is financed by Property Assessed Clean Energy (PACE) loans.<sup>82</sup> The STR shall include a page(s) indicating:
  - (a) Is the project PACE financed? Yes/No.
  - (b) If the project is PACE financed, then the STR shall indicate the name, address, and DBO license numbers for the PACE Program Administrators financing the solar unit that are listed in the interconnection application; and,
  - (c) The name, address, and DBO license number for all PACE solicitors associated with the transaction that are listed on the application.
  - (d) This requirement is waived if the PACE-financed residential solar PV system is not financed by a DBO licensed PACE administrator. However, the IOUs are required to include the name and address of the unlicensed third-party PACE financier for the unit.<sup>83</sup>
- (2) For interconnection applications not financed by PACE, IOUs are directed to include in the STR the name(s) of all institution(s) financing the solar transaction.
- (3) 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.<sup>84</sup>

The IOUs shall include in the STR a copy of any additional contracts, checks, finance contracts, and bank statements provided by the applicant.

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<sup>81</sup> D.20-02-011 at p. 15, and OP 8.

<sup>82</sup> D.20-02-011 at. 17-19, 22, and OP 8.

<sup>83</sup> Id.

<sup>84</sup> D.20-02-011 at p.15-16.