

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

**Agenda ID#23860
RESOLUTION E-5425
December 4, 2025**

R E S O L U T I O N

Resolution E-5425. Pacific Gas and Electric Advice Letter 7606-E and San Diego Gas & Electric Advice Letter 4664-E: Public Utility Regulatory Policies Act compliant tariffs for customer-generators' facilities with a prevailing wage violation pursuant to Decision 23-11-068 and Public Utilities Code §769.2.

PROPOSED OUTCOME:

- Approves with modifications, Pacific Gas and Electric (PG&E) Advice Letter 7606-E and San Diego Gas & Electric Advice Letter 4664-E proposing the Public Utilities Regulatory Policies Act (PURPA) compliant tariffs directed in Decision 23-11-068 and Public Utilities Codes §769.2.
- Directs SCE to file a Tier 1 Advice Letter to update its PURPA compliant tariff to be in alignment with this Resolution's guidance and ensure consistency amongst the tariffs and avoid customer confusion.

SAFETY CONSIDERATIONS:

- There are no safety considerations associated with this resolution.

ESTIMATED COST:

- There are no costs associated with this resolution.

By PG&E Advice Letter 7606-E and SDG&E Advice Letter 4664-E, filed on May 23, 2025.

SUMMARY

This Resolution approves a change to the terms directed by Decision (D.) 23-11-068 for the eligibility criteria of the new Public Utilities Regulatory Policies Act (PURPA) compliant tariff within Pacific Gas and Electric (PG&E) Advice Letter (AL) 7606-E,

submitted on May 23, 2025, and San Diego Gas & Electric Advice Letter AL 4664-E, submitted on May 27, 2025. The PURPA compliant tariffs, whose basis for pricing relies on D.20-05-006, are now limited to generation facilities with a capacity limit of 20 megawatts (MW) each.

BACKGROUND

This Resolution approves Pacific Gas and Electric (PG&E) advice letter (AL) 7606-E and San Diego Gas & Electric (SDG&E) AL 4664-E to establish new tariffs directed out of Decision (D.) 23-11-068, which implements Public Utilities Code (PUC) section 769.2. Consistent with federal law, these tariffs will now specifically include a term for a system capacity limit of 20 megawatts (MW).

AB 2143 (Carrillo, 2022) added PUC 769.2 which requires certain customers seeking to access the customer generation tariffs developed pursuant to PUC 2827 and 2827.1 (known as the Net Energy Metering tariffs or NEM and the Net Billing tariffs or NBT) to pay their workers and apprentices prevailing wages and comply with the Labor Code for public works. Should a contractor fail to comply with the law, then that customer's renewable energy generation facility loses access to its tariffs if approved pursuant to PUC 2827 and 2827.1. D.23-11-068, issued on November 16, 2023, recognized that such renewable energy generation facilities (REGFs) are permitted to remain interconnected to the distribution grid and export available energy, and in doing so would be considered a qualifying facility under the federal Public Utilities Regulatory Policy Act of 1978 (PURPA) and should transition to a PURPA compliant export tariff.

Additionally, D.23-11-068 found that the Commission should address the split incentive created by the law whereby the customer is penalized for wage violations that the customer cannot cure. To rectify these issues, D.23-11-068 directed the large electric utilities (PG&E, SDG&E, and Southern California Edison also referred to as SCE) to create a PURPA compliant tariff based on the standard offer contract for qualifying facilities authorized in D.20-05-006. Conclusions of Law 104 and 105 of D.23-11-068 explain that PURPA "generally requires that a utility must take the energy of a qualifying facility" and that "the Commission should require Utilities to develop a PURPA compliant compensated export tariff using the pricing established in D.20-05-006 for a generation facility associated with a PUC 769.2 violation."

In the event of a willful violation determination, the impacted REGF would automatically transfer to a tariff using the pricing established in D.20-05-006 per D.23-11-068 Ordering Paragraph (OP) 39.

The Decision had these requirements for the development of a PURPA compliant customer-generation export tariff:

1. Tariff is only available to customers with prior access to or a system eligible for the net energy metering or the net billing tariffs.¹
2. Tariff will use the pricing established in D.20-05-006.²
3. Tariff will include alternatives to address customers with virtual arrangements.³
4. Tariff will address when one Generation Facility in an arrangement has a violation, and others do not.⁴
5. Tariff language should have uniformity amongst Utilities to the extent possible.⁵
6. Tariff will be accessed automatically after 1) Department of Industrial Relation (DIR) has confirmed the violation of the facility to the Utility and 2) Utility has met its obligation to notice the impacted customer(s).⁶
7. Tariff cannot carry-over benefits (like export compensation or energy offsets).⁷
8. Tariff will not adjust the interconnection agreement nor necessitate new equipment or engineering review.⁸

D.23-11-068 did not discuss or reach a determination on a capacity size limit or cap for eligible or participating REGFs allowed onto this new tariff. Historically, the NEM tariffs had a 1 MW capacity limit until PUC 2827.1 was amended by AB 327 (Perea, 2013) to add PUC 2827.1(b)(5) stating *“Allow projects greater than one megawatt that do not have significant impact on the distribution grid to be built to the size of the onsite load if the projects with a capacity of more than one megawatt are subject to reasonable interconnection charges established pursuant to the commission’s Electric Rule 21 and applicable state and*

¹ D.23-11-068 Ordering Paragraph 39

² IBID

³ IBID

⁴ IBID at page 190

⁵ IBID at page 195

⁶ IBID at page 189

⁷ IBID at page 193

⁸ IBID at page 187

federal requirements." This statute was implemented by D.16-01-044.⁹ When adopting the net billing tariffs in D.22-12-056 and D.23-11-068, the Commission did not address energy generation capacity limits (in MW).

To be compliant with PURPA and the implementation of that federal law by the Federal Energy Regulatory Commission in *Order Granting Application to Terminate Purchase Obligation*, 135 F.E.R.C. ¶ 61,234, paragraph 2 (2011), the power production capacity of a qualifying facility compensated under a must take obligation cannot exceed 20 MW in California. When discussing the successor to the NEM Fuel Cell tariff the Commission did recognize in D.23-11-068 that the D.20-05-006 standard offer contract was designed for small generating facilities with a capacity of 20 MW or less.¹⁰

Prior to the submission of PG&E AL 7606-E and SDG&E AL 4664-E, both PG&E and SDG&E timely filed proposed PURPA compliant tariffs in AL 7179-E-A and AL 4395-E/E-A, respectively. Each included, as part of the proposed tariff, a limit of 20 MW for an eligible REGF. Neither D.23-11-068 OP 39 nor the body of the Decision directed a capacity limit as part of the tariff. Both ALs were rejected by Energy Division pursuant to General Orders 96-B Sections 5.1 and 7.6 as the request exceeded the technical matters allowable for review under a Tier 2 advice letter.¹¹ Energy Division determined at that time that the matter of adding a 20 MW capacity limit was

⁹ Decision 16-01-044 states "*Section 2871.1(b)(5) has no limitation on the size of generation facility that can be eligible for the NEM successor tariff. In view of this open-ended authorization, it is reasonable to allow systems of any size to participate, so long as they meet the statutory requirement of having "no significant impact on the distribution grid." This can be accomplished by requiring that systems over 1 MW pay all interconnection costs under Rule 21, which will both cover the IOUs' costs and ensure that the projects themselves will meet the statutory requirement.*" at page 95

¹⁰ D.23-11-068 Section 3.3.5.7 "NEMFC Tariff: Related Proposals" at page 141 and Findings of Fact Number 93

¹¹ Energy Division Letter of Rejection to Pacific Gas and Electric regarding AL 7179-E/E-A, dated April 24, 2025 and Energy Division Letter of Rejection to San Diego Gas & Electric regarding AL 4395-E/E-A, dated April 24, 2025

appropriate to a formal proceeding, not the advice letter process given that the proposed limit of 20 MW had not been ordered by D.23-11-068.^{12,13,14}

PG&E and SDG&E were provided an opportunity at that time to make a motion within the relevant proceeding (Rulemaking R.20-08-020) or, should they disagree with the formal proceeding element, resubmit their original advice letters with a Tier 3 designation.

Following the rejection of AL 7179-E-A, PG&E submitted AL 7606-E on May 23, 2025, seeking approval of its proposed PURPA compliant compensated export tariff that followed D.23-11-068. The AL cover letter described PG&E's preference to expand on the eligibility requirements set by D.23-11-068 by adding a generation facility limit of 20 MW based on the utility's "must-take" obligation for qualified facilities under PURPA. PG&E's AL also asserts that the staff rejection of AL 7179-E-A was incorrect and erred in its legal reasoning.¹⁵

Subsequently, SDG&E submitted AL 4664-E on May 27, 2025, with its proposed PURPA compliant compensated export tariff and removed the 20 MW capacity limit. SDG&E states an opinion in its cover letter that a 20 MW capacity matches the pricing scheme established by D.20-05-006 and that SDG&E submitted its AL under protest.¹⁶

Neither PG&E's AL 7606-E or SDG&E AL 4664-E were protested.

In its review of PG&E AL 7606-E and SDG&E AL 4664-E, the Commission finds that the proposed PURPA compliant compensated export tariff comports with D.23-11-068. However, we understand from the cover letters that each utilities' opinion is that a capacity limit of 20 MW per REGF should be included.

¹² Energy Division Letter of Rejection to Pacific Gas and Electric, dated April 24, 2025, stated " *The AL is rejected without prejudice per General Order (GO) 96-B Section 5.1 'Matters Appropriate to Advice Letters', as it poses a request to amend a Decision Order(s), that could only be considered in a formal proceeding*" and " *Energy Division must also reject this AL pursuant to GO 96-B Section 7.6, which requires the reviewing industry to reject if there are clear inconsistencies with statute or Commission order.*"

¹³ Energy Division Letter of Rejection to San Diego Gas & Electric, dated April 24, 2025, stated " *In addition to GO 96-B Section 5.1, Energy Division rejects this AL per GO Section 7.6 which requires the reviewing industry to reject if there are clear inconsistencies with statute or Commission order.*"

¹⁴ General Order 96-B Section 5.3 "Whenever the reviewing Industry Division determines that the relief requested or the issues raised by an advice letter require an evidentiary hearing, or otherwise require review in a formal proceeding, the Industry Division will reject the advice letter without prejudice."

¹⁵ PG&E AL 7606-E at 4

¹⁶ SDG&E AL 4664-E at 2

The policy matter at hand, whether to add a 20 MW capacity limit, is a specific and discrete issue. Accordingly, we determine that the advice letters can be processed with a Tier 3 designation satisfying General Order 96-B Section 5.3 parts (1) and (2). Energy Division is authorized under General Order 96-B Industry Rule 7 to determine whether the utilities' designation as a Tier 2 is erroneous, which is confirmed. The tier designation is now adjusted to a Tier 3, which requires a resolution to be considered for approval by the Commission.

NOTICE

Notice of PG&E AL 7606-E and SDG&E AL 4664-E was made by publication in the Commission's Daily Calendar on May 30, 2025. PG&E and SDG&E each state in their Advice Letter (AL) filings that a copy of the AL was mailed and distributed in accordance with Section 4 of General Order 96-B.

DISCUSSION

As outlined above, Pacific Gas and Electric (PG&E) advice letter (AL) 7606-E and San Diego Gas & Electric (SDG&E) AL 4664-E submittals seek to include a 20 megawatt (MW) cap for the proposed Public Utilities Regulatory Policies Act (PURPA) compliant tariffs that were directed out of D.23-11-068. Both utilities state that D.23-11-068 intended to include a 20 MW capacity limit for the PURPA compliant tariffs and must do so to comply with PURPA.

After an examination of the issue, we have determined that both PG&E and SDG&E err in their assumptions that D.23-11-068 directed, or intended to direct, a capacity limit for the PURPA compliant tariff. We also find that D.23-11-068 was not out of alignment with state and federal laws by not implementing a capacity limit in its directed PURPA compliant tariff. D.23-11-068 directed that for those REGFs with a willful wage violation, the PURPA compliant tariff must enroll that NEM or NBT eligible customers' generation facility onto the PURPA compliant tariff without further review or equipment changes.¹⁷ The NEM and NBT tariffs follow PUC 2827.1 to limit generation capacity based on the customer's onsite load, not the generation facility's capacity. Capacity limits were explicitly lifted by PUC 2827.1(b)(5), but PUC 2827.1(b)(5) specifically provides that projects with a capacity of more than one megawatt are subject to federal requirements.

¹⁷ D.23-11-068 at 187

In response to PG&E AL 7606-E and SDG&E AL 4664-E, however, the Commission can consider this new matter of a capacity limit for the PURPA compliant compensated export tariff to ensure there are no conflicts between state and federal law and support customers' understanding of the PURPA compliant export tariff directed by D.23-11-068.

Prior to accessing the NEM or NBT tariffs, the utilities and customers follow Rule 21 to assess interconnection requests. Rule 21 defines small generating facilities as those with a capacity of 20 MW or less, and large generating facilities as those with a capacity of more than 20 MW. Rule 21 separates NEM/NBT facilities that are greater than 1 MW with different interconnection requirements. D.16-01-044 found that Rule 21 was sufficient to ensure that customer-owned generation facilities would not exceed PUC 2827.1(b)(5)'s requirement to not have a significant impact on the distribution grid. Without information to the contrary, we conclude that Rule 21 continues to work as intended to achieve the direction of PUC 2827.1(b)(5) including adherence to federal statute.

Considering the utilities' concerns outlined in their ALs, and a preference for caution, we do adopt the requirement of an additional term stating there is a 20 MW capacity limit for a REGF in each large electric utility's individual PURPA compliant tariffs. Adopting this term avoids confusion and limits risk from solely relying on the NEM/NBT interconnection process for facilities that transition later from treatment as a customer-serving generation to a qualified facility.

We also require that Southern California Edison (SCE) revise its PURPA compliant compensated export tariff (previously approved in AL 5230-E-A) via a Tier 1 AL to match this Resolution's direction to include a 20 MW capacity limit for a single generating facility to have consistency amongst the PURPA compliant tariffs, to avoid customer confusion, and to provide the same safeguard in all the large investor-owned utility territories.

We clarify and affirm that a capacity maximum within the PURPA compliant compensated export tariff should not be interpreted as amending the NEM or NBT tariffs or adding an inverse capacity limit in conflict with PUC 2827.1(b)(5).¹⁸

¹⁸ PUC 2827.1(b)(5) expressly provides that projects with a capacity greater than 1MW are subject to applicable federal requirements. The NEM/NBT tariffs do not have a capacity limit even though the PURPA compliant tariff this criteria.

COMMENTS

This is an uncontested matter in which the resolution grants the relief requested. Accordingly, pursuant to PU Code 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

FINDINGS AND CONCLUSIONS

1. Decision (D.) 23-11-068 directed Pacific Gas and Electric (PG&E), Southern California Edison (SCE), and San Diego Gas & Electric (SDG&E) to file a tier 2 Advice Letter to establish a new tariff with pricing based on D.20-05-006 open only to customers whose generation facilities had lost access to their original customer-generation tariffs.
2. D.23-11-068 did not discuss or direct policies regarding capacity limits for such a tariff.
3. PG&E and SDG&E's advice letter submittals included a request for a 20 MW capacity limit to be added to the proposed tariffs, and that additional term could not be ministerially approved.
4. Public Utilities Code (PUC) 2827.1 lifted capacity limits for the net energy metering (NEM) and net billing (NBT) tariffs, subject to Electric Rule 21 reasonable interconnection charges and applicable state and federal requirements.
5. Rule 21 includes assessment rules to determine whether a renewable energy generation facility has a significant impact to the grid.
6. PUC 2827.1 disallows any renewable energy generation facilities with a significant grid impact from accessing NEM/NBT tariffs.
7. Federal law, the Public Utility Regulatory Policies Act (PURPA) of 1978, provides that a utility in California has a mandatory purchase obligation to purchase power from a qualifying facility with a net export capacity that does not exceed 20 MW.
8. D.20-05-006 created a standard offer contract for generation facilities that are 20 MW or less.
9. Adding a 20 MW limit per renewable energy generation facility to the PURPA compliant compensated export tariff, satisfying D.23-11-068 OP 39, is reasonable and prudent.
10. Extending the same 20 MW capacity limit per renewable energy generation facility to SCE's previously approved D.23-11-068 PURPA compliant

compensated export tariff is reasonable and creates consistency across the utility territories.

THEREFORE IT IS ORDERED THAT:

1. The federal Public Utilities Regulatory Policies Act of 1978 compliant tariff, required by D.23-11-068 Ordering Paragraph 39, shall be limited to generation facilities that are 20 megawatts or less.
2. The request of the Pacific Gas and Electric (PG&E) and San Diego Gas & Electric (SDG&E) in Advice Letters 7606-E and 4664-E is approved with modifications adopted in Ordering Paragraph 1. Within 30 days following the effective date of this resolution, PG&E and SDG&E must refile the tariff with the approved modifications made herein as a Tier 1 advice letter.
3. Within 30 days of the effective date of this Resolution, Southern California Edison must update its Public Utilities Regulatory Policies Act compliant D.23-11-068 customer-generation export tariff including the approved modifications directed in Ordering Paragraph 1 as a Tier 1 advice letter.

This Resolution is effective today.

The foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on December 4, 2025; the following Commissioners voting favorably thereon:

Commissioner Signature blocks to be added
upon adoption of the resolution

Dated December 4, 2025, at San Francisco, California .