

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

Order Instituting Rulemaking to Revisit Net Energy Metering Tariffs Pursuant to Decision D. 16-01-044, and to Address Other Issues Related to Net Energy Metering.

Rulemaking 20-08-020  
(Filed August 27, 2020)

**OPENING COMMENTS OF THE ENVIRONMENTAL WORKING GROUP ON THE  
PROPOSED DECISION REVISING NET ENERGY METERING TARIFF AND  
SUBTARIFFS**

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Date: January 7, 2022

In accord with Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”) and the December 17, 2021, Administrative Law Judge Ruling, the Environmental Working Group comments on *the Proposed Decision Revising Net Energy Metering Tariff and Subtariffs* that was issued in the above-captioned proceeding on December 13, 2021.

## I. INTRODUCTION

The Environmental Working Group (EWG) is appalled by the one-sided, utility-centric approach of the Proposed Decision (PD) to rooftop solar, its disregard for state law and California’s historic leadership role in solar energy, and its disingenuous use of “equity issues” as a utility-driven veil to gut the rooftop solar market in the state.

For example, the Grid Participation Charge (GPC) for the average residential solar customer who installs solar in 2022 would increase the cost of the average rooftop solar installation (6 kilowatts) by more than 50 percent over 20 years – inclusive of the 26 percent federal investment tax credit (ITC) and at \$3.87 per kilowatt – from \$17,183 to more than \$30,000,<sup>1</sup> erasing the benefit of the federal tax credit. The government of California would be taking nearly \$14,000 from each solar customer and handing it to PG&E and the other Investor-Owned Utilities (IOUs). This would be the death knell for rooftop solar in California.

System size (kilowatts)	System cost	System cost (with ITC)	GPC	GPC (20 years)	20-year system cost (with ITC and GPC)
6	\$23,220	\$17,183	\$8.00	\$13,780	\$30,780

Source: EWG; data derived from California Solar and Storage Association and EQResearch.

<sup>1</sup> The \$3.87 per watt cost was derived from the California Solar and Storage Association. This seemed to be a reasonable compromise between the Berkeley National Lab cost of \$3.80 per watt in 2020 and the California Distributed Generation Statistics of well over \$4.00 per watt for systems under 10 kilowatts in 2021. SaveOnEnergy estimates the cost of solar in California to be \$3 to \$5 per watt. See California Solar and Storage Association (2021, December 30), *CPUC is fabricating a lie to justify a bad NEM-3 proposal*. <https://calssa.org/blog/2021/12/30/cpuc-is-fabricating-a-lie-to-justify-a-bad-decision>; Berkeley National Lab (2021), *Tracking the sun: pricing and design trends for distributed photovoltaic systems in the United States*, <https://emp.lbl.gov/tracking-the-sun>; California Distributed Generation Statistics, <https://www.californiadgstats.ca.gov/charts/>; California Solar Panels Pricing and Incentives (2021), *SaveOnEnergy*. <https://www.saveonenergy.com/solar-energy/california/>. The fee data information is derived from EQResearch LLC (2021, December 23), *How the Proposed Decision in R.20-08-020 Compares to Current Policy and Recent Net Energy Metering Decisions in Other States* [Memorandum], [https://eq-research.com/wp-content/uploads/2021/12/CA\\_NEM\\_Memo\\_122321.pdf](https://eq-research.com/wp-content/uploads/2021/12/CA_NEM_Memo_122321.pdf).

## **II. COST EQUITY IS NOT THE INTENT OF THE PD – PROTECTION OF THE CENTRALIZED UTILITY BUSINESS MODEL IS**

The PD has nothing to do with creating cost equity between solar customers and non-solar customers. Rather, it is a mechanism to penalize solar owners and disincentivize future rooftop investments in order to protect PG&E’s and their IOU cohorts’ centralized, transmission-heavy, utility-scale power generation business model.

Other than the electric utility industry, just one environmental organization, the state and a few other parties to the proceeding, no one likes the PD, including those it is purported to help.

For instance, the Coalition for Environmental and Equity Economics is clear on the negative consequences of the Commission’s proposal for its constituency: “Our analysis suggests that the NEM-3 PD is significantly harmful to the growth of on-site solar generally and, despite CPUC rhetoric, is generally unfavorable for ESJ and working communities.”<sup>2</sup>

## **III. THE HIGH FIXED CHARGED ARGUMENT IS NOT NEW OR UNIQUE TO CALIFORNIA AND IS A TROJAN HORSE FOR SHORING UP THE CENTRALIZED UTILITY BUSINESS MODEL**

The centerpiece of PG&E’s and its IOU cohorts’ so-called NEM design is an outlandishly high fixed charge imposed on solar owners, the Grid Participation Charge. The PD follows the utility argumentation and strategy to a T by imposing the highest fixed charge on solar customers in the country. If the Commission adopts the PG&E-backed PD, California will abandon its role as the nation’s leader in advancing renewable energy policies and find itself alongside such laggard anti-ratepayer and anti-solar states as Alabama, which is hardly known for its pioneering policies embracing renewable sources of electricity.

The strategy of PG&E and its IOU cohorts’ strategy was derived from a 2013 report published by the Edison Electric Institute (EEI) entitled *Disruptive Challenges: Financial Implications and Strategic Responses to a Changing Retail Electric Business*,<sup>3</sup> in which EEI calls

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<sup>2</sup> CEEE (2021.) *Analysis of Proposed NEM 3.0 Decision* [Fact Sheet], <https://ceetruth.org/factsheet>.

<sup>3</sup> Edison Electric Institute (2013.) *Disruptive Challenges: Financial Implications and Strategic Responses to a Changing Retail Electric Business*. <http://roedel.faculty.asu.edu/PVGdocs/EEI-2013-report.pdf>.

out customer-owned solar and customer energy efficiency investments as threats to the bottom lines of investor-owned utilities:

Today, a variety of disruptive technologies are emerging that may compete with utility-provided services. Such technologies include solar photovoltaics (PV), battery storage, fuel cells, geothermal energy systems, wind, micro turbines, and electric vehicle (EV) enhanced storage. As the cost curve for these technologies improves, they could directly threaten the centralized utility model.... In addition, energy efficiency and DSM programs also promote reduced utility revenues while causing the utility to incur implementation cost (EEI, 2013, p. 3).

Net metering is referred to as “a significant potential adverse impact to utility investors...” (EEI, 2013, p. 17).

A centerpiece of the recommendations EEI proposes in the report is increasing fixed charges. Indeed, in the report’s list of “Immediate Actions,” the first priority is: “Institute a monthly customer service charge to all tariffs in all states in order to recover fixed costs and eliminate the cross-subsidy biases that are created by distributed resources and net metering, energy efficiency, and demand-side resources” (EEI, 2013, p. 18)/

Another high priority highlighted in the report was to: “Analyze revision of net metering programs in all states so that self-generated DER sales to utilities are treated as supply-side purchases at a market-derived price” (EEI, 2013, p. 18). In other words, base the export rate to the much lower wholesale rate.

Interestingly, the fear is not that working class people without solar on their rooftops would be harmed. Rather, the fear expressed by EEI was that even if utilities were enabled to recover their authorized revenue requirement through rate mechanisms like decoupling, the existing “cost-recovery structure ... may lead to stranded cost exposure” (EEI, 2013, p. 1).

This is further evidence that competition from ratepayers was the main concern and that the rationale behind high fixed charges was not the so-called cost shift but sunk costs becoming stranded. If a utility bets wrong, it should absorb the cost.<sup>4</sup> But high fixed charges relieve electric utilities of any market discipline.<sup>5</sup>

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<sup>4</sup> The Supreme Court has set parameters for the extent to which a utility can legally absorb stranded assets, based on its ability to attract financing and remain financially healthy overall, not on a single asset. See *Duquesne Light Co. v. Barasch*, 488 US 299 (1989) [*Duquesne*] <https://supreme.justia.com/cases/federal/us/488/299/>.

<sup>5</sup> See Lazar, J. (2016.) Appendix D: The specter of straight/fixed variable rate designs and the exercise of monopoly power, In Smart rate design for a smart future (pp. D-1–D-12), Regulatory

These strategies are also the centerpiece of the strategy of PG&E et al. to kill customer-owned solar in California. Utilities across the country have adopted this strategy, working to convince regulators that higher fixed charges are a necessity and that compensation for exporting power should be significantly reduced. In other words, the assault on customer-owned solar has been a utility-industry-coordinated effort from the beginning.

But it is well known by analysts that high fixed charges on residential customers hinder energy efficiency and solar investments, thus resulting in higher electric system costs over time. In other words, they send the wrong price signals, contrary to what PG&E et al. are arguing, and undermine customers' ability to control their bills.<sup>6</sup> Moreover, sound rate design principles recognize that those using the most electricity place the highest burdens on the electric system, thus should pay more. For these reasons, almost all utility costs – power plants and power lines – are recovered in the variable energy (usage or kilowatt-hours of use) charge on a monthly basis. Utilities falsely argue that low-usage customers are the problem, causing a cost shift and therefore place the greatest burden on the system.

There are rate mechanisms available to keep the utility financially whole while maintaining the proper price signals to customers, but the aim of the PD is to kill the solar market on behalf of the state's big utility companies, not to sustain that market.

Indeed – and this is the actual reason behind the assault on solar – customer solar and energy efficiency investments avoided \$2.6 billion in transmission and distribution system upgrades in California, indicating that the more rooftop and community solar is adopted, and the greater the efficiency investments, the greater the benefit to all ratepayers, because those investments result in a less costly electric system.

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Assistance Project, <https://www.raonline.org/wp-content/uploads/2016/05/appendix-d-smart-rate-design-2015-aug-31.pdf>.

<sup>6</sup> See, e.g., Whited, M., Woolf, T., Daniel, J. (2016.) *Caught in the Fix: The Problem with Fixed Charges for Electricity*, Synapse Energy Economics, Inc., <https://www.synapse-energy.com/sites/default/files/Caught-in-a-Fix.pdf>; Lazar, J., Chernick P., Willima, M. (2020.) *Electric Cost Allocation for a New Era [Manual]* Regulatory Assistance Project, <https://www.raonline.org/wp-content/uploads/2020/01/rap-lazar-chernick-marcus-lebel-electric-cost-allocation-new-era-2020-january.pdf>; Wallach, J. (2017.) *In the Matter of: Application of Duke Energy Progress, LLC for Adjustment of Rates and Charges Applicable to Electric Service in North Carolina; Docket No. E-2, Sub 1142* [Testimony], <https://starw1.ncuc.net/NCUC/ViewFile.aspx?Id=50a9dd80-97a9-4845-9898-f0c6ccd86467>.

**IV. PG&E AND ITS ALLIED IOUs AIM TO ELIMINATE THEIR GREATEST SOURCE OF COMPETITION – SOLAR AND EFFICIENCY INVESTMENTS MADE BY THEIR OWN CUSTOMERS**

Total control of energy investment patterns and the pace of change is the aim. To accomplish that, PG&E et al. must control the investment patterns of their biggest competitors – their customers – and quash that source of competition with draconian measures designed to all but eliminate savings from solar and efficiency investments that ultimately ratchet down consumer demand for those investments.

It is a certainty that the California solar market will react much like the Nevada market did when regulators imposed high fixed charges and drastically cut the export rate. Thousands of jobs were lost, and the rooftop solar industry effectively left the state.<sup>7</sup>

**V. PROMOTION OF ERRONEOUS ASSUMPTIONS HAS CLOUDED THE DEBATE: THE OPPOSITION TO THE PROPOSED DECISION OVERWHELMINGLY ECLIPSES SUPPORT FOR IT**

Another means of leveraging the CPUC's decision on this issue is influencing the public face of the debate in California. The idea that environmental organizations and working class customers, in general, are buying into the cost-shift argument and the oppressive measures being taken to ostensibly correct them is erroneous at best. There is only one environmental organization supporting the PD, in stark contrast to a growing coalition of more than 600 environmental, environmental justice, consumer interest and affordable housing organizations that are decidedly opposed to it.

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<sup>7</sup> Pyper, Julia, (June 5, 2017), Nevada legislature passes bill to restore net metering for rooftop solar. *GreenTechMedia*, <https://www.greentechmedia.com/articles/read/nevada-bill-to-restore-net-metering-for-rooftop-solar-passes-in-the-senate>.

And nearly every major newspaper in the state, including the Los Angeles Times,<sup>8</sup> San Francisco Chronicle<sup>9</sup> and Sacramento Bee,<sup>10</sup> has taken an editorial position against high fixed charges and the idea that the state's rooftop solar program is the leading cause of California's high electric bills.

## **VI. CALIFORNIA'S CUSTOMER-OWNED SOLAR PROGRAM IS NOT THE SOURCE OF HIGH ELECTRIC BILLS IN THE STATE, AS HAS BEEN SUGGESTED BY THE PROPOSED ORDER'S SUPPORTERS**

The centralized, utility business model with an overbuilt transmission system,<sup>11</sup> wildfires caused by PG&E and other utilities,<sup>12</sup> and among the highest returns on investment, in the country – for PG&E about 10.3% – are the main cause of high monthly bills for virtually every family and small business in California.<sup>13</sup>

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<sup>8</sup> The Times Editorial Board (December 6, 2021.) Don't slash incentives for California solar [Editorial], <https://www.latimes.com/opinion/story/2021-12-06/rooftop-solar-net-metering>.

<sup>9</sup> Chronicle Editorial Board (December 12, 2021.) If California is worried about energy prices, take on PG&E before gouging rooftop solar [Editorial], <https://www.sfchronicle.com/opinion/editorials/article/Editorial-If-California-is-worried-about-energy-16692616.php>.

<sup>10</sup> The Sacramento Bee Editorial Board. (December 6, 2021.) Slashing solar incentives only helps private utilities. California regulators must back down [Editorial]. <https://www.sacbee.com/article256325352.html>.

<sup>11</sup> See, e.g., Firooz, J. P.E. (2019.) A critical review of the California Independent System Operator Functions, [http://protectourcommunities.org/wp-content/uploads/2021/06/2019-01-08-J-Firooz-2nd-CAISO-Paper\\_Final-Draft.pdf](http://protectourcommunities.org/wp-content/uploads/2021/06/2019-01-08-J-Firooz-2nd-CAISO-Paper_Final-Draft.pdf); California Public Utilities Commission (2021), Utility Costs and Affordability of the Grid of the Future: An Evaluation of Utility Costs, Rates, and Equity Issues Pursuant to P.U. Code Section 913.1, <https://www.voiceofsandiego.org/wp-content/uploads/2021/02/Feb-2021-Utility-Costs-and-Affordability-of-the-Grid-of-the-Future.pdf>.

<sup>12</sup> See, e.g., Pacific Gas and Electric (2021), *2021 Wildfire Mitigation Plan – Revised Rulemaking 18-10-07*, [https://www.pge.com/pge\\_global/common/pdfs/safety/emergency-preparedness/natural-disaster/wildfires/wildfire-mitigation-plan/2021-Wildfire-Safety-Plan-Revised-060321.pdf](https://www.pge.com/pge_global/common/pdfs/safety/emergency-preparedness/natural-disaster/wildfires/wildfire-mitigation-plan/2021-Wildfire-Safety-Plan-Revised-060321.pdf).

<sup>13</sup> See California Public Utilities Commission (April 2021.) *2020 California Gas and Electric Utility Gas Report: AB 67 Annual Report to the Governor and Legislature*, <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/reports/reports-on-utility-costs/2020-ab-67-report.pdf>; Fontanella, L. (August 4, 2020.) *Electric ROE Authorizations Drift Lower in H1 '20 As Virus Worries Continue*, S&P Global Market Intelligence, <https://www.spglobal.com/marketintelligence/en/news-insights/research/electric-roe-authorizations-drift-lower-in-h1-20-as-virus-worries-continue>.

## **VII. THE DRAFT PROPOSED DECISION IS THE RESULT OF POLITICS, NOT RATIONAL THINKING**

Given EWG's review of previous testimony, surveying similar utility gambits in various jurisdictions, and PG&E's outsized influence over the regulatory process and the governor's office, we find this lopsided proposal to be politically motivated, not a serious, objective, analytical attempt to support and expand rooftop and community solar in California, including providing greater solar access to working class neighborhoods.

## **VIII. RECOMMENDATIONS**

EWG recommends that the current draft PD be withdrawn, and a more solar-equitable proposal be put forth that truly addresses the state's affordability, climate and resiliency issues and that, quite frankly, actually stimulates the solar rooftop and community solar market and comports with the intent of California law and regulations. NEM 2.0 should remain in place until rational thinking prevails.

## **IX. CONCLUSIONS**

First, adoption of the PD would have a domino effect with far-reaching negative consequences for the rooftop and community solar market nationwide. California is known as a leader on many fronts that sets the tone for positive state and federal policy. Unequivocally, California has been the nation's leader on solar policy and installations. By adopting the PD, it would keep its forerunner status, but with a trend headed in the wrong direction. Monopoly electric utilities, forever seeking ways to cripple customer-owned solar, would hold up California as the country's template for the rooftop solar market and use their significant political leverage to further curtail that market. Ultimately, in its current form, the PD would lead to slowing the energy transition and increasing its costs nationwide, undermining efforts to mitigate climate change and improve utility bill affordability.

Lastly, EWG would like to clarify that the organization has not taken any contributions for its work on the NEM 3.0 proceeding from the solar industry. Neither has EWG been compensated for intervening in this proceeding by participating in secretive procurement review groups, created by the CPUC without legislative guidance that lacks any semblance of



transparency and that influence billions of dollars in power plant investments that affect every ratepayer in the state.

Respectfully submitted,

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