

Decision 08-02-002 February 14, 2008

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking
Regarding Policies, Procedures and
Rules for California Solar Initiative, the
Self-Generation Incentive Program and
Other Distributed Generation Issues.

Rulemaking 06-03-004
(Filed March 2, 2006)

**ORDER ADDRESSING COMMUNITY CHOICE
AGGREGATION NET ENERGY METERING SERVICE OPTION**

This decision directs the electric utilities to modify their tariffs in order to provide Net Energy Metering (NEM)¹ services to Community Choice Aggregators (CCA) customer-generators.² We direct the electric utilities to allow CCA customer-generators with solar generators up to 1 megawatt (MW) and wind generators up to 50 kilowatts (kW) to receive generation credits from the

¹ Pub. Util. Code § 2827(b)(3) defines *NEM* as “measuring the difference between the electricity supplied through the electric grid and the electricity generated by an eligible customer-generator and fed back to the electric grid over a 12-month period as described in subdivision (h)...”

² Pub. Util. Code § 2827(b)(2) defines an eligible *customer generator* as a “ residential, small commercial customer as defined in subdivision (h) of Section 331, commercial, industrial, or agricultural customer of an electric service provider, who uses a solar or a wind turbine electrical generating facility, or a hybrid system of both, with a capacity of not more than one megawatt that is located on the customer's owned, leased, or rented premises, is interconnected and operates in parallel with the electric grid, and is intended primarily to offset part or all of the customer's own electrical requirements.”

CCA and transmission and distribution credits from the serving utility. In accordance with Pub. Util. Code § 2827, biogas and fuel cell generators up to 1 MW, and wind generators with a capacity of more than 50 kW up to 1 MW, will receive a generation credit only, from the CCA.

Background

NEM is a service currently offered to utility customers that have installed solar, wind power, biogas and fuel cell generation systems of up to 1 MW. These “customer-generators” receive credit for the electricity produced by their respective distributed generation systems net of the electricity consumed by these same customers.³ For solar generators up to 1 MW and wind generators up to 50 kW, the credit provided by the utility for customer-generators equals the bundled retail price of power.³ “Bundled” service includes transmission, distribution and all other energy-related charges of the customer-generator’s otherwise applicable schedule. Biogas and fuel cell generators receive only the generation component of the rate as a credit, up to 1 MW.

³ The calculation of the difference between the customer’s electric production and the customer’s electric usage is conducted on a monthly basis and is typically reconciled in an annual true-up process to ensure that the customer-generator is credited up to the amount of energy charges accumulated over the relevant period.

⁴ Wind energy generators with a capacity of more than 50 kW, but less than 1 MW, do not receive a bundled credit (which includes T&D), only the generation credit.

CCAs are agencies of local governments that are authorized, pursuant to Assembly Bill (AB) 117,⁴ to aggregate electrical loads in their jurisdictions and sell power to local customers who would otherwise have been served by the utility. CCA customers continue to pay their bills through the utility-provided billing service, but the utility passes through to the CCA the customer's payment for the generation portion of the bill. The utility continues to provide CCA customers with transmission, distribution, and metering services.

In concept, CCA customers should have equal access to NEM services. Decision (D.) 05-12-041 stated our intent to investigate how the utilities should provide NEM service to eligible customer-generators issues:

Net metering effectively requires the utility to pay the customer the utility's full retail price for power that is produced by the customer but sent into the utility grid. Currently, we permit net metering for certain renewable projects. We have recently addressed this issue in R.04-03-017 [now R.06-03-004], where we are developing policies for distributed generation in general and our Self-Generation Incentive Program (SGIP) in particular. We believe that proceeding is the appropriate venue for deciding issues relating to renewable project net metering and decline to make any decision here about whether CCAs and their customers would qualify for net metering. In that regard we would consider whether it is appropriate for utility bundled customers to pay for the high cost of net metered power produced by CCA customers.

Subsequently, Commission Resolution 4013-E adopted the utilities' CCA tariffs but did not resolve issues concerning NEM service to CCA customers.

Resolution 4013-E stated:

⁵ Chapter 838, Statutes of 2002.

Service under rate schedule NEM shall not be permitted in combination with CCA service until such time as the Commission establishes the terms and conditions applicable to CCA and its customers participating in Net Energy Metering service.

On August 30, 2007, the assigned Administrative Law Judge (ALJ) in this proceeding issued a ruling proposing a way to offer NEM services to CCA customers. The following parties filed comments on that proposal: Southern California Edison Company (SCE), Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), San Joaquin Valley Power Authority (SJVPA), Local Government Sustainable Energy Coalition (LGSEC), and, jointly, Solar Alliance, Vote Solar Initiative, and the California Solar Energy Industries Association (Solar Parties).

We herein adopt terms and conditions for CCA Net Energy Metering service.

CCA Net Energy Metering

In general, CCAs and their customer-generators may be treated in two ways for purposes of NEM services. One would be for the utility to treat CCA customer-generators the way it treats its own customer-generators, that is, by providing a credit for power equal to the “bundled” retail rate. The other would be for the utility to treat CCA customer-generators the way the utilities treat direct access customers served by competitive electric service providers, that is, not credit the customer-generator for power, only for transmission and distribution (T&D).

D.05-12-041 and Resolution E-4013, issued in R.03-10-003, stated the Commission’s intent to solicit the parties’ comments on related issues. The ALJ’s

ruling proposed future NEM policy for CCA customer-generators with solar, biogas, and fuel cell generators up to 1 MW, and wind generators up to 50 kW:

- CCAs will provide the eligible CCA customer-generator with the generation-related bill credit based on the CCA generation rate. The CCA will inform the utility of the generation rate for the credit, and the utility will pass the credit on to the customer-generator. The CCA will be responsible for creating the applicable generation-related bill credit structure associated with this service option.
- The utility will provide an eligible CCA customer-generator with T&D and other energy-related bill credits.
- Any net balance related to generation charges that are collected from an eligible CCA customer-generator will be paid by the utility to the CCA as set forth in Rule 23 Q, which describes the payment and collection terms between the serving utility and a CCA customer.

Parties' Comments

Several parties commented on various aspects of the proposal. Several parties clarify that, currently, the only generation technologies that qualify for a “bundled” credit are solar and wind. Fuel cell and biogas projects receive only a credit for generation, up to 1 MW.

As to whether CCA customer generators should qualify for NEM service, the utilities are divided. SCE supports treating CCA customer-generators as it treats its own customer-generators. SDG&E and PG&E propose to treat CCA customer-generators like direct access customer-generators and not provide any credit for power. In general, all parties comment that no new metering would be required, although the utilities believe they should have the opportunity to recover increased billing costs. SJVPA and LGSEC observe that CCA customers pay their share of all utility billing costs when they pay for transmission and distribution. SCE believes the Commission should be able to verify that the CCA

has passed on the utility credit to the customer-generator. LGSEC responds that such regulation would be contrary to the Commission's CCA orders and its interpretation of AB 117.

The Solar Parties and PG&E advocated in favor of CCA customers retaining "renewable energy credits" (RECs) for their qualifying generation projects.

Discussion

We herein direct the utilities to offer CCA customer-generators the same NEM service it offers its own customers, with the utility providing the transmission and distribution credit to eligible CCA NEM customers and the CCA offering the generation credit to eligible CCA NEM customers.

Our reasoning is simple. The Commission has stated its support of renewable generation technologies and distributed generation generally. We have aggressively pursued policies in favor of those generation resources. We have stated our support for the development of CCAs, consistent with our interpretation of AB 117, and therefore reject differential treatment of CCA customer-generators and utility customer-generators.

We clarify here that CCAs already pay a share of billing costs in their transmission and distribution rates. If the costs of billing increase as a result of this order, those costs should be very small in the near term because few CCAs are expected to begin serving their customers soon and, accordingly, CCA customer-generators are likely to be few. Under the circumstances, the appropriate place for the utilities to identify and seek recovery of billing costs is the general rate case, consistent with D.04-12-046.

We agree with LGSEC that the Commission should not, as SCE proposes, verify that the CCA has passed along the credit to the customer-generator.

D.05-12-041 found that the Commission has limited jurisdiction over CCA program implementation and does not have general regulatory oversight of CCAs. (See D.05-12-041, Conclusions of Law 1 and 2.) We presume the CCA would pass along the credit in order to retain the customer-generator rather than risk losing it to the utility.

With regard to REC ownership issues raised by the Solar Parties and PG&E, we concluded in D.07-01-018 that all renewable DG system owners should retain the RECs produced by their facilities irrespective of whether or not they receive ratepayer funding from programs such as a CSI (California Solar Initiative), SGIP (Self-Generation Incentive Program), or *net metering*. (D.07-01-018, Conclusion of Law 3.) In accordance with D. 07-01-018 and the Commission's intent of treating CCA customer-generators similarly to utility customer-generators, owners of net energy metering systems who take part in the CCA program shall retain the RECs produced by their facilities.

This order therefore directs the utilities to modify their tariffs to treat CCA customer-generators as they treat their own customer-generators for purposes of NEM service. CCA customer-generators with solar generators up to 1 MW, and wind generators up to 50 kW, will be eligible for a bundled credit up to the amount of electricity consumed by the customer-generator over the course of one year.⁵ The CCA, in such cases, will inform the utility of the applicable generation credit, or net charge and the utility will pass the credit or charge on to the customer-generator. The utility will provide a credit or net charge for the bundled transmission and distribution services it provides to the CCA customer-

⁵ See Pub. Util. Code § 2827(h)(3).

generators, as set forth in the applicable NEM schedule. CCA customer-generators using biogas or fuel cell technologies up to 1 MW, or wind technologies sized from 50 kW to 1 MW will receive a generation credit only -- from the CCA -- which is consistent with the utilities' treatment of their own customer-generators. The CCA NEM credits and provider thereof are summarized in the table below

| CCA NEM Generator | Transmission & Distribution Credit | Generation Credit |
|--------------------------|-----------------------------------------------|--------------------------|
| Solar up to 1 MW | Utility Provided | CCA |
| Wind up to 50 kW | Utility Provided | CCA |
| Wind 50 kW - 1MW | Not Provided | CCA |
| Biogas up to 1 MW | Not Provided | CCA |
| Fuel Cell up to 1 MW | Not Provided | CCA |

Comments on Proposed Decision

The proposed decision of Commissioner Peevey in this matter was mailed to the parties in accordance with Pub. Util. Code § 311 and Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed by LGSEC, PG&E, and jointly by SCE and SDG&E. Reply comments were filed by LGSEC and the Solar Alliance.

SCE, SDG&E, and PG&E ask for minor clarifications to the language in the order, mainly to emphasize that CCA customers will not be credited for excess generation above and beyond their annual electric consumption and to ensure the ordering paragraphs provide clear direction to the utilities. PG&E requests the Commission clarify that REC ownership will be handled consistently for bundled and CCA customers in accordance with D.07-01-018. We have made minor changes to the order to reflect these points.

In addition, the joint comments of SCE and SDG&E object to the proposed decision's conclusion that any increased billing costs related to CCA NEM service shall be handled in each utility's next general rate case. The comments merely reargue earlier positions and the order is not revised on this point.

Assignment of Proceeding

President Michael R. Peevey is the assigned Commissioner, and Dorothy J. Duda is the assigned ALJ for this portion of this proceeding.

Findings of Fact

1. Requiring the utilities to offer the same NEM service to CCA customer-generators that they offer to their own customers will promote investments in renewable energy projects and promote fair and non-discriminatory treatment of CCAs and their customers.

2. The Commission has limited jurisdiction over CCA program implementation and does not have general regulatory oversight of CCAs.

3. The utilities have not demonstrated that offering the subject NEM service to CCA customer-generators will increase their costs in ways that would justify reviewing costs outside of the general rate case.

4. In D.07-01-018, the Commission found that DG system owners retain ownership of RECs produced by their facilities.

Conclusions of Law

1. The Commission should order the utilities to modify their tariffs to offer NEM services to CCA customer-generators that are comparable to the NEM service provided to the utilities' own customer-generators, as set forth herein.

2. The utilities should provide eligible CCA NEM customers with a transmission and distribution credit and the CCA should provide eligible CCA NEM customers with a generation credit.

3. To the extent the provisions of this order cause a utility to incur additional costs, the utility should seek recovery of those costs in its general rate case.

4. The business relationship between the CCA and its customer-generator that involves rates and services should not be regulated by the Commission, consistent with the Commission's findings in D.05-12-041.

5. Owners of DG facilities taking part in the CCA program shall retain ownership of RECs produced by their facilities.

IT IS ORDERED that:

1. Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company (the utilities) shall, within 20 days of the effective date of this order, submit tariff changes to implement "Net Energy Metering" (NEM) for customer-generators that are served by Community Choice

Aggregators (CCA) consistent with NEM service to utility customer-generators and consistent with CCA rules as described in Rule 23 for SCE and PG&E and Rule 27 for SDG&E.

2. Biogas, and fuel cell, generators with a capacity up to 1 megawatt (MW), shall receive a credit for only the generation component of the rate consistent with the utilities' NEM service to bundled service customer-generators. The CCA is responsible for providing the CCA customer-generator with the applicable generation-related bill credit.

3. Wind generators with a capacity up to 50 kW shall receive a transmission and distribution credit from the utility and a generation credit from the CCA, and wind generators with a capacity of more than 50 kW, up to 1 MW, shall receive a credit for only the generation component of the rate from the CCA.

4. The CCA will be responsible for providing billing information regarding the applicable generation-related bill charges or credits for each CCA customer-generator to the utility on a timely basis. The utilities will be responsible for providing an eligible CCA customer-generator with transmission and distribution charges or credits.

5. This proceeding remains open to consider other pending matters.

6. This decision shall be served on the service list for this proceeding and in Rulemaking 03-10-003.

Dated February 14, 2008, at San Francisco, California.

MICHAEL R. PEEVEY

President

DIAN M. GRUENEICH

JOHN A. BOHN

RACHELLE B. CHONG

TIMOTHY ALAN SIMON

Commissioners