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 INDEPENDENT ENERGY PRODUCERS ASSOCIATION ON THE PROPOSED NET ENERGY METERING DECISION

Scott Murtishaw

Policy Director
Independent Energy Producers Association
P.O. Box 1287
Sloughhouse, CA 95683-9998
(510) 205-7774
scott@iepa.com

Dated: January 7, 2022

Subject Index

I. Introduction.........1

II. The Commission Should Not Renege on Its Transition Period Commitments to NEM 1.0 and NEM 2.0 Customers.........3

III. The Commission Should Clarify That the Grid Participation Charge Does Not Apply to Residential VNEM or NEMA Accounts.........5

IV. The Commission Should Evaluate the Impact of the Net Billing Tariff Within Three Years of Its Implementation Rather Than Five Years.........6

V. Conclusions.........7

Table of Authorities

DECISIONS OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION

D.14-03-041......... 3

D.16-01-044......... 3, 4

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 INDEPENDENT ENERGY PRODUCERS ASSOCIATION ON THE PROPOSED NET ENERGY METERING DECISION

I. Introduction

The Independent Energy Producers Association (IEP) broadly supports the net energy metering (NEM) reforms included in the proposed decision (PD). The current NEM 2.0 framework results in inequitable and unreasonable cost-shifting from NEM customers to non-NEM customers. As the PD notes, the ratepayer impact measure (RIM) scores of NEM 2.0 systems are below 1.0 (meaning that ratepayers receive less benefit from NEM systems than the cost they incur to pay for NEM exports and the fixed costs NEM customers avoid by reducing their consumption) for all customer classes in all investor-owned utility (IOU) service territories, with the lowest RIM of 0.29 for residential customers in the San Diego Gas & Electric Company (SDG&E) territory.[1] For every dollar non-NEM residential customers in SDG&E territory transfer to NEM customers, they receive only 29 cents of benefit. Clearly, the status quo is unsustainable, and deep reforms are urgently needed.

[1] PD, p. 42.

IEP views the PD as a reasonable compromise of parties' positions. The PD would largely, but not entirely, mitigate the cost shift from future customer-generators under the proposed net billing tariff. IEP notes that even with the reforms contemplated in the PD, RIM and total resource cost (TRC) scores still fall well below 1.0 for both solar-only and solar + storage installations in all utility territories, while payback periods for solar + storage installations remain very attractive for participants.[2]

The new tariff the PD proposes consists of three key elements: 1) requiring residential customers on the new tariff to take service on more cost-based time-of-use rates, 2) levying a Grid Participation Charge of $8/kW installed to recover the fixed infrastructure and public purpose program costs that residential net billing customers would otherwise avoid by reducing their imports of grid-delivered electricity, and 3) decreasing the compensation awarded to generation exported to the grid to a level commensurate with its benefits. IEP strongly supports the adoption of this net billing tariff, but we suggest three important changes to the PD. First, the PD should not rescind the 20-year transition period guaranteed to NEM 1.0 and NEM 2.0 customers in current NEM and Virtual NEM (VNEM) tariffs. Second, the PD should clarify that the Grid Participation Charge does not apply to residential VNEM and NEM Aggregation (NEMA) benefitting accounts. Third, the PD should require an evaluation of the equity and affordability impacts of the net billing tariff within three years of implementation rather than five years.

---

[2] PD, Appendix B, pp. B4 and B5. These findings indicate that not only will non-participants continue to be worse off when behind-the-meter generation is installed, but society collectively will be worse off because the installed cost of behind-the-meter generation exceeds the benefits it provides.

II. <u>The Commission Should Not Renege on Its Transition Period Commitments to NEM 1.0 and NEM 2.0 Customers</u>

In Decision (D.) 14-03-041, the Commission adopted a 20-year transition period for NEM 1.0 customers, meaning that systems installed under NEM 1.0 would have a right to continue taking service under the terms of the NEM 1.0 tariff for 20 years from the date of interconnection. The decision also stipulates that the right to a 20-year transition period is transferable to subsequent occupants of the property where the NEM 1.0 renewable generators are installed.[3] In D.16-01-044, the NEM 2.0 decision, the Commission adopted the same 20-year transition terms for systems installed under the NEM 2.0 tariff. The IOUs' NEM and VNEM tariffs, which customers rely on when choosing to install on-site renewable generation, all include references to the 20-year transition period ordered by the Commission.

The PD errs because it would renege on the Commission's earlier commitments by shortening the time that existing NEM customers can rely on the provisions of the NEM 1.0 and NEM 2.0 decisions and tariffs. The Commission should be extremely hesitant to abrogate the policy commitments it has made to the customers of the utilities it regulates. In civil societies that value a strong rule of law, residents should have faith that government institutions will honor the decisions they have made for the entirety of the effective period contained in those decisions. Rescinding the 20-year transition period for currently enrolled NEM customers is akin to retroactive ratemaking, and the Commission should not make such decisions lightly.

IEP strongly believes that such commitments should be honored. For this reason, IEP did not endorse the element of the Joint Recommendations referenced in the opening briefs of IEP and other parties that would require NEM 1.0 and NEM 2.0 customers to transition to the new

[3] D.14-03-041, p. 39 (OP 5).

successor tariff within eight year of the systems' interconnection dates.[4] While IEP opposes the PD's suggestion that the Commission reduce the 20-year transition period in violation of the tariffs under which NEM 1.0 and NEM 2.0 customers have taken service, the Commission should take steps that will substantially reduce the ongoing cost-shift attributable to these customers.

Fundamentally, the NEM tariffs govern the value of electricity exported to the grid, by defining by the netting interval, establishing value customer-generators receive for exports, and setting a length of time export credits remain valid (i.e., the true-up period). They do not address the underlying rates that NEM customers subscribe to. In D.16-01-044, the Commission was careful to point out that the 20-year transition period only applies to the NEM tariff per se, and that NEM customers are not entitled to continued access to a particular rate or rate design.[5] The Commission can revise other aspects of NEM 1.0 and NEM 2.0 customers' bills prior to the end of 20-year transition period while honoring the commitment to the way exports are valued under those tariffs. To mitigate the ongoing cost shift attributable to NEM 1.0 and NEM 2.0 customers, the Commission should also non-California Alternate Rates for Energy (CARE) and non-Family Electric Rate Assistance (FERA) NEM 1.0 and NEM 2.0 customers to switch to one of the highly differentiated tariffs approved for the net billing tariff customers and to pay the Grid Participation Charge.[6] The Joint Recommendations suggested that NEM 1.0 and NEM 2.0 customers be required to make these transitions within five years of interconnection. If the

[4] IEP Opening Brief, p. 22. See also Public Advocates Office Opening Brief, Appendix p. i. IEP requests that the PD be modified at p. 147 to clarify IEP's position on the transition period.

[5] IEP Opening Brief, p. 23 (citing D.16-01-044, pp. 100-101).

[6] Although the Conclusions of Law and Ordering Paragraphs would only exempt CARE customers from the reduction of the transition period, the body of the PD (p. 149) and Finding of Fact 51 suggest the PD also intends to exempt FERA customers.

Commission determines that a five-year transition period is too aggressive, IEP nonetheless recommends that the Commission require NEM 1.0 and NEM 2.0 customers to make these transitions sooner than the 15-year transition period currently envisioned in the PD. We suggest 10 years following interconnection to ensure that NEM 1.0 and NEM 2.0 customers can recoup their investments before the transition occurs, a length of time consistent with the findings of the Lookback Study.[7]

III. The Commission Should Clarify That the Grid Participation Charge Does Not Apply to Residential VNEM or NEMA Accounts

In Section 8.6.2, the PD discusses how NEM reforms will apply to the virtual net energy metering (VNEM) and net energy metering aggregation (NEMA) tariffs. The PD acknowledges that Joint Utilities' explanation "that because a (VNEM or NEMA) customer is allocated a dollar credit for exports, there is no need for a grid benefits or usage charge."[8] The Joint Recommendations included the same recommendation as the Joint Utilities regarding the need to exempt VNEM and NEMA customers from a grid benefits charge,[9] and IEP discussed this issue in our opening brief.[10]

Under NEM 2.0, all generation from VNEM and NEMA systems is effectively treated as exports. In other words, the VNEM and NEMA tariffs do not allocate the generation to benefitting accounts in a manner that allows them to avoid paying nonbypassable charges for the electricity that is consumed during the same billing intervals the onsite electricity is generated. VNEM and NEMA benefitting accounts continue to pay nonbypassable charges for *all* electricity

---

[7] PD, p. 149.

[8] PD, p. 141.

[9] See Public Advocates Office Opening Brief, Appendix, p. A-6.

[10] IEP Opening Brief, pp. 19 and 27.

consumed. Because the output from VNEM 2.0 and NEMA 2.0 systems is treated as exports under the current tariffs, presumably all generation from VNEM and NEMA systems under the net billing tariff will only be compensated at the avoided cost export rate. Essentially, VNEM and NEMA renewable generators under net billing will be compensated as though they were subscribed to a buy-all/sell-all feed-in tariff. Because the benefitting VNEM and NEMA accounts under net billing will continue to pay full retail rates for all consumption, there is no need to impose the Grid Participation Charge to recover payment of fixed costs that net billing customers with standard behind-the-meter generation would otherwise avoid.

The PD does not discuss the implications of the net billing framework for VNEM and NEMA customers aside from the brief mention on p. 141; however, it appears that the PD would *not* exempt them from the Grid Participation Charge. The body of the PD states only that "the VNEM and NEMA subtariffs will be revised to mirror the successor tariff adopted in Section 8.5 above."[11] The wording of Ordering Paragraphs 9 and 10 also suggests that VNEM and NEMA residential customers would not be exempted from these charges. In the appendix, IEP offers suggested revisions to the findings, conclusions, and orders to adopt the recommendations of the Joint Utilities and the parties that endorsed the Joint Recommendations. Failing to adopt this change would unduly penalize residential VNEM and NEMA customers.

IV. <u>The Commission Should Evaluate the Impact of the Net Billing Tariff Within Three Years of Its Implementation Rather Than Five Years</u>

In Section 8.3.2, the PD would require the Energy Division to evaluate the affordability and equity impacts of the new net billing tariff using data collected over the first five years of the program following complete implementation of the tariff. Given the time required to conduct the

[11] PD, p. 141.

analysis and produce a report, the Commission cannot realistically expect an evaluation to be completed much sooner than six years after implementation of the net billing tariff, and any Commission action in response to the report's findings will most likely require several months to a year. Seven years is far too long to wait for a potential course correction to the new tariff structure.

IEP contends that five years' worth of data is unnecessary to conduct the analysis the PD describes. The Lookback Study relied on data collected from NEM interconnections completed through December 31, 2019, which means that the dataset only contained 2.5 to 3 years of data for NEM 2.0 customers.[12] IEP recommends that the PD be revised to require Energy Division to begin the analysis no more than three years after the implementation of the net billing tariff. The appendix includes suggested revisions to Ordering Paragraphs 3 and 5 to shorten the evaluation period. If the Commission accepts this revision, conforming edits will also be needed on pages 77, 116, 123, and 128 of the PD.

V. Conclusions

IEP applauds the PD for recognizing the need to radically modify the existing NEM structure to better balance the interests of solar adopters and nonadopters. Although not the only factor putting upward pressure on rates, NEM is a large, and rapidly growing, contributor. Modest reforms are simply insufficient to prevent the cost-shift from growing, and the Commission must take bold action now to rein it in. Aside from the equity implications of the cost-shift, the higher rates resulting from NEM will undermine the State's efforts to encourage consumers to electrify transportation and building end uses, which is a critical component to decarbonizing other sectors of the economy.

[12] Lookback Study, p. 21.

Respectfully submitted January 7, 2022, at Berkeley, California.

By: */s/ Scott Murtishaw*
Scott Murtishaw

Policy Director for the Independent Energy Producers Association

Appendix: Suggested Revisions to the Findings of Fact, Conclusions of Law, and Ordering Paragraphs

Findings of Fact

~~180. Aliging the VNEM tariff with the successor tariff balances the multiple and competing objectives in this proceeding.~~

[New] *Under VNEM and NEMA, all generation is treated as an export to the grid; consequently, VNEM benefitting accounts pay nonbypassable charges on all electricity consumed, unlike standard NEM customers who avoid paying nonbypassable charges for the electricty consumed from the coincident generation of on-site solar or electricity consumed from stored on-site solar generation.*

[New] *Because all generation from VNEM and NEMA systems would be compensated only at avoided cost under a net billing structure, it is not necessary to apply the Grid Participation Charge to residental VNEM and NEMA accounts.*

[New, following FOF 200] *The IOUs' current NEM 1.0, NEM 2.0, and VNEM tariffs refer to the 20-year legacy period adopted in D.14-03-041 and D.16-01-044.*

~~206. Revising the NEM 1.0 and NEM 2.0 tariff legacy periods to 15 years for existing residential customers will continue to ensure these customers have reasonable payback of their investment.~~

~~207. Shortening the legacy period of existing residential NEM 1.0 and NEM 2.0 tariff customers balances the needs of nonparticipants with the needs of participants.~~

[New] *In both D.15-07-001 and D.16-01-044, the Commission explained clearly that the legacy period for NEM applies only to the structural aspects of the NEM 1.0 and NEM 2.0 tariffs and does not provide "any entitlement to the continuation of any particular underlying rate design, or particular rates."*

[New] *Requiring NEM 1 and NEM 2 customers to take service on an electrification rate and to pay the Grid Participation Charge prior to the end of the 20-year legacy period would substantially reduce the ongoing cost shift attributable to NEM 1.0 and NEM 2.0 customers while honoring the Commission's commitments to NEM customers from D.14-03-041 and D.16-01-044.*

Conclusions of Law

45. The Commission should adopt the same net billing structure for VNEM and NEMA, ~~at this time~~ *with the exception of the Grid Participation Charge*.

51. The Commission should ~~revise non-CARE and FERA residential~~ *honor the transition period in the current* NEM 1.0 and NEM 2.0 tariffs for existing customers *with respect to the manner in which exports are valued under those tariffs*~~while considering the multiple impacts~~.

52. The Commission should require existing residential *non-CARE and non-FERA residential* NEM 1.0 and NEM 2.0 tariff customers*, whether the original NEM account holder or a subsequent customer taking control of a NEM 1.0 or NEM 2.0 solar PV system,* to transition to ~~the successor tariff~~ <u>*an approved net billing electrification tariff and to pay a Grid Participation Charge*</u> no later than ~~15~~ *10* years after the date of interconnection.

~~54. The Commission should revise the legacy period of customers taking control of a residential system to 15 years.~~

Ordering Paragraphs

3.(d) Grid Participation Charges, as shown in the following table, applied only to residential customers. The Grid Participation Charge will be reviewed as part of the ~~five~~ *three*-year evaluation of affordability and equity elements of the net billing tariff.

5. Energy Division is authorized to conduct a ~~five~~ *three*-year evaluation of the affordability and equity elements contained in the net billing tariff adopted in Ordering Paragraph ~~2~~ *3* above. A future decision will consider the results of the evaluation to determine if changes are needed.

9. The Virtual Net Energy Metering (VNEM) general tariff shall adhere to the same changes as the successor net energy metering tariff we adopt in Ordering Paragraph ~~2~~ *3* above, with ~~one~~ *two* distinction*s*: VNEM customers shall take service on the time-of-use rates of their choice *and residential VNEM customers shall not be required to pay the Grid Participation Charge described in Ordering Paragraph 3*. Further, the VNEM tariff is revised to allow multiple solar arrays on one property to be treated as one generator, with credits allocated across the property. VNEM for low-income customers remains unchanged until further notice.

10. The Net Energy Metering Aggregation (NEMA) tariff shall adhere to the same changes as the

successor net energy metering tariff we adopt in Ordering Paragraph 3 above*, with two distinctions: NEMA customers shall take service on the time-of-use rates of their choice and residential NEMA customers shall not be required to pay the Grid Participation Charge described in Ordering Paragraph 3 except for residential accounts served by NEMA renewable generators behind the same billing meter*.

12.(a). Existing non-California Alternate Rates for Energy (CARE) *and non-Family Electric Rate Assistance (FERA)* residential customers*, whether the original NEM account holder or a subsequent customer taking control of a NEM 1.0 or NEM 2.0 solar PV system,* shall ~~transition to the~~ *take service on one of the highly differntiated time-of-use* tariff*s and pay the Grid Participation Charge described* ~~we approve~~ in Ordering Paragraph 3 above no later than ~~15~~ *10* years after the ~~customer~~ *system*'s interconnection date.

~~12.(c). Immediate replacement of the 20-year legacy period with a 15-year legacy period for all future NEM 2.0 tariff customers, including residential customers who take service under NEM 2.0 after the adoption of this decision, as well as customers taking control of (i.e., owning, leasing, or paying a power purchase agreement for) a residential system, other than when the subsequent customer is the legal partner (i.e., spouse or domestic partner) of the original customer.~~

13. No later than five business days after the adoption of this decision, Pacific Gas and Electric Company, San Diego Gas & Electric Company and Southern California Edison Company (Joint Utilities) shall submit Tier 1 Advice Letters revising ~~the legacy period for residential non-California Alternate Rates for Energy (CARE) customers on~~ the current net energy metering tariff (NEM 2.0) and the previous net energy metering tariff (NEM 1.0) *for residential non-California Alternate Rates for Energy (CARE) and non-Family Electric Rate Assistance (FERA) customers* ~~from 20 years to 15 years~~ *consistent with the direction in Ordering Paragraph 12*, with an effective date of five days after the advice letter submittal date. Joint Utilities shall inform solar providers of the change on the date that they submit these advice letters. Each of the Joint Utilities shall email and send an automated phone call to all solar providers who submitted an interconnection application in the three years preceding this date, and for whom the utilities have the requisite contact information. The Joint Utilities shall each mail a letter to all solar providers who submitted an interconnection application in the year preceding this date.