

APRIL 2012

CPUC PROPOSES CHANGES TO CALIFORNIA NET METERING CAP AND CALIFORNIA SOLAR INITIATIVE COST CAP

The California Public Utilities Commission (CPUC) has released two proposals relating to incentives for distributed solar installations in California. The first, a Proposed Decision by CPUC President Michael R. Peevey, would change the method for calculating the statewide capacity cap for the net metering program. This proposal could increase the total capacity of distributed renewable energy generation eligible for this program by over 2 gigawatts. The second, a Draft Resolution proposed by the CPUC Energy Division, would change the methodology for calculating the cap on the cost of individual projects eligible for California Solar Initiative (CSI) incentives. A summary of these proposals and information on opportunities for interested parties to comment are provided below.

Proposed Decision on Net Metering Statewide Capacity Cap

Net energy metering is an important incentive program that enables utility customers producing electricity on their side of the meter to receive a credit for generation in excess of electricity consumed from the grid. The California Public Utilities Code limits the availability of the net metering tariff to eligible generating capacity of no more than 5 percent of each of the state's three investor-owned utilities' (IOUs)¹ "aggregate customer peak demand."² Currently, the IOUs calculate "aggregate customer peak demand" based on

the highest recorded peak demand in their service territories (i.e., a "coincident peak") using different demand intervals.

The Proposed Decision is in response to a motion filed by the Interstate Renewable Energy Council requesting clarification of the definition of "aggregate customer peak demand" used to derive the cap. The Proposed Decision adopts a proposal filed jointly by several solar and environmental organizations³ that argued that "aggregate customer peak demand" means the sum of all individual customer peak demands, rather than a coincident system peak demand.

Individual customer peaks in demand may occur at different times of the day, whereas the coincident peak demand figure proposed to be used by the utilities is the highest peak load at one point in time. The sum of such individual customer peaks is expected to be significantly larger than a utility's historical system-wide peak. If approved by the CPUC, this decision could increase the total capacity of distributed generation eligible for the net metering tariff by over 2 gigawatts. The Proposed Decision reasons that its interpretation advances the goal of the net metering program to encourage private investment in renewable energy and economic growth.

Comments on the Proposed Decision are due on May 1, 2012. If the CPUC approves the decision, the IOU's net metering tariffs will be revised to reflect this new cap calculation method.

Draft Resolution on California Solar Initiative Cost Cap

The California Solar Initiative (CSI) provides capacity and performance-based incentives for the installation of solar systems on the customer's side of the meter within the service territories of the IOUs. Currently, in order to be eligible for CSI incentives, the cost of an individual solar project must be no more than one standard deviation above the average project cost, with a maximum value of \$10.26.⁴ The cap is adjusted on a weekly basis.

Draft Resolution E-4476 is in response to S.B. 585, signed into law in 2011, which required the CPUC to establish project cost limits for CSI eligibility based on national and state data. The Draft Resolution notes that prices for solar systems installed under the CSI program have dropped from \$10.24/W-AC in the first quarter of 2009 to \$7.84/W-AC in the first quarter of 2012, a 23 percent decrease. The Draft Resolution analyzes average solar installation costs nationally, and, based on this data, proposes a decrease in the cost cap to a 12-month rolling mean (i.e., simple

¹ Pacific Gas & Electric Company (PG&E), Southern California Edison (SCE), and San Diego Gas & Electric Company (SDG&E).

² Cal. Pub. Util. Code § 2827(c)(1).

³ Interstate Renewable Energy Council, Vote Solar Initiative, California Solar Energy Industries Association, Solar Energy Industries Association, and the Sierra Club.

⁴ See <http://www.californiasolarstatistics.ca.gov/faq/#costcap>.

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average), plus an adder of \$1.00 per Watt. Under the Draft Resolution, there would be separate caps for systems above and below 10kW (a proxy for residential versus commercial installations). This limit is a "soft cap": projects with costs exceeding the limit can receive CSI incentives if such costs are justified and specially approved by the IOU program administrator.

The Draft Resolution proposes a \$1.00 adder to the rolling mean cost instead of the one standard deviation adder currently used to calculate the cap. Using the existing methodology, the CSI cost cap was \$9.83/W-AC as of April 4, 2012. The Draft Resolution's new methodology would have the effect of lowering the cost cap to \$9.01 in the <10kW category and to \$7.59 in the ≥10kW category, based on CSI data as of April 4, 2012.⁵ Thus, where there is greater variance in solar system costs in California such that the standard deviation is greater than \$1.00, this new methodology will set a lower cap than the existing methodology.

As with the existing cap, the new cost cap would be adjusted on a weekly basis. Adjustments would be based solely on CSI data, rather than national data. The CPUC Energy Division would be required to review national data at least once per year, however, and would be permitted to adjust the cost cap methodology if necessary to reflect national trends in solar system installation costs.

The Draft Resolution also acknowledges that third-party owners of solar systems, such as solar lease and PPA providers, can have difficulty reporting on system costs because such owners frequently are not the installer that sold the system to the host customer. Under the proposal, the installed costs of third-party-owned systems receiving CSI payments would not be included in the data set used to calculate the weekly cost cap. All solar systems, however, including those owned by third parties, would be subject to the cap, and third-party owners of solar systems would be required to use their best efforts to report the costs for installed systems, accounting for materials, labor, financing, and profit.

Comments on the Draft Resolution are due on May 2, 2012. If the CPUC approves the Draft Resolution, the IOU program administrators will be required to file advice letters to revise the CSI Handbook to reflect the new cost cap. The new cost caps will then become effective upon approval of the CSI Handbook by the CPUC.

For assistance in filing comments or for further analysis of CSI incentives, California's net metering program, or other issues pertaining to energy regulation, please contact Sheridan Pauker or Todd Glass in Wilson Sonsini Goodrich & Rosati's energy and clean technology practice.



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⁵ Draft Resolution E-4476 at 8.