

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: May 8, 2012

To: The Commission
(Meeting of May 10, 2012)

From: Lynn Sadler, Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: **SB 1537 (Kehoe) – Energy: rates: net energy metering.
As amended: May 1, 2012**

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: OPPOSE

SUMMARY OF BILL

SB 1537 would prohibit the California Public Utilities Commission (CPUC) from adopting any new demand charge, standby charge, customer charge, minimum monthly charge, interconnection charge, or other fixed charge that applies only to customers participating in a net energy metering tariff until January 1, 2014.

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION

SB 1537 is legislative ratemaking. It would restrict the CPUC's authority to design retail rates and determine reasonable cost allocations. The bill may also be in conflict with PU Code Section 451, which requires that all public utility charges be 'just and reasonable.' Finally, the bill is superfluous, since intent of bill is sufficiently covered by the existing language in Public Utilities (PU) Code 2827(g), which prohibits a utility from imposing new charges on eligible customer-generators, and the State's Energy Action Plan (EAP), which encourages the growth of distributed generation (DG).

SUMMARY OF SUGGESTED AMENDMENTS

None.

DIVISION ANALYSIS (Energy Division)

1. This bill would restrict the Commission's authority to design retail rates and determine reasonable cost allocations, and may be in conflict with PU Code Section 451.

The CPUC regulates investor-owned electric and natural gas utilities within the State of California, including Pacific Gas and Electric Company (PG&E), Southern California Edison (SCE), San Diego Gas and Electric Company (SDG&E), and Southern California Gas (SoCalGas). One of the CPUC's core functions is to conduct cost-setting and ratemaking proceedings through a utility's General Rate Case (GRC). This regulatory process is governed by the Public Utilities Code, the Commission's Rules of Practice and Procedure, and by the EAP II, adopted by the CPUC and the California Energy Commission in 2005, and updated in February 2008. By prohibiting the Commission from adopting any new demand charge, standby charge, customer charge, minimum monthly charge, interconnection charge, or other fixed charge that applies specifically to NEM customers this bill would restrict the Commission's authority to design retail rates and determine reasonable cost allocations.

In addition, PU Code Section 451 requires that all public utility charges be 'just and reasonable.' In its cost-effectiveness study of the full-retail NEM program in March 2010, the CPUC found that the net cost to ratepayers in 2008 (for all NEM systems interconnected as of 2008) was \$20 million/year.¹ By prohibiting the Commission from adopting any new charges to participating NEM customers, this bill potentially conflicts with the mandate that charges be 'just and reasonable' for every customer.

2. The intent of this bill is sufficiently covered by the existing language in Public Utilities (PU) Code 2827(g) and the State's Energy Action Plan (EAP)

Staff believes that the existing language in PU Code 2827 sufficiently protects eligible customer-generators from the imposition of disproportionate costs and unstable rates. Specifically, PU Code 2827(g) provides that a utility may not create a "new charge" that would increase an eligible customer generator's cost beyond those of other customers in the same rate class who are not eligible customer-generators, and further states that the charges for all retail rate components for eligible customer-generators shall be based exclusively on the customer's net kilowatt hour consumption. In October 2011, for example, an Assigned Commissioner's Ruling denied SDG&E's application to implement a Network Use Charge (NUC) to recover distribution demand costs on the basis that it conflicted with PU Code 2827(g).²

Also, there is no evidence that additional statutory intent language is needed to encourage rate design or prohibit new charges in order to further support the adoption of DG. The EAP loading order dictates that customer and utility owned distributed generation is of critical importance in the CPUC's cost-setting and ratemaking proceedings. Through the GRC process, all three electric IOUs have established rates

¹ Net Energy Metering Cost-Effectiveness Evaluation ("NEM Cost-Effectiveness Evaluation") (March 2010). http://www.cpuc.ca.gov/PUC/energy/DistGen/nem_eval.htm. A summary of the key findings is attached as Appendix A.

²Assigned Commissioner's Scoping Memo and Ruling (Application 11-10-002). October 3, 2011.

that facilitate the adoption of distributed solar.³ Meanwhile, the number of participating NEM customers by utility has increased 3-9 times since the beginning of the California Solar Initiative (CSI) in 2007. Over 99% of all customer-generators within each IOU territory participate in NEM.

PROGRAM BACKGROUND

NEM is an electricity tariff billing mechanism whose intent is to facilitate the installation of DG by offering retail-rate and generation-rate billing credits for any electricity exported to the grid at times when there is no simultaneous energy demand to utilize the generation onsite.

Under existing complementary state laws, the CPUC oversees a range of policies that support self-generation:

1. Rebates: Rebates through the California Solar Initiative (CSI) and SGIP. The CSI program provides rebates for solar PV systems up to 1 MW (and allows systems up to 5 MW), with the exception of certain state-owned facilities (per AB 2724, 2010). SGIP provides incentives to wind turbines, fuel cells, gas turbines, micro-turbines and internal combustion engines, waste heat capture, small conduit hydro, combined heat and power, advanced energy storage, and pressure reduction turbines. Similar to NEM, the SGIP and CSI programs are designed to reduce a customer's onsite load.
2. Simplified Interconnection: Reduced interconnection costs are available under utility Rule 21 tariffs that exempt self-generation renewable energy systems under 1 MW from most studies and fees. Rule 21 also offers these systems accelerated interconnection timelines. Separately, the CPUC exempted renewable self-generation systems from standby charges in 2003.
3. Net Energy Metering: Per PU Code 2827, NEM customer-generators who take service from IOUs have their monthly net generation valued at the full retail rate at the time the energy is exported, and may elect to receive compensation of any net surplus generation above annual load.⁴ PU Code 2827.10 sets out a separate program for eligible fuel cell customer-generators that have their monthly net generation valued at the generation rate only. An installed NEM project provides a subsidy to the customer-generator that, under current law, lasts for the lifetime of the installation. This subsidy will be of increasing importance to new customer-generators as CSI and SGIP incentives phase out.

LEGISLATIVE HISTORY

1. At least four other bills modifying the NEM program are pending as of this writing in this legislative session:

³ PG&E's A6 rate, SCE's TOU-8 option R rate, and SDG&E's DGR rate are all considered "solar-friendly" rates.

⁴ PU Code 2827(h)(2)(B).

- AB 2165 (Hill): Increases the generation-only NEM program cap for eligible fuel cell projects;
 - AB 2514 (Bradford): Requires the CPUC to complete a study by June 30, 2013, to determine the extent to which each class of ratepayers receiving service under NEM is paying the full cost of services provided to them by electrical corporations, and the extent to which those customers pay their share of the costs of public purpose programs;
 - SB 594 (Wolk): Allow for NEM meter aggregation of multiple meters for a single customer on a contiguous property;
 - SB 843 (Wolk): Facilitates a Community-Based Renewable Energy Self-Generation Program with unlimited virtual full retail rate bill credit sharing and RECs owed by interconnecting utility.
2. The NEM statute has been modified numerous times in the past decade. It was first established in response to AB 656 (1996), and subsequently modified by: AB 1755 (1998), AB 918 (2000), AB X1-29 (2001), SB 1038 (2002), AB 2228 (2003), AB 1214 (2004), AB 920 (2009), AB 510 (2010), and SB 489 (2011).

FISCAL IMPACT

None.

STATUS:

SB 1537 is pending consideration in the Senate Appropriations Committee.

SUPPORT/OPPOSITION

Support

Sullivan Solar
AEE Solar, Inc.
Mainstream Energy Corp.
REC Solar, Inc.
School Energy Coalition

Opposition

None on file.

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BILL LANGUAGE

BILL NUMBER: SB 1537 AMENDED
BILL TEXT

AMENDED IN SENATE MAY 1, 2012
AMENDED IN SENATE APRIL 9, 2012

INTRODUCED BY Senator Kehoe

FEBRUARY 24, 2012

An act to ~~amend Section 2827~~ *add and repeal Section 2827.2* of the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1537, as amended, Kehoe. Energy: rates: net energy metering.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, as defined, while local publicly owned electric utilities, as defined, are under the direction of their governing board. Existing law, relative to private energy producers, requires every electric utility, as defined, to develop a standard contract or tariff providing for net energy metering, as defined, and to make this contract or tariff available to eligible customer generators, as defined, upon request for generation by a renewable electrical generation facility, as defined. An electric utility, upon request, is required to make the contract or tariff for net energy metering available to eligible customer-generators on a first-come-first-served basis until the time that the total rated generating capacity used by eligible customer-generators exceeds 5% of the electric utility's aggregate customer peak demand. With one exception, existing law requires that each net energy metering contract or tariff be identical with respect to rate structure, all retail rate components, and any monthly charges, to the contract or tariff to which the same customer would be assigned if the customer did not use a renewable electrical generation facility, except that eligible customer-generators shall not be assessed standby charges on the electrical generating capacity or the kilowatthour production of a renewable electrical generation facility.

This bill would prohibit ~~an electric utility, on a percentage basis, from increasing rates and charges for eligible customer generators by an amount that is greater than those applied to customers in the same rate class that are not eligible customer generators and require that an electric utility's rate design be consistent with the policy of the state to ensure ongoing, sustainable, and robust growth of distributed customer generation~~ *the commission from adopting any new demand charge, standby charge, customer charge, minimum monthly charge, interconnection charge, or other fixed charge that applies only to customers receiving electric service pursuant to a net energy*

metering contract or tariff .

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

*SECTION 1. Section 2827.2 is added to the
Public Utilities Code , to read:*

*2827.2. (a) The commission shall not adopt any new demand charge,
standby charge, customer charge, minimum monthly charge,
interconnection charge, or other fixed charge that applies only to
customers receiving electric service pursuant to a net energy
metering contract or tariff authorized by Section 2827.*

*(b) This section shall remain in effect only until January 1,
2014, and as of that date is repealed, unless a later enacted
statute, that is enacted before January 1, 2014, deletes or extends
that date. All matter omitted in this version of the bill
appears in the bill as amended in the Senate, April 9, 2012. (JR11)*