California Public Utilities Commission
Energy Division

# Clean Coalition Protest of Utility Advice Letters re Rule 21, Qualifying Facilities and the CREST program

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## Clean Coalition Protest on Utility Advice Letters

The Clean Coalition respectfully submits these comments on PG&E's Advice Letter 3864-E, *Establishment of an Interim Interconnection Procedure for Rule 21 Qualifying Facilities Signing New PURPA Power Purchase Agreements With PG&E*, and SCE's Advice Letter 2593-E, *Establishment of an Interim Interconnection Procedure for Rule 21 Qualifying Facilities Signing Power Purchase Agreements With SCE.*

The Clean Coalition is a California-based policy organization, part of Natural Capitalism Solutions, a non-profit entity based in Colorado. The Clean Coalition focuses on policies that deliver cost-effective and timely clean energy, including within the under-utilizedd "wholesale distributed generation" (WDG) market segment, which is comprised of wholesale generation projects interconnected to the distribution grid. WDG is a particular focus given the combination of cost-effective energy and economic benefits that it delivers, while at the same time avoiding all of the challenges associated with transmission build-outs. The Clean Coalition is active in proceedings at the California Public Utilities Commission, California Air Resources Board, California Energy Commission, the California Legislature, US Congress, the Federal Energy Regulatory Commission, and in various local governments around California.

Our main points are as follows:

- The Clean Coalition strongly opposes requiring developers to use WDAT/CAISO procedures under the state-jurisdictional Rule 21, even as an interim measure.
- The utilities have not made a case that Rule 21 reform is immediately necessary or that their suggested solution will be a net improvement. The burden of proof falls upon the utilities to show, quantitatively and not merely qualitatively, both that it is immediately necessary and that importing WDAT/CAISO

interconnection procedures into Rule 21 on an interim basis would lead to actual improvements in current Rule 21 interconnection procedures.

- The utilities' burden of proof should be satisfied with specific, quantitative analysis with respect to each aspect of Rule 21 and WDAT/CAISO procedures; for example, the utilities should specify how many Rule 21 applications in the current queue would qualify for Fast Track or ISP, or would instead be forced into the cluster process.
- The utilities have argued that Rule 21 needs modifying to allow for deliverability studies, but these arguments are unconvincing because deliverability is not required by law and because utilities have already allowed parallel deliverability studies to be conducted through CAISO at the same time as a different interconnection procedure is used for interconnection more generally (PG&E's solar PV program, for example).
- The Clean Coalition agrees that Rule 21 needs reforming in many ways, but utilizing WDAT/CAISO procedures would in most situations represent a step backward, not forward, due to the many serious flaws in the new WDAT/CAISO procedures (which recently prompted FERC to grant the Clean Coalition's request for rehearing of their previous approval of the utility WDAT proposals).
- In particular, the default cluster study process in WDAT/CAISO is far too long (averaging about two years just for studies to be completed, let alone time required for negotiating the interconnection agreement and completing any required upgrades, which can add another year); the Fast Track alternative is fatally flawed; and the Independent Study Procedure is probably also fatally flawed.
- We recommend, instead, that the utilities allow developers to choose to submit new interconnection applications under the existing Rule 21 or under the WDAT/CAISO interim procedures while the Rule 21 Working Group works on improvements that will hopefully be implemented by mid-2012 at the latest. We

agree that there are some circumstances where WDAT/CAISO might be superior to the existing Rule 21 procedures, and developers should accordingly be provided a choice of interconnection procedure during the Rule 21 reform process.

- Most Rule 21 projects will not qualify for Fast Track or ISP under the proposed interim WDAT/CAISO procedure, so the default cluster process will generally apply if WDAT/CAISO procedures apply; accordingly, applying WDAT/CAISO procedures as interim procedures will probably have no significant impact until June of 2012 because that is when the 2012 cluster study begins.
- The Clean Coalition believes that most Rule 21 reforms can be completed by March of 2012 so there will be limited-to-no-benefit in requiring WDAT/CAISO procedures to be used in Rule 21 as an interim measure; there are, however, many potential downsides of requiring WDAT/CAISO procedures in Rule 21, weighing strongly in favor of the Commission, at most, allowing developers to choose existing Rule 21 procedures or the WDAT/CAISO procedures, or disallowing WDAT/CAISO procedures to be used under Rule 21 at all and, instead, proceeding in an expedited manner to complete the required Rule 21 reforms.
- If the Commission does permit, in some manner, using WDAT/CAISO procedures within Rule 21 on an interim basis, the Commission must be very circumspect in terms of the jurisdictional implications because of previous utility arguments regarding dual use facilities and the applicability of the federal Open Access Transmission Tariff (OATT); the Commission should do its utmost to expand its jurisdiction over wholesale interconnections and should in no way act to further limit its jurisdiction.
- The Commission should also, if it finds the utility arguments convincing, set a firm endpoint for the applicability of any interim procedures under Rule 21, in order to avoid a de facto permanent import of WDAT/CAISO rules into Rule 21.

- The Clean Coalition has previously recommended the following changes to Rule 21 and we will be pursuing these recommendations in the Rule 21 Working Group and in this proceeding: Allowing wholesale energy export to the host utility without triggering supplemental review; providing firm deadlines and cost estimates in completed studies; adopting updated forms; improved interconnection queuing information and mapping standards required under RAM and recommended by Clean Coalition for SB 32; allowing application submission prior to electric service and account establishment for "greenfield" development; nonrefundable deposit requirements for each six month extension of queue position to discourage queue hogging.

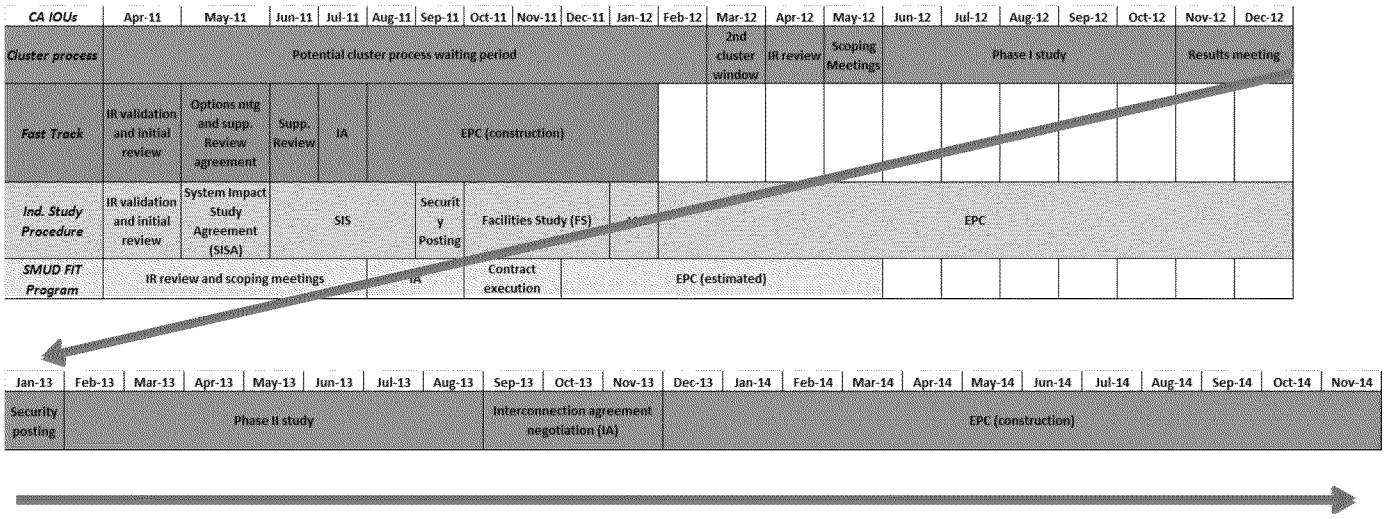
## I. Discussion

### a. Background

Rule 21 interconnection procedures have been revised over the last decade to better accommodate net-metered generation, but haven't been modified sufficiently for wholesale projects. Interconnection of wholesale DG (as opposed to net-metered generation) has emerged as the key bottleneck for WDG when FERC-jurisdictional interconnection procedures are at issue. While Rule 21 for wholesale interconnection does indeed need reform, immediate reform is not necessary – particularly when the utilities are proposing to substitute inferior interconnection procedures than currently exist under Rule 21. (PPA reform under, for example, SCE's CREST program is in fact a more pressing issue because the CREST PPA is currently not financeable, as many parties have advised SCE). The proposed interconnection cure would, in other words, be worse than the disease. See Figure 1 demonstrating the time frame for interconnection under the new WDAT/CAISO procedures, with a comparison to the far shorter time frame for SMUD's interconnection procedures, including construction

time. SMUD is the clear leader in interconnection policies in California, judging by its actual experience interconnection its feed-in tariff projects, thus prompting our comparison.

*Figure 1. Comparing IOU WDAT and SMUD wholesale interconnection procedures, including construction.*




SMUD: ***About a year*** total (with construction)
IOU cluster process (the default process): ***3 to 3.5 years****

**** Assumes applicants respond to IOU immediately, at each decision point, which will never be the case***

The Governor has established a goal of 12,000 megawatts of distributed generation to help meet the 33% by 2020 renewable portfolio standard recently passed into law. To achieve this goal, California needs to dramatically improve its interconnection procedures for wholesale DG. The utilities' proposal to allow WDAT/CAISO procedures to be used as an interim measure under Rule 21 would, however, be a major step backwards on this key issue because of the many serious flaws in the new WDAT/CAISO procedures.

The recent revisions in WDAT/CAISO procedures failed to incorporate numerous critical recommendations made by the CPUC, the Clean Coalition, Interstate Renewable Energy Council, and other parties. Without these changes, the new WDAT procedures provide a highly problematic and very lengthy interconnection path for wholesale projects, with extremely limited potential for expedited review because the alternatives to the default cluster process are generally not viable alternatives.

We highlighted the numerous problems with the alternatives to the cluster process (Fast Track and Independent Study Procedure) in our recently filed Requests for Rehearing to the Federal Energy Regulatory Commission:

- A "poison pill" that exposes Fast Track applicants to uncapped, undefined and indefinite cost liability that may result from distribution grid and network upgrades at literally any point in the future. It is highly unlikely that banks will finance renewable energy projects subject to this uncapped liability. New facts have come to light since our protest to FERC of the WDAT amendments, including increased developer concern about the poison pill provisions. We included in our request for rehearing a list of companies who believe this poison pill language will make Fast Track projects unfinanceable.
- An unworkable Screen 10 for the Fast Track expedited interconnection procedure due to the requirement that <u>any</u> distribution or network upgrades trigger an ISP or cluster study procedure for Fast Track applicants.
- Undefined criteria for the Independent Study Procedure (ISP) that prevent an applicant from having any idea of its potential for success before committing $50,000 plus $1,000 per megawatt for the application fee. If the ISP applicant fails, it must then wait for the next cluster window and pay an additional $50,000 plus $1,000 per megawatt fee and have literally nothing to show for its ISP application except a large hole in its bank account.

- A statement in the tariff itself that PG&E's entire distribution grid will "generally" be studied as one cluster, which will generally obviate the ISP entirely because if the entire grid is one cluster no proposed projects will be found to be electrically independent.
- Moreover, no timeline for completion of studies is included for the Independent Study Procedure, which may well give rise to a backlog of requests like that which prompted the reform efforts to begin with.

The failure of the utilities and FERC to address these concerns leaves the WDAT as a highly inadequate model for Rule 21 reform, even on an interim basis. Meeting the Governor's goal of 12 GW of DG requires expedited and predictable interconnection procedures, at reasonable cost, and the new WDATs do not provide these features.

### *b. Interconnection Reform*

The Clean Coalition agrees that major reform is needed in California's interconnection procedures, including Rule 21. However, as mentioned above, applying WDAT/CAISO procedures under Rule 21, even on an interim basis, would be a step backward in many ways on needed reforms. To be sure, some features of the WDAT/CAISO changes are beneficial and should ultimately be adopted in a new Rule 21. But at this time the downsides of WDAT/CAISO procedures outweigh the benefits, which is why we strongly oppose requiring applicants at this time to use WDAT/CAIO rules under Rule 21. The Commission should, instead, proceed quickly with reform under the Rule 21 Working Group or, at the most, allow utilities to provide developers with a choice between existing Rule 21 interconnection procedures or the WDAT/CAISO interim procedures.

The Clean Coalition supports reformed interconnection procedures that can handle the dramatic expansion of renewable energy interconnection requests in a timely and cost-effective manner, including the following recommendations, which we will be pursuing in the Rule 21 Working Group:

*General Features*

- Clear and enforceable timelines (with full data transparency, including reporting of application processing results and reasons for missing any deadlines)
- Binding cost estimates in final studies
- Increased grid transparency that allows developers to know "what can go where" ahead of time, and gain some idea of likely interconnection costs before going through a lengthy interconnection study.
- Expedited interconnection options for resolving the most common issues and upgrade requirements, as an alternative to any cluster process. This will generally mean Fast Track interconnection, with relaxed screens such that more projects can qualify – while still ensuring grid reliability and safety.
- Standardization of interconnection costs for smaller projects (3 MW and smaller). This is a longer-term goal but should be initiated in the short-term. An achievable mid-term goal is to create "per unit cost guides" for distribution grid interconnection upgrades, modeled on the transmission grid per unit cost guides issued by the utilities each year.

*Grid Data*

Fully updated grid interconnection capacity information should be available, along the following lines:

- It should be clear what limits exist at each substation, on each circuit, and ultimately on each line segment, including current and pending interconnections.
- It should be predictable what standard categories of upgrades would be triggered by exceeding these limits.
- It should be reasonably predictable what the costs would be for each level of upgrades required, including backflow or interconnection directly to a substation or P-node.
- Information should be made available on planned capacity increases related to system upgrades and new loads.
- All grid information should be presented in improved map and spreadsheet formats with viewer/user search and rank order ability enabled

*Screens*

It is clear that the existing Rule 21 screening process (analogous to the Fast Track screens for WDAT) are overly conservative in some cases, and on the other hand do not address some significant factors related to WDG that may need to be addressed, but can usually be handled with revised technical standards and little or no additional study.

We recommend that the screens be improved along the following lines:

- Expedited project review should be made available with fewer limitations. This would include expanded Fast Track access, but also intermediate levels of relatively simple studies where standard categories of system impact and upgrade are triggered by the screens.
- To support this, we'd like to see a clearly defined matrix between categories of projects and existing capacities at the point of interconnection, to determine exactly how much review or study is required, and ideally how much interconnection and upgrades will cost.

Unfortunately, the new WDAT/CAISO rules do not meet these standards and additional substantial modifications will be required. We expect that the new Rule 21 Working Group will examine these and other issues during 2011 and early 2012, resulting, we hope, in a new and improved Rule 21 by March of 2012.

### c. Utility arguments for immediate Rule 21 reform

The utilities argue in their advice letters that Rule 21 reform is immediately necessary to:

1. Address the "influx of interconnection applications" (SCE AL 2593-E, p. 1) from the pending QF Settlement, the pending AB 1613 program and the existing SCE CREST (AB 1969) program;
2. "The current Rule 21 does not adequately address key requirements for interconnecting a Qualifying Facility ("QF") set up in accordance with the Public Utility Regulatory Policies Act ("PURPA"), with all its export output sold to PG&E under a PURPA power purchase agreement (PG&E AL 3864-E, p. 1);
3. "Rule 21 does not appropriately provide for coordination among PG&E, the CAISO or any other affected transmission or distribution systems. PG&E expects that some QFs will interconnect at the transmission level2 and clear rules for how coordination among these parties and their respective interconnection processes do not exist under Rule 21." (Id. P. 2);
4. Rule 21 doesn't address deliverability studies (Id. P. 2, SCE AL 2593-E, p. 2);
5. Appropriate forms and agreements for QFs interconnecting under Rule 21 aren't available (Id.)
6. Rule 21's serial study process is inappropriate now that WDAT/CAISO have a default cluster process (Id.)

None of these arguments, however, are convincing with respect to the need for immediate reform – particularly not if immediate reform entails substituting worse interconnection procedures than those under the existing Rule 21. We have acknowledged in these and previous comments that Rule 21 reform is necessary. But this is not the same as acknowledging that immediate reform is necessary or accepting that flawed interim procedures would be better than current procedures.

The utilities' argument that the pending AB 1613 cogeneration feed-in tariff and SCE's existing CREST program require immediate Rule 21 reform is unpersuasive because there is still no date for commencing the new AB 1613 program or the new QF program. Moreover, the existing CREST interconnection procedures, while flawed, are still allowing new projects to apply for interconnection and applicants are receiving completed interconnection studies generally within about nine months, as far as we can tell from the currently available anecdotal data. **This is far faster than the average two-year process that would pertain under the proposed WDAT/CAISO interim procedures.** And, again, substituting new but worse interconnection procedures is no remedy at all for the inadequacies in the current Rule 21 procedures.

The picture is not entirely consistent, however, because a major problem with the current Rule 21 process is that interconnection applicants receive no certainty with respect to their actual interconnection costs even when they receive the completed Facility Study. This is one of many issues that needs to be addressed in the Rule 21 Working Group this year.

With respect to deliverability studies, it is important to recognize three key facts: 1) Full capacity deliverability is not required by any law; it is, instead being pushed strongly by the utilities for reasons that aren't entirely clear; 2) California enjoys a current and projected large surplus of reserve power, such that the utility emphasis on full capacity

deliverability is unwarranted[1]; 3) existing utility programs already allow parallel tracks for interconnection studies and deliverability studies. PG&E's solar PV program, for example, required WDAT for interconnection and also a CAISO deliverability study, pursued separately. Moreover, if the utility requests are granted, any project applying for interconnection under the WDAT/Rule 21 procedure, if it was also applying for deliverability studies, would have to apply separately to CAISO for deliverability studies because only CAISO studies deliverability, mooting the utility argument further.

With respect to appropriate forms and agreements, the utilities should adopt either modified versions of their WDAT forms or SCE's CREST forms, modified to comply with Rule 21 procedures, or create their own new Rule 21 forms as part of the Rule 21 Working Group reform process.

The key barrier to the utility arguments for immediate reform, however, is the fact that the next cluster study won't start until June of 2012 (with two windows in the interim for applying for entry into the 2012 cluster study), **providing almost a year for the Rule 21 Working Group to complete its reforms.** Fast Track and ISP alternatives to the cluster process would be available in the interim under WDAT/CAISO procedures under Rule 21, but based on our arguments above a very limited number of projects are likely to qualify. Moreover, Rule 21 is akin to Fast Track and ISP already in that it is approximately a nine-month process under current practice, akin to the length required for Fast Track under WDAT/CAISO, with the strong caveat around the lack of cost certainty that will be addressed in the Rule 21 Working Group, with many other issues. Thus, the Clean Coalition's strong preference is that the utility requests be denied and,

[1] Recent CAISO studies have found that California will have over 17,000 MW of power above and beyond the Planning Reserve Margin by 2020, CAISO Exhibit 1– 2010 CPUC LTPP Docket No. R.10-05-006, submitted July 1, 2011.

instead, the Rule 21 Working Group move ahead expeditiously to complete its reform process over the next year.

**d. The utilities should be required to meet a far higher burden of proof with respect to the need and benefits of immediate interconnection reform**

If the Commission finds the utility arguments at all persuasive, the Clean Coalition alternatively requests that the Commission demand a far more stringent burden of proof from the utilities before taking action on the utility requests. The utility Advice Letter arguments are entirely qualitative in nature and this has been an issue for some time with respect to interconnection reform (the Clean Coalition has been intimately involved over the last two years with CAISO and utility interconnection reform efforts). Utility arguments should, instead, be highly quantitative in nature because this is an area of energy policy where comprehensive data is readily available and helpful to the debate.

For example, utilities should be required to present comprehensive interconnection queue and application data under Rule 21, comparing the existing queue and projected completion times for each project to the expected completion times under the proposed WDAT/CAISO interim procedures. The utilities should also have to show how many of the projects in each utility queue would qualify for Fast Track or ISP under the proposed WDAT/CAISO interim procedures. In other words, the utilities should have to present a highly granular and quantitative set of arguments to augment their existing entirely qualitative arguments.

### e. Utilities should not be allowed to import WDAT/CAISO into Rule 21 on a permanent basis "through the back door"

PG&E states explicitly that it believes that a possible outcome of the Rule 21 reform process would be permanent use of WDAT/CAISO procedures under Rule 21 (PG&E AL 3864-E, p. 2). For the reasons stated above, the Clean Coalition believes this to be a very bad idea. We fear that allowing this change even on an interim basis may create sufficient momentum for permanent use of these procedures because once something is in place it becomes increasingly difficult to make substantial changes as time progresses. This is a final and quite serious reason not to grant the utility request to require WDAT/CAISO procedures be used under Rule 21.

## II. Conclusion

In sum, the utilities have failed to satisfy the burden of proof in demonstrating that immediate reform of Rule 21 is necessary, or that applying WDAT/CAISO procedures as an interim measure would yield a net improvement. The Clean Coalition recommends, instead of adopting the utilities' request, that the Commission move expeditiously in reforming Rule 21 in the Rule 21 Working Group, by early 2012. Alternatively, if the Commission finds the utility arguments at all persuasive, it should require that utilities present new information to back up their arguments, as we have suggested above, and eventually offer new projects a choice of interconnection procedure: the existing Rule 21 or WDAT/CAISO procedures under Rule 21 as an interim measure.

The Clean Coalition appreciates the opportunity to submit these comments and we look forward to participating further in this stakeholder process. We will be submitting more detailed comments during the course of the stakeholder process.

Respectfully submitted,

_____/s/_____

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