BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding Policies, Procedures and Rules for the California Solar Initiative, the Self-Generation Incentive Program and Other Distributed Generation Issues.	Rulemaking 12-11-005 (Filed November 8, 2012)

REPLY COMMENTS OF THE INTERSTATE RENEWABLE ENERGY COUNCIL, INC. ON THE ASSIGNED COMMISSIONER'S RULING REGARDING THE INTERCONNECTION OF ENERGY STORAGE SYSTEMS PAIRED WITH RENEWABLE GENERATORS ELIGIBLE FOR NET ENERGY METERING

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Pursuant to the Assigned Commissioner's Ruling ("ACR") in the above-captioned proceeding that was filed and served on the parties on October 17, 2013, and the Assigned Administrative Law Judge's October 24, 2013 grant of an extension of time for the parties to respond to the ACR, the Interstate Renewable Energy Council, Inc. ("IREC") hereby timely submits its Reply Comments on the ACR.

I. INTRODUCTION

IREC notes with satisfaction that a significant number of the parties commenting on the ACR actively support its prompt adoption.[1] Consistent with the requests of those

[1] In this regard, IREC would point the Commission to the Comments of Solar City, the California Center for Sustainable Energy, the California Energy Storage Alliance, the California Solar Energy Industries Association and OutBack Power Technologies.

SB_GT&S_0136051

other parties, IREC urges the Commission to adopt the ACR as soon as possible, ideally by the end of this calendar year, in a form that reflects the suggestions included in IREC's November 1st Comments as to how the Commission can most effectively implement both the letter and the intent of the ACR.

That said, a number of points raised by several of the other parties commenting on the ACR raise issues of law and policy that require a brief response. These issues include:

- The proposal of Southern California Edison ("SCE") to limit the applicability of the exemption in the ACR to "back-up" storage facilities;[2]
- The legally inaccurate argument by The Utility Reform Network ("TURN") that the CPUC's administration of the net energy metering ("NEM") program is not controlled by the CEC's RPS Eligibility Guidebook interpretation of Section 2827, because Section 25741(b)(1) of the Public Resources Code does not include the phrase "any additions or enhancements";[3]
- The recommendation of the Pacific Gas & Electric Company ("PG&E) to limit the applicability of the proposed exemption to SGIP-eligible residential storage customers;[4] and
- The need for an appropriate threshold to prevent undermining the proposed exemption that would occur under the interpretation of several of the other parties if a storage device paired with a renewable energy generation system absorbed a single "brown electron" from the grid.[5]

IREC's responses to the foregoing issues are set forth below.

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2 Comments of SCE (November 1, 2013), at p. 8.
3 Comments of TURN (November 1, 2013), at pp. 3-4.
4 Comments of PG&E (November 1, 2013), at pp. 2 and 5.
5 *See, e.g.*, Comments of PG&E (November 1, 2013), at p. 6.

SB_GT&S_0136052

II. SCE's PROPOSED LIMITATION OF THE EXEMPTION TO "BACK-UP" STORAGE DEVICES WOULD EFFECTIVELY VITIATE THE EXEMPTION

SCE's comments on the ACR appear, on their face, to look for some sort of "middle ground" that would allow certain storage devices that are paired with renewable energy generating facilities that qualify for the NEM tariff to be exempted from interconnection application, supplemental review, distribution upgrade, and standby charges. SCE's comments accordingly propose a set of guidelines for exemptions for such devices.[6] Taken together, these guidelines would provide a very limited basis for exemptions from interconnection charges, but one of these guidelines stands out as being particularly -- and, in IREC's view, unjustifiably -- restrictive:

> "c) Integrated battery storage cannot be used to serve load while the grid is available. In other words, the integrated battery storage device will solely operate as a backup generating system."[7]

The adoption of this proposed limitation would, by itself, effectively vitiate the exemption that the ACR proposes, thereby undermining the public policy benefits that the ACR seeks to implement, specifically, "to facilitate the market for distributed storage during this nascent stage of its development."[8]

Given the price of most small battery systems, most residential and small commercial customers who choose to install a solar PV system on their rooftops would be deterred from making an additional investment in a storage system if that system could only be used during those few hours of the year when there is a power outage. The use of a storage system for back-up alone can be justified for certain manufacturers of highly

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6 Comments of SCE (November 1, 2013), at p. 8.

7 *Id.*

8 ACR, at p. 7.

SB_GT&S_0136053

sensitive products, for whom the loss of power for even a few seconds could result in the loss of an entire batch of product, thereby causing a significant economic loss. However, for the vast majority of customers, there is no such critical need for backup power. Rather, a customer that has a solar PV system may, as an "early adopter," wish to install an associated storage system so that the excess power generated during the daytime can be stored for evening use (for example, a restaurant open only in the evenings might find this to be a cost-effective solution) or for charging electric vehicles (on either the commercial or residential level). This would be an entirely reasonable and legitimate application of storage in connection with a renewable generation facility installed on customer premises that would qualify for an NEM tariff. Yet, SCE's proposed limitation would unjustifiably exclude such a customer from the benefits that the ACR proposes to adopt.

Such a severe limitation is, on its face, unreasonable, and the Commission should therefore reject SCE's proposed guidelines for exemption.

III. TURN'S LEGAL ARGUMENT IS INCORRECT

In response to TURN's argument in its November 1 Comments, IREC would simply note that Solar City took on and disposed of this legal issue in its initial Comments on the ACR:

> "The CEC clarified in April 2013, with the publication of its most recent RPS Guidebook, that storage paired with a renewable electrical generation facility could qualify as an □addition or enhancement□and, thus, be considered a part of that facility. This clarification, standing alone, carries with it the legal effect the ACR now seeks to memorialize: storage devices that satisfy the CEC□s conditions for an □addition or enhancement□are a part of the eligible customer-generator facility and have the protection of Public Utilities Code □2827(g), including exemption from interconnection

SB_GT&S_0136054

and other costs."[9]

Contrary to TURN's argument, Pub. Res. Code Section 25741 clearly does include additions or enhancements:

> "25741. As used in this chapter, the following terms have the following meaning:
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> . . .
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> "(b) "In-state renewable electrical generation facility" means a facility that meets all of the following criteria:
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> "(1) The facility uses biomass, solar thermal, photovoltaic, wind, geothermal, fuel cells using renewable fuels, small hydroelectric generation of 30 megawatts or less, digester gas, municipal solid waste conversion, landfill gas, ocean wave, ocean thermal, or tidal current, and any additions or enhancements to the facility using that technology." (Emphasis added.)

Hence, the Commission should simply reject TURN's legal argument that the proposed exemption is somehow not required by statute.

IV. PG&E'S PROPOSED LIMITATION OF THE EXEMPTION TO RESIDENTIAL CUSTOMERS IS EXCESSIVELY NARROW

Not unlike SCE's Comments, PG&E's Comments state that the company "does not oppose providing subsidies for Rule 21 interconnection fees, studies, standby and upgrade costs for Residential Customers paired with a renewable generating facility with storage meeting SGIP requirements for a trial period through December 31, 2015."[10] However, PG&E limits its openness to "Residential Customers only."[11] The ostensible key reason for this distinction is that "[f]or nonresidential customers, the interconnection costs are a

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9 Comments of Solar City, at pp. 2-3.

10 Comments of PG&E, at p. 3.

11 *Id.*

SB_GT&S_0136055

smaller portion of project costs."[12]

Although this is a superficially appealing argument, the truth is that given the additional costs of a storage system linked to a renewable generation system eligible under the NEM tariff, residential customers are unlikely to be a large percentage of the utility's customers that would be seeking to take advantage of the exemption recommended by the ACR. Hence, PG&E's proposal would have the effect of significantly dampening the value of what the ACR proposes to accomplish and substantially narrowing the range of data points that would be collected during the study period.

This latter point is particularly important, because the ACR is explicit in stating the value of the data to be collected during the proposed two-year study period and the importance of the data that the utilities will be collecting in informing the Commission as to whether it should "end, extend, or modify the exemption provided to NEM-paired storage devices under the NEM tariff."[13]

Although PG&E's proposed limitation to the applicability of the proposed exemption is significantly less draconian that what is proposed by SCE, it remains a recommendation without a principled justification, and the Commission should accordingly reject it.

V. THE NEED FOR AN APPROPRIATE THRESHOLD

Perhaps the trickiest point that the utilities make in their respective comments on the ACR is epitomized by the following language from PG&E's Comments: "Customer-side storage charged from the grid is not renewable generation and should not be eligible

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12 *Id.*

13 ACR, at p. 8.

SB_GT&S_0136056

for NEM export credits."[14] On its face, one might agree with this statement as a matter of principle. However, as SCE itself points out it its Comments, "according to test data provided by one inverter manufacturer, Outback Power, it is neither possible nor practical to conform to the requirement that integrated energy storage device be "incapable" of charging from sources other than the renewable generation facility, including generally from the grid. In fact, integrated energy storage devices must typically use all energy sources, including the grid itself, to maintain a certain battery charge."[15] (Emphasis added.)

Hence, it will be necessary for the Commission to take a pragmatic approach to this issue. Given the way the system works in practice (conceded by SCE), it would be inherently unreasonable for the Commission to agree with PG&E's characterization of the issue and to exclude from the proposed exemption any storage device that is installed in tandem or in coordination with a NEM-qualifying renewable energy generating facility if that storage device accepts so much as a single electron of "brown" energy from the grid.

Indeed, if the Commission were to adopt such an absolutist approach, in addition to effectively gutting the exemption, it would create serious and costly challenges in terms of determining compliance. Such expenses are simply not worth the trouble in connection with a short-term program, the underlying purpose of which is to gather useful data regarding the costs and impacts that storage devices may have on distribution systems.

To avoid such a potentially anomalous outcome, IREC recommended in its Comments that the Commission should adopt storage system sizing limits in connection with the ACR "based on the amount of energy stored in the storage device rather than on

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14 Comments of PG&E, at p. 6.

15 Comments of SCE, at p. 8.

SB_GT&S_0136057

the capacity of such device."[16] Such a common-sense limitation would effectively address the Commission's own legitimate concern about the potential over-sizing of storage systems co-located with NEM-eligible solar PV installations. Moreover, the imposition of such a limitation is a balanced and reasonable response to the legitimate high-level policy concerns expressed by the utilities in their respective comments and should provide them with an adequate comfort level about the boundaries of the program.

VI. CONCLUSION

IREC appreciates the opportunity to submit these Reply Comments and encourages the Commission to take these comments into account as it finalizes a decision to implement the October 17, 2013 ACR.

Respectfully submitted,

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16 Comments of IREC, at p. 9.

SB_GT&S_0136058