

**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
(November 8, 2012)

**COMMENTS OF THE SOLAR ENERGY INDUSTRIES ASSOCIATION REGARDING
THE INTERCONNECTION OF ENERGY STORAGE SYSTEMS PAIRED WITH
RENEWABLE GENERATORS ELIGIBLE FOR NET ENERGY METERING**

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In accord with the October 17, 2013, Assigned Commissioner Ruling (ACR) in the above captioned docket, the Solar Energy Industries Association (SEIA)¹ submits these comments regarding the interconnection of energy storage systems paired with renewable generators eligible for net metering.

I. INTRODUCTION

The ACR proposes to give storage devices meeting the California Energy Commission (CEC) Renewables Portfolio Standard Eligibility Guidebook (Guidebook) conditions for being considered an “addition or enhancement” to a renewable electrical generation facility the same benefits available to renewable generating facilities under Net Energy Metering tariffs until, at a minimum, December 31, 2015. Specifically, the ACR provides that “such storage devices [will] be exempt from standby charges, interconnection application and review fees and [will] not be required to pay for any distribution system upgrades triggered by the storage devices.”² In conjunction with this proposal, the ACR directs the investor owned utilities (IOUs), through March 30, 2015, to collect data on the “lost revenue resulting from this treatment of renewable-

¹ The comments contained in this filing represent the position of the Solar Energy Industries Association as an organization, but not necessarily the views of any particular member.

² ACR, p.1.

paired storage.” The ACR then provides that, based on the data collected by the IOUs, “the Commission may choose to extend or amend this policy.”³

SEIA appreciates the Commission acting to clarify that storage systems which meet the criteria specified by the CEC Guidebook and are paired with NEM eligible facilities will be exempt from the same fees and charges as NEM facilities. However, as illustrated below, the ACR’s proposal to potentially end the exemption appears to be inconsistent with applicable law. Moreover, certain of the ACR’s proposal regarding the deployment of storage systems run counter to the ACR’s goal of “facilitat[ing] the market for distributed storage during this nascent stage of its development,”⁴ as they will curtail the ability (either financially or technologically) to proceed with the installation of a storage device.

SEIA additionally notes that the issue of exempting storage devices paired with NEM-eligible systems from certain fees and charges should lend itself to quick resolution. In contrast the other issues identified in the ACR involve more complex policy and methodological questions. As such, SEIA recommends that if the other issues prove difficult to resolve in an expeditious fashion, then the Commission should issue an interim decision on the exemption issue, to be followed later by a decision on the other issues.

II. EXEMPTIONS FROM FEES AND CHARGES

A. Applicable Law Dictates the Extent of the Exemptions Afforded NEM-Paired Storage Devices

Public Resources Code Section 2574 (a)(1) defines “renewable electrical generation facility,” in applicable part, as:

[A] facility that uses biomass, solar thermal, photovoltaic, wind, geothermal, fuel cells using renewable fuels, small hydroelectric generation of 30 megawatts or

³ ACR, p. 2.

⁴ ACR, p. 7.

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.***

The CEC has now clarified the conditions under which a storage device may be considered an addition or enhancement to a renewable electrical generation facility per Public Resources Code 25741(a)(1). If a storage device which meets these criteria is paired with a NEM eligible facility, then it, in effect, becomes part of that NEM eligible facility and is subject to the same rights and obligations of such a facility.

Public Utilities Code 2827 (g), as further elucidated by Commission Decision 02-03-057, provides that NEM eligible facilities are exempt from the payment of application review fees, interconnection study costs, distribution system modifications and standby charges. Accordingly, a storage device paired with a NEM facility would be entitled to the same exemption from fees and charges under PU Code Section 2827 (g). There is no sunset date to this section of the PU Code. Thus there can be no sunset to the exemption afforded NEM-paired storage devices.

Contrary to these statutory directives, the ACR states that the Commission may determine to end the exemption from the payment of the stated costs/charges after analysis of the IOU collected data on the “lost revenue resulting from this treatment of renewable-paired storage.” Irrespective of what that data shows, however, the legal obligation of exempting NEM- paired storage systems from the various fees and charges the NEM statute provides will remain. There is no apparent statutory basis upon which the Commission could determine to make such fees and charges applicable to NEM-paired storage devices.

B. Any “Sunsetting” of Exemptions must be done in a Manner which does not Forestall the Growth of the Nascent Storage Market

As illustrated above, the applicable statutory language appears to mandate a continuance of the statutory fee exemptions for eligible storage facilities paired with NEM generators. If, however, the Commission proceeds to consider a sunset date for such exemptions, the timing of such sunset must be made clear and the sunset must be effected in a manner which does not cause market disruption.

In discussing the potential sunsetting of the exemptions, the ACR states:

The report [provided by the IOUs on cost data] should include information on storage devices interconnecting through March 31, 2015, and the utilities should serve their reports on the service list of this proceeding or its successor no later than June 30, 2015. Once the Commission has had an opportunity to review the reports and parties’ comments, the Commission may decide to end, extend, or modify the exemption provided to NEM-paired storage devices under the NEM tariff. If the Commission has not acted by December 31, 2015, the exemption will remain in effect.⁵

This language as to when and how the exemption may end is unclear and should be modified in a manner which establishes a clear delineation between those storage devices which would be subject to the fees/charges and those that would not. Specifically, the Commission should clarify that elimination of the exemption would be *prospective* such that only those storage systems that *apply* for interconnection after the sunset date will be required to pay the subject fees and charges. Thus, those systems which have been operating under the exemption or have applied for interconnection prior to the sunset date should continue to be beneficiaries of the exemption.

As noted in the ACR, the “combination of application fees and threat of additional fees and expenses required for interconnection [of storage projects] render the project economics for

⁵ ACR, p. 8.

these systems unattractive and create significant uncertainty for households and businesses considering the addition of storage to their renewable generating facilities.”⁶ A household or business which based the economics of its storage project on receipt of an exemption from certain fees and charges should not have such exemption taken away. The threat of that occurring will create market uncertainty and may forestall the installation of storage projects -- the very opposite effect than what is intended by the policy advanced by the ACR.

It is for the same reason -- avoidance of market uncertainty -- that it would be necessary to use the application date, rather than the interconnection date, as the point of demarcation between those projects that would receive the exemption and those that would not. While the customer has control over the application date, there is often significant uncertainty as to when the interconnection will occur. If the Commission were to determine that all storage projects which were interconnected prior to the sunset date would be eligible for the exemption, then it could witness a significant reduction in the number of storage projects seeking interconnection well before the sunset date. A customer whose project’s economics rely on the receipt of the exemptions will be hesitant to engage in the application process if it must run the risk that its project will not be interconnected prior to December 31, 2015.

III. DEPLOYMENT OF STORAGE SYSTEMS

The ACR provides that the following size requirement shall apply to all storage projects seeking interconnection under the NEM tariff:

[P]rojects coupled with generation technologies must be sized no larger than the rated capacity of the PV or SGIP eligible technology it is operating in concert with. When coupled with a PV system, the rated capacity of the AES system can be no larger than the CEC-AC rating of the PV system, which is the rated AC output of the PV system including inverters.”⁷

⁶ ACR, p. 5.

⁷ ACR, p. 9.

While SEIA can appreciate the intent underlying this proposed requirement-- to ensure that storage systems are appropriately sized to legitimately provide a back-up or integration service that complements the NEM generator-- such a requirement may forestall many customers from adopting the storage technology. Given the nascent state of the industry, the commercial availability of different size storage systems is limited. The smallest lithium ion system size is generally 5 kW. If a customer has a limitation (such as space) which precludes it from installing a solar system that is at least 5 kW, then the requirement proposed by the ACR would prohibit that customer from adopting storage technology.

Accordingly, in order to balance the Commission's interest of guarding against "abuse of the proposed interconnection exemption" against the need to ensure that customers are not unnecessarily precluded from installing storage technology, the ACR's proposed storage system size requirement for systems paired with NEM facilities should only apply when the NEM facility is larger than 5 kW.

IV. CONCLUSION

SEIA appreciates the Commission's efforts to clarify the rules surrounding the installation of NEM-paired storage devices. SEIA respectfully requests that the Commission take into account the points raised by SEIA in these comments when fashioning the final parameters pursuant to which NEM-paired storage devices will interconnect to the IOUs' distribution systems.

Respectfully submitted this November 1, 2013 San Francisco, California.

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