INFORMAL COMMENTS OF THE SOLAR ENERGY INDUSTRY ASSOCIATION ON GUIDING PRINCIPLES AND PROGRAM ELEMENTS FOR SUCCESSOR NET ENERGY METERING TARIFF

May 30, 2014

The Solar Energy Industries Association (SEIA)[1] respectfully submits these comments on possible Guiding Principles and Program Elements for the successor Net Energy Metering (NEM) tariff or contract. SEIA participated in the April 23, 2014 workshop at the California Public Utilities Commission (Commission) during which the Energy Division initially presented Guiding Principles and Program Elements for discussion. The principles and elements were subsequently revised based on input received at the Workshop. SEIA appreciates the opportunity for further comment on these overarching principles and elements which will guide the creation of the successor NEM tariff.

I. INTRODUCTION

The Guiding Principles and Program Elements will serve as a framework for creating and assessing the successor NEM tariff. As such, it is critical that the principles be unambiguously articulated so as to provide a clear metric against which to assess proposals. Similarly, it is critical that potential program elements not be unnecessarily excluded from consideration. It is with these goals in mind that SEIA offers the following clarifications / additions to the Guiding Principles and Program Elements.

II. GUIDING PRINCIPLES

SEIA offers the following clarifications / additions to the possible Guiding Principles identified by the Energy Division:

- Guiding Principle 1 includes a number of criteria that the successor tariff needs to achieve in order to meet its stated objective -- a balancing of the legislative goals identified in AB 327. Among those goals, as set forth in footnote 1 of the Request for Informal Comments, is "[Ensuring] that the total benefits of the tariff to all customers and the electrical system are

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

approximately equal to the total costs". SEIA believes this language was specifically included in the statute to ensure that the totality of benefits, including societal benefits and economic development benefits are considered and recognized in the development of any successor tariff. To that end, guiding principle one should more clearly articulate this. SEIA suggests the following language:

> The successor tariff or contract should be consistent with, and balance, the legislative goals identified in AB 327*, recognizing broad societal and economic development benefits that customer-sited renewable resources provide*.

- Guiding Principle 2 provides that: "The successor tariff or contract should provide market certainty and predictability, considering customer expectations and long term benefits of distributed generation." SEIA supports this principle but is concerned that, absent amplification, its ambiguity may detract from the principle's intended purpose. Thus, SEIA would modify the principle to specifically state a bill crediting mechanism which preserves the ability for the customer to offset its own load will remain a standard tariff option for any customer that chooses to invest in a NEM-eligible system. Such a tariff design provides consistency and predictability to customers where other distributed generation tariffs, such as feed-in- tariffs or value of solar tariffs which do not allow customers to manage and offset their own load and undergo constant re-evaluation, do not.

Moreover, this principle should also be expanded to include preservation of investor expectations, recognizing that the investor community is a critical partner that has and will continue to play an important role in enabling broader adoption of distributed, customer side of the meter energy solutions. The ability for a customer to invest in a project is driven by the specific economics and certainty for a given project. In contrast, to attract investment in a market, the financial community needs some reasonable assurance that the economics underlying customer demand will exist for a sufficiently long and certain period to justify investment. If the Commission continues to rely on the private sector to meet its clean energy goals, investors in clean technology providers should have the confidence that the successor tariff will be fully financeable.

To reflect the above stated issues, SEIA suggests that Guiding Principle 2 be modified as follows:

> The successor tariff or contract should provide market certainty and predictability, c*onsidering customers' right to generate and offset their onsite electricity consumption, as well as customer and investor expectations,* and the long term benefits of distributed generation.

- Guiding Principle 3 provides that: "The successor tariff or contract should encourage simple, transparent and equitable policies for all customers." SEIA strongly supports this principle but believes that additional clarification should be provided with respect to the stated need for equity. Namely, SEIA believes that it is imperative that the successor tariff or contract not implement rate design changes and / or adjustments which disadvantage distributed generation customers as compared to other customer types or classes (e.g., distributed generation customers should not be made subject to fees not applied to other customers). This clarification is consistent with Public Utilities Code Section 2827(g) with provides that:

> (g) Except for the time-variant kilowatt hour pricing portion of any tariff adopted by the commission pursuant to paragraph (4) of subdivision (a) of Section 2851, *each net energy metering contract or tariff shall 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.*

Any fixed charges or other fees that are intended to address fixed cost recovery must be considered across all customers recognizing that the same issue arises regardless of the underlying reason for reduced customer purchases of energy from the utility, be it conservation, efficiency, household size, or the use of distributed generation.

- Guiding Principle 5 should be modified in two ways. The first is to expressly state that any revisions or modifications to the successor tariff would apply on a going forward basis only. This is critically important to prevent market disruption when policies affecting fundamental drivers of project economics, like NEM and its successor program are or at risk of being applied retroactively to already interconnected projects, or projects where substantial investment has already occurred. The second is to emphasize that any modification that has the potential to significantly impact market certainty, disrupt the deployment of NEM generation, or diminish the financeability of the successor tariff should be carefully designed to minimize or eliminate these impacts. The following changes to Guiding Principle 5 would address these concerns:

> The successor tariff or contract should be flexible, and include processes for future review and modification *with any changes applicable on a going forward basis only and consistent with the objective of providing market certainty*.

- As currently framed, Guiding Principle 6 provides that: "The successor tariff or contract should be consistent with other PUC policies and goals involving distributed energy resources, including, but not limited to: energy efficiency, zero-net-energy, energy storage, demand response, integrated demand-side management, renewable energy credits (RECs)." Again, SEIA supports this principle but believes that an addition should be made to recognize the importance of the expansion of customer-sited renewable energy as a component of the state's imperative to reduce greenhouse gas emissions. Accordingly SEIA recommends that the principle be revised to read:

> The successor tariff or contract should be consistent with other PUC policies and *state* goals involving distributed energy resources, including, but not limited to: energy efficiency, zero-net-energy, energy storage, demand response, integrated demand-side management, renewable energy credits (RECs) a*nd greenhouse gas reductions.*

- Guiding Principle 7 requires that the future tariff or contract include privacy protections. SEIA agrees and submits that this principle can be readily achieved by applying the same customer privacy protections currently afforded under net energy metering to any future tariff or contract.

- Finally, SEIA believes the addition of another guiding principle is warranted in order to capture the concept that every customer has a fundamental right to manage their electricity use behind the meter with solar or any other energy-saving technology or product. The successor tariff or contract should not penalize customers or subject them to additional costs for making energy-saving investments.[2] The successor tariff or contract should be constructed in a manner which recognizes that distributed generation customers bear new and different risks than standard utility customers, and, consistent with the Commission policies and goals have made long-term investments in clean energy infrastructure that provide benefits to the utility and all other utility customers. SEIA recommends the following additional guiding principle:

[2] In this regard, consideration should be given to potential tax liability created by any proposed construct for the successor tariff (e.g., under feed-in-tariffs and value of solar tariff, the sale of energy can be considered income, negatively impacting the customer's tax liability).

The future tariff or contract should preserve the right of customers to manage their electricity use behind the meter.

III. PROGRAM ELEMENTS

SEIA offers the following clarifications / additions to the successor tariff or contract program element options identified by the Energy Division:

- Listed under the category of "Quantity and Timing" with respect to calculation of the appropriate credit are the following considerations: "all generation or net exports, frequency of netting fixed or variable compensation, contract duration." SEIA interprets the options listed under this program element to include the ability of customers to offset their own load. In other words, the issue of whether only electricity exported to the grid will be considered in a cost-benefit analysis is in play. SEIA maintains that any NEM reform cannot inhibit a customer's ability to benefit from offsetting its own consumption.

- Included within the category of secondary program elements is the "accessibility / utilization improvements to Renewable Energy Credit (REC) policies." SEIA agrees that policies surrounding the ownership of RECs should be clarified. In this regard, SEIA believes that distributed generation customers should retain ownership of any RECs associated with the output of their systems unless they have expressly transferred ownership through a sale or other formal agreement. This is consistent with current Commission policy.

IV. SUSTAINABLE GROWTH

In developing the successor NEM standard contract or tariff, AB 327 directs the Commission to, among other things:

> Ensure that the standard contract or tariff made available to eligible customer generators ensures that customer-sited renewable distributed generation continues to grow sustainably and include specific alternatives designed for growth among residential customers in disadvantaged communities.

The Energy Division is seeking input on possible definitions and metrics the Commission could consider when implementing the requirement for sustainable growth.

In this regard, SEIA believes the successor tariff or contract should be designed in a manner which advances market conditions that ensure that customers continue to adopt distributed generation at a rate and under terms that are sufficient to support multi-year industry investment and expansion. In order to ensure that the market "continues to grow sustainably" any successor tariff must consider the impact of different rate designs on project economics over a reasonable range of project size, system cost and rate scenarios.

With respect to the adoption of metrics to access the sustainability objective, SEIA recommends that these measures track the amount and trajectory of private investment in distributed customer side resources, as well as the rate of customer adoption, in terms of project deployment and system capacity.[3] Such could then be compared against specific benchmarks developed by the Commission to assess market health. Failure to meet or beat these benchmarks would then trigger a reevaluation of the successor tariff..

V. CONCLUSION

SEIA appreciates the opportunity to present these comments on proposed Guiding Principles and Program Elements for the successor NEM tariff or contract, and looks forward to continued participation in the process to ensure the creation of a NEM tariff / contract which will advance the next generation of the renewable industry.

Respectfully submitted this May 30, 2014, San Francisco, California.

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3326/010/X162860.v1

[3] It is important for the metrics and their interpretation to accurately reflect mid-to-long term impacts of policy changes so that short-term surges in growth in response to an expiring regime, or growth which is positive, but below expected trend, is not misinterpreted.