

**BEFORE THE PUBLIC UTILITIES COMMISSION OF
THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Develop a
Successor to Existing Net Energy Metering
Tariffs Pursuant to Public Utilities Code
Section 2827.1, and to Address Other Issues
Related to Net Energy Metering.

Rulemaking 14-07-002
(Filed July 10, 2014)

**COMMENTS OF VOTE SOLAR
ON CONSUMER PROTECTION AND RELATED ISSUES**

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I. INTRODUCTION

Pursuant to the *Administrative Law Judge’s Ruling Seeking Comment On Consumer Protection And Related Issues* issued on December 8, 2016, Vote Solar appreciates the opportunity to submit the following comments. Vote Solar is a non-profit advocacy organization working to foster economic opportunity, promote energy security and fight climate change by making solar a mainstream energy resource. Since 2002, Vote Solar has been working to make solar affordable and accessible to more Americans. We work at the state level all across the country to support the policies and programs needed to repower our grid with clean energy.

In D.16-01-044, the California Public Utilities Commission (CPUC) directed that “further work by Energy Division staff and the parties, including workshops or other forums, should be undertaken to develop a uniform information packet to be provided to customers interested in installing NEM-eligible systems.”¹ Vote Solar staff attended the workshop held by CPUC Energy Division staff on the topic on October 20, 2016; presentations and discussion at the workshop helped to inform these comments.

¹ P. 84.

² <http://www.californiadgstats.ca.gov/charts/>

³ No other agencies reported complaint statistics at the workshop. The Solar Energy Industries Association (SEIA) reported they have received about two dozen complaints nationwide in 2016.

II. RESPONSES TO SPECIFIC QUESTIONS

1. What are the most important consumer protection issues that NEM successor tariff customers face now, or are likely to face in the near future?

As important context for this discussion, we want to note at the outset that affordable distributed solar is helping families, schools and businesses in California and across the country take charge of their power supply and their electricity bills like never before, which is a vital development in ratepayer protection. Distributed solar is allowing more and more customers to choose the amount of energy they wish to purchase from the grid, and the amount they wish to self-produce and consume with clean energy systems located on their properties. Along with that customer choice comes greater control over electricity bills and the ability to contribute to broader social benefits like clean air, better public health and good local jobs. As solar costs continue to come down and as long as solar customers continue to be compensated fairly for the excess clean energy they generate, more ratepayers will have the choice to be powered by the sun.

Thus far, solar customer satisfaction in California appears high, judging by the data presented at the October 2016 CPUC Energy Division workshop. At that time, David Fogt of the Contractors State License Board (CSLB), the agency which is the primary point of contact for construction-related complaints, noted that his agency receives about 40 solar complaints a month, and received a total of 467 complaints from solar customers from January 2015 to July 2016. According to the CPUC's California DG Stats website, between January 2015 and July 2016 there were 254,968 new net metered systems installed across the 3 IOUs.² If one makes the conservative assumptions that all solar complaints reported to CSLB were from IOU customers, and all of the complaints were from *new* solar customers, that translates to a complaint rate of 0.19% for systems installed January 2015 - July 2016, ie. less than 2 tenths of one percent of new solar customers in California registered a complaint with CSLB in that timeframe.³

² <http://www.californiadgstats.ca.gov/charts/>

³ No other agencies reported complaint statistics at the workshop. The Solar Energy Industries Association (SEIA) reported they have received about two dozen complaints nationwide in 2016.

That said, customer-sited solar is growing at a rapid pace in California. According to the CPUC's California DG Stats website, net metered installed megawatts have more than quadrupled in the three IOU territories in the last three years, from 813 MW cumulatively installed in 2013 to 3,445 MW cumulatively installed by September of 2016.⁴ More than one thousand megawatts of customer-sited solar was installed in 2015, and over one thousand more was installed in 2016. The California Energy Commission notes that Californians have now installed more customer-sited solar *without* financial incentives (nearly 2,800 MW statewide) than with incentives (2,300 MW statewide).⁵ Ensuring a consistent customer education process that helps solar customers get fully informed about their options is important for helping millions of future solar customers be empowered to choose a solar solution that works for them, and is a necessary foundation for the long-term success of California's rooftop solar market.

According to remarks from presenters at the workshop, including David Fogt of CSLB and Bernadette Del Chiaro of the California Solar Energy Industries Association (CALSEIA), the key issues that form the basis for the majority of solar customer complaints in the state include

1. Customer acquisition issues, including aggressive solar marketing and robocalls;
 2. Lack of customer understanding regarding solar contract terms, including any production or other guarantees and financing terms (Fogt at CSLB said these made up 53% of the complaints the agency received); and
 3. Workmanship issues with the physical installation of the system (Fogt at CSLB said these made up 27% of the complaints the agency received).
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2. Which issues identified in Question 1 could most effectively be addressed through an information packet for potential NEM customers? Why?

⁴ <http://www.californiadgstats.ca.gov/charts/>

⁵ California Energy Commission, *Tracking Progress - Renewable Energy*, December 2016, p. 19. http://www.energy.ca.gov/renewables/tracking_progress/documents/renewable.pdf

Of the above-listed issues, lack of customer understanding regarding solar contract terms (Issue #2 above) is the only one that should be addressed by the CPUC. This is an area where standardizing information for consumers could have a meaningful impact, and where existing state and federal laws may not already provide sufficient clarity. Since CPUC is the agency that developed the net metering successor tariff and is requiring the IOUs to offer it to future solar customers, the agency is an appropriate entity to require solar companies to make the solar contracting process as transparent as possible for those customers who make use of the net metering successor tariff.

Specifically, we propose that two separate documents be required: first, a standardized information packet made widely available to all IOU customers (and other Californians if possible), which among other things includes a list of questions that customers considering rooftop solar should ask solar companies. Second, for customers who are in substantial discussion with a solar company regarding a solar bid, a standardized disclosure form that summarizes key specifics of the bid. Collectively, these two documents should aim to achieve the following:

- 1) Help the consumer make a consistent comparison of contract terms including all fees, financing structures, performance guarantees, and potential impacts on selling, modifying or refinancing the property, across solar bids;
- 2) Require solar companies to use accurate and consistent data on rate escalation in recent years for any savings projections (we suggest that the CPUC define or approve this data for consistency), and clearly explains that changes in customer bill savings compared with current projections are possible over time because rate structures are not fixed; and
- 3) Explain what renewable energy credits (RECs) are, who would own the RECs generated by the system and what that means for how the customer chooses to represent the renewableness of their energy supply.

In addition, the information packet to be given to potential customers early on will be a valuable conduit for information about low-income solar and energy efficiency programs. Low-income ratepayers may be interested in clean energy options, but may find that they

are not able to go solar using traditional means, because of various economic or structural barriers; however, they should be made aware they may be eligible for programs such as the Single Family Affordable Solar Housing Program (SASH), the Low-Income Weatherization Program (LIWP) and others.

3. Which issues identified in Question 1 do not lend themselves to being effectively addressed through an information packet for potential NEM customers? Why not? (These issues will be followed up in Questions 11- 13, below.)

Robocalls (Issue #1 above) are not specific to solar, are illegal under California and federal law in most cases, and are reportable to and enforced by the Federal Trade Commission and Federal Communications Commission, as well as the CPUC's Consumer Affairs branch.⁶ Construction workmanship issues (Issue #3 above) are largely not specific to solar and are best addressed via CSLB, whose mission is to “protect consumers by regulating the construction industry through policies that promote the health, safety, and general welfare of the public in matters relating to construction,”⁷ or via solar trade group complaint processes.

4. What entity or entities should be responsible for preparing an information packet? Please explain why that entity is appropriate for this task.
5. What entity or entities should be responsible for providing any information packet to potential NEM customers? Please explain why that entity is appropriate for this task.

The CPUC, as the agency that approved the net metering successor tariff, should be responsible for approving an information packet and disclosure forms, and should ensure that licensed California solar installers are made aware of the requirements regarding their dissemination. Solar installers should be responsible for providing the required

⁶ See

http://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/Utilities_and_Industries/Communications_-_Telecommunications_and_Broadband/Consumer_Programs/Consumer_Advisories/080129_RobocalIADAD_FAQ.pdf.

⁷ See http://www.cslb.ca.gov/About_Us/.

information packet to each IOU ratepayer who indicates an interest in rooftop solar. Solar installers should be responsible for providing the relevant disclosure form to each IOU ratepayer they make a bid to, before a final agreement is signed. This is appropriate because the solar installer is the entity interfacing most frequently with the customer, and is the holder of relevant information regarding the solar bid.

The IOUs should provide a link to the information packet on their net metering webpages, where potential solar customers may often go in their research. In addition, it would be appropriate to include the information packet on the CPUC, California Energy Commission (CEC) and other relevant agency websites, as well encourage that it be included on websites of solar industry groups and other relevant stakeholders.

6. For each issue identified in your response to Question 2, please provide a proposal or a mock-up of how the issue might be presented in an information packet. Please provide any copies of contracts, contract disclosure forms, or other documents that could be used to inform the development of this language and/or visual presentation. This may be done by providing a link to those documents that are accessible online, or by attaching a copy.

The solar industry is well-positioned to provide specific wording for information packets and disclosure forms. Both the Solar Energy Industries Association (SEIA) and CALSEIA take solar consumer protection seriously and have established processes by which solar customers can report complaints to the trade groups and seek to have them resolved. SEIA's website includes a Solar Customer Resource Portal that includes consumer solar guides, Lease and PPA disclosure forms, and a form that customers can fill out to register a complaint which will be followed up on by SEIA staff.⁸ If a company is found to have violated the Solar Business Code, sanctions can range from a reprimand to expulsion from SEIA and referral of the matter to the appropriate government entities. CALSEIA also hosts a solar customer complaint form online,⁹ and lists a Code of Ethics that its members must comply with to be considered in good standing.¹⁰ The Interstate

⁸ See <http://www.seia.org/policy/consumer-protection/solar-customer-resource-portal>

⁹ See <http://calseia.org/contractor-investigation/>

¹⁰ See <http://calseia.org/consumer-protection/>

Renewable Energy Council (IREC) has also developed a helpful Consumer Solar Checklist that is a useful resource for this purpose, as well as a Clean Energy Consumer Bill of Rights.¹¹

As the CPUC develops information disclosure requirements for solar consumers, it should draw as much as possible from materials already carefully developed. We propose that SEIA's "Residential Consumer Guide to Solar Power" form the basis for the required early-stage information packet.¹² In addition, we propose that SEIA's "Solar Transaction Disclosure Forms" be the basis for the required disclosure form to be provided later in the solar bidding process; SEIA has such forms for lease and PPA agreements, but a similar form should be developed for a system purchase as well.¹³

7. In what format(s) should any information packet be made available? For example, paper copies, electronic copies, both? Please describe the advantages and disadvantages of all formats you identify.

The information packet should be maintained primarily online, where it can be updated in a consistent manner via CPUC direction and easily accessed by much of the public. However, we suggest that the solar customer should be able to choose whether they prefer to receive a paper copy, an electronic copy, or both from the solar installer. In this way, customers will be able to review and save the information in the format most useful to them.

The solar company should provide the disclosure form on paper to the customer before any final agreement is made or contract signed. If an agreement is approved, both the customer and the solar company should be required to sign verification that the disclosure form was provided.

8. Should any information packet be made available in any language other than English? Why or why not? If your answer is that information packets should be made available in other

¹¹ See <http://www.irecusa.org/consumer-protection/consumer-checklist/> and <http://www.irecusa.org/consumer-protection/consumer-bill-of-rights/>

¹² See <http://www.seia.org/research-resources/residential-consumer-guide-solar-power>

¹³ See <http://www.seia.org/research-resources/solar-transaction-disclosure-forms>

languages:

- a. How should the languages be chosen?
- b. What entity should be responsible for making such choices?
- c. What entity should be responsible for preparing the presentation of the information in languages other than English?

California is an ethnically and culturally diverse state, and solar customers will become more diverse as solar costs continue to decline. A recent California Energy Commission report notes that in 2009-2013, 43.7% of Californians spoke a language other than English at home, with the following breakdown: 28% Spanish and Spanish Creole; 9.6% Asian and Pacific Island languages; 4.4% other Indo-European languages; and 0.9% Other. The same report notes that for low-income California households specifically, a full 38% of low-income households speak Spanish.¹⁴ Potential solar customers who speak a language other than English as their primary language will be better informed by consumer information in their native language; we know that understanding the proper meaning of a word or phrase can be pivotal when seeking to understand a contract.

Given this information and the special importance of expanding access to distributed solar to low-income and disadvantaged California communities, it is prudent that both the information packet and disclosure forms should be available in Spanish. The CPUC could designate ratepayer funds for translation of the documents into Spanish, and any other non-English languages that it determines appropriate. This would relieve smaller solar companies of the cost of translation and ensure consistency in translation quality.

9. At what point or points in the customer's consideration of installing a NEM-eligible system should any information packet be presented to the customer? Please describe the advantages and disadvantages of the point(s) you have identified, and compare it to other possible points during the customer's consideration and decision-making process.

¹⁴ California Energy Commission, *Low-Income Barriers Study, Part A: Overcoming Barriers to Energy Efficiency and Renewables for Low-Income Customers and Small Business Contracting Opportunities in Disadvantaged Communities*, December 2016, p. A11.

The information packet should be made available by solar companies early in the conversation with the potential solar customer, as the included information is most valuable during the time that they are gathering more information and considering their options. Solar companies could provide the information packet, or an online link to it, at the time the customer indicates an interest in learning more about rooftop solar options. Generally, if a customer is interested in going solar, the sooner they receive the information packet the better, in order to ensure they are as well informed as possible while considering their solar options.

The filled-out disclosure form should be given to those ratepayers who are in substantial discussion with a solar company regarding a solar bid, at least one week before a final agreement is signed. In this way, the customer will have time to review a summary of key bid specifics, and compare those specifics with other solar bids they may be considering.

12. What, if anything, does your organization (if the party is an organization) or you (if an individual) currently do to promote consumer protection and responsible business practices, including but not limited to customer and contractor education and awareness, dispute resolution, and publication of best practices? Please provide examples of literature or information on web sites, if relevant.

Vote Solar has created a ‘Solar Consumer Resources’ webpage on our website, linking to materials made available by SEIA, IREC and other reputed national entities, available at <https://votesolar.org/about-us/news-and-events/news/solar-consumer-resources/>. We also highlight consumer protection as a key element in our Low-Income Solar Policy Guide, developed in partnership with GRID Alternatives and the Center for Social Inclusion and available at <http://www.lowincomesolar.org/>.

14. What measurement and evaluation requirements should be put in place for the NEM successor tariff generally? E.g., ongoing maintenance of the public reporting site, www.californiadgstats.ca.gov? Other reporting activities? Studies? Please provide specific suggestions and examples of how your suggestions could be implemented, including budget

and funding sources, if required.

The utilities are already required to report solar net metering signups on a monthly basis at www.californiadgstats.ca.gov. We do not see a need for further measurement and evaluation.

15. What measurement and evaluation requirements should be put in place for consumer protection measures specifically? E.g., Reporting activities? Studies? Please provide specific suggestions and examples of how your suggestions could be implemented, including budget and funding sources, if required.

We propose that CSLB, the AG's office and other California agencies who receive solar consumer complaints could collectively release a simple yearly report on first of the calendar year documenting the number, types and locations of complaints, which could be housed on the CPUC's website for public review.

- 16-17. What marketing and outreach efforts, if any, should be undertaken for the NEM successor tariff in general? Please specify how these activities would be helpful to potential NEM successor tariff customers. If no such activities should be undertaken, explain why not.

What marketing and outreach efforts, not already addressed in a previous response, should be undertaken for consumer protection measures specifically? Please specify how these activities would be helpful to potential and actual NEM successor tariff customers. If no such activities should be undertaken, explain why not.

- a. What entity or entities should be responsible for conducting the marketing and outreach efforts you have identified?
- b. How should such marketing and outreach efforts be funded?
- c. What is a reasonable budget estimate for the efforts you have identified?

Since solar companies seek out customers who would receive the NEM successor tariff, and since the IOUs, the CPUC and various other entities should include the information packet on their net metering webpages as noted above, we do not see a need for a large separate marketing and outreach plan. The CPUC could list basic information about the

NEM successor tariff on its website at www.californiadgstats.ca.gov, including how the new tariff differs from the previous NEM tariff, along with a note that customers should be receiving the required information packet and disclosure forms from the solar companies with whom they enter discussions.

III. CONCLUSION

Vote Solar appreciates the opportunity to file these comments on the important issue of solar consumer protections.

Respectfully submitted this January 24, 2017 at Oakland, California.

/s/ Susannah Churchill

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Vote Solar