

DOCKETED

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November 20, 2019
GM 19-274

Chair David Hochschild
Commissioner J. Andrew McAllister, Ph.D.
Vice Chair Janea Scott
Commissioner Karen Douglas
Commissioner Patty Monahan
California Energy Commission
1516 9th Street
Sacramento, CA 95814

**Re: Docket 2019-BSTD-08 -- Community Shared Electric Generation System
Application by the Sacramento Municipal Utility District**

I am extremely disappointed that the Commission voted to defer action on SMUD's Application for the Community Shared Electric Generation System option under the 2019 Building Standards (Section 10-115) at the November 13th Commission Business Meeting. Our Neighborhood SolarShares Program provides housing developers with an alternative method of complying with the solar mandate, as was specifically contemplated by the 2019 Building Standards. There is no requirement that housing developers avail themselves of this compliance option. Instead, it just provides them with a choice. In fact, we expect that many developers will choose to install rooftop solar as a means to attract prospective homebuyers, and SMUD will continue to partner with those developers and rooftop solar installers to ensure an efficient interconnection process. That said, our Neighborhood SolarShares Program supports the State's goal of encouraging the development of more affordable housing by providing a lower cost method of meeting the mandate while ensuring equivalent carbon reduction benefits.

The record of last week's Business Meeting makes it clear that SMUD's Application meets the requirements for the community solar option, and I urge the Commission to approve it at the December 11th Commission Business Meeting. Commission staff's presentation recommending approval of SMUD's Neighborhood SolarShares program laid out a clear path from the 2015 Independent Energy Policy Report guidance to the significant community solar option requirements in the 2019 Building Standards and documented that SMUD's Application meets those requirements. In discussion, no Commissioners directly challenged staff's conclusion. Accordingly, the 2019 Building Standards *require* that the Commission approve SMUD's Application. Section 10-115(c) covers Commission approval of community solar applications, stating:

"10-115(c) Commission Approval. Community shared solar electric generation systems and/or community shared battery storage systems, which demonstrate to

Arlen Orchard, Chief Executive Officer & General Manager



the Commission's satisfaction that all of the requirements specified in Section 10-115 will be met, ***shall be approved.***" (Emphasis added.)

The Commission apparently deferred a decision on November 13th to engage in further discussion about what types of projects will qualify as "community solar." As Commission staff pointed out and Commissioner dialogue recognized, the community solar option in the 2019 Building Standards includes no minimum or maximum size requirements, no location or proximity requirements, and no requirements for "equivalent benefits" to those potentially provided by rooftop solar installations under the solar mandate. Moreover, Commission legal staff pointed out that the Commission could not impose additional requirements at this time without going through a formal rulemaking process.

SMUD has invested significant time and resources working extensively with Commission staff over the course of 18 months to ensure our Application satisfied each requirement in section 10-115, changing the program design near the end of this process to *guarantee* compliance. After the extensive level of collaboration between SMUD and staff, it is troubling that the Commission is contemplating rewriting the rules at the 13th hour and negating the effort and investment made by SMUD to develop an application meeting all of the regulatory requirements. In addition, the Commission's delay has placed necessary work on hold, challenging timely rollout of the option once approved and impacting decisions that must be made by the building community. In addition to work SMUD must do internally to prepare for implementation, work with CEC staff to implement necessary details for the compliance option in the Building Standards software is on hold.

The Commission has now twice delayed approving this fully compliant program. Continuing to delay action on our Application is equivalent to a rejection. Time is of the essence, with implementation of the solar mandate mere weeks away. Builders – the primary stakeholders affected by updates to the Building Standards and the new mandate – have emphasized the importance of having the additional compliance option community solar offers in place as soon as possible. At least 16 local builders – both large and small – submitted letters to the docket in support of SMUD's program expressing their desire to have a community solar option available as one way to meet the solar mandate. The California Building Industries Association submitted a letter of support for approval of the application, after receiving a unanimous support vote from their Government Affairs Committee. Given the effective date is just around the corner, the Commission must follow its own regulations in the 2019 Building Standards, and we expect action to approve SMUD's Application at the December 11th Commission Business Meeting. To do otherwise is simply unreasonable. Moreover, further delay may prevent badly needed affordable new housing in the Sacramento region from being developed in a timely fashion.

SMUD's Neighborhood SolarShares program has broad and diverse stakeholder support. The builder community supports the program as a low cost compliance option, particularly important in the roof-constrained multi-family sector. In addition to the builder support letters in the docket,

14 others either submitted support letters or represented their support at the Business meeting. Architects support the flexibility provided with the ability to consider an off-site option. Other utilities such as PG&E and utility associations such as California Municipal Utilities Association (CMUA) support Neighborhood SolarShares as an allowed compliance option that may provide an example for developing similar options in other utility service areas. Labor supports the program because good-paying construction jobs are present with larger solar installations. The Sacramento Housing and Redevelopment Authority supports SMUD's Neighborhood SolarShares program because a community solar option for compliance is particularly important for multi-family affordable housing. The Sacramento Tree Foundation expressed support because they recognize the environmental benefits of a denser and larger tree canopy in neighborhoods combined with the required solar at another site. These diverse stakeholders recognize that the SMUD-proposed community solar program is just an additional compliance choice useful in particular developments, not the only compliance option available for all developments.

In particular, multi-family housing has constrained roof space for solar, and the wiring and infrastructure for multiple interconnected systems on the same roof space is expensive and can be difficult to include in the building design. Installing rooftop solar under a power purchase arrangement or a solar lease structure can reduce the up-front costs of homes with solar and keep home prices lower, but tenants in affordable housing may not have sufficient credit ratings to facilitate the third-party arrangements necessary with a solar company in these types of financial arrangements. SMUD's Neighborhood SolarShares program may turn out to be the only viable compliance option for affordable housing.

While it is abundantly clear SMUD's community solar proposal has broad support from a diverse group of Sacramento stakeholders, meets the requirements, and should be approved as currently written, we recognize the significant opposition to Commission approval from the rooftop solar industry. SMUD's Application and statements at the Business Meeting demonstrate our commitment to using newly-constructed solar resources, the vast majority of which are within our service territory, to serve the Neighborhood SolarShares program. In the interest of moving toward consensus, SMUD reiterates and clarifies that we will voluntarily exceed the requirements by:

- Including only resources within our service territory for the Neighborhood SolarShares supply portfolio. While nothing in the community solar option requirements explicitly prevents use of the relatively close Great Valley 2 resource, SMUD will voluntarily remove that resource from the supply portfolio.
- Retiring Renewable Energy Certificates in Western Renewable Energy Generation Information System (WREGIS) only from resources constructed in 2020 or later, except as may be necessary to meet program participation prior to those new resources becoming available or in the unexpected case that new resources temporarily become unavailable (again, this voluntary action by SMUD is not

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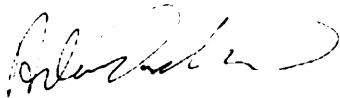
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required by the standards). Given the timing of home construction and the proposed use of a portfolio of resources, we expect the need to use existing resources will be minimal.

As the solar mandate takes effect and the community solar option is included, SMUD will continue to work with the Commission and other stakeholders to implement the Neighborhood SolarShares option to foster multiple builder options to meet the solar mandate and continuing consumer options to include solar and storage in new homes.

Based on the above, I urge the Commission to comply with its own regulations and approve SMUD's Application at the December 11th Commission Business meeting.

Thank you for your expected action in this matter.



Arlen Orchard
Chief Executive Officer and General Manager

cc: SMUD Board of Directors
Alice Reynolds, Office of Governor Gavin Newsom
American Institute of Architects
Bardis Homes
Beazer Homes
Building Owners & Managers Association – California
California Apartment Association
California Building Industry Association
California Business Properties Association
California Chapters of the National Electric Contractors Association
California Municipal Utilities Association
DESRI Renewables
DPS Construction
First Solar
Indie Capital
KB Home
K. Hovanian Homes
LA County National Electrical Contractors Association
Matson Properties
Pacific Gas & Electric
Premier Homes
Reynen & Bardis
Riverland Homes

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Corporate Files