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*Comment Received From: Rick Umoff
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Additional submitted attachment is included below.



June 21, 2021

California Energy Commission
Docket 21-BSTD-01
1516 9th Street
Sacramento, CA 95814

Subject: Docket 21-BSTD-01 – Comments of the Solar Energy Industries (SEIA) re Section 10-115 of the 2022 Building Energy Efficiency Standards

The Solar Energy Industries Association (SEIA) appreciates the opportunity to comment on the revised 2022 Building Energy Efficiency Standards (BEES) issued on May 6, 2021. SEIA commends the California Energy Commission (CEC) and its staff for its continued effort to advance the state’s building and energy codes to help achieve the state’s goal of transitioning to a clean energy economy. After thorough review, SEIA provides the following comments on the revised regulations in Section 10-115 as relates to the Community Shared Solar Electric Generation compliance pathway.¹

Section 10-115 – Community Shared Solar Electric Generation System or Community Shared Battery Storage System Compliance Option for On-Site Electric Generation or Battery Storage Requirements

SEIA has been engaged in development of the Community Shared Electric Generation compliance pathway since its inception. SEIA provided comment on the first application approved under this code section by the Sacramento Municipal Utility District (SMUD) and supported many of the changes made in its original application. SEIA is supportive of the revised regulations as relates to the community solar compliance pathway. SEIA believes that the revisions help to ensure that the policy objectives of this section are met while also allowing sufficient flexibility for the community solar compliance option to be utilized. As Commission staff further refines Section 10-115, SEIA encourages further consideration of the following issues:

1. Establishment of Community Solar Tariffs and Programs

As a threshold matter, it is important to note that California still does not have a viable community solar tariff to support community solar project development throughout most of the state. This is currently the most significant roadblock to unlocking community solar in California. If there is no means by which community solar projects can be compensated for the benefits they provide, then community solar projects will not be built. This is an urgent issue that must be addressed to make the community solar compliance option viable. SEIA urges the

¹Founded in 1974, SEIA is the national trade association of the United States solar industry. Through advocacy and education, SEIA and its 1,000 member companies work to advance solar energy by expanding markets, removing market barriers, strengthening the industry, and educating the public on the benefits of solar energy. SEIA’s members have a strong interest in the adoption and implementation of innovative, forward-looking policies and programs that will accelerate the development of solar photovoltaic (PV) generation.

Commission to coordinate with the California Public Utilities Commission and other state agencies to develop tariffs and programs that will support the development of community solar projects at scale.

2. Ensure Customer Optionality (Section 10-115(a)(4); Section 10-115(a)(8))

SEIA appreciates the Commission’s recognition for the need to allow buildings and customers to opt out of community solar programs if they choose to do so. However, SEIA remains concerned that the revised language may not provide sufficient protections for customers that choose to opt out of community solar programs and install solar onsite to meet the code requirements. SEIA recommends that the Commission include language that clarifies that customers cannot be unduly burdened by community solar providers in such a manner that would make opt-out infeasible. SEIA recommends including language that prohibits onerous exit fees or other unreasonable barriers on customers’ ability to opt out of community solar programs. Specifically, SEIA recommends the following amendment to Section 10-115(a)(4): “At the time of interconnection of that on-site solar electric generation system, all costs associated in the community shared solar and/or battery storage system shall cease **and no punitive fees will be charged.**”²

To implement this requirement in a workable fashion, the Commission should require applicants to address this issue up front in their application. For applicants with individual projects, the Commission should consider allowing an attestation by the applicant not to impose an onerous or punitive exit fee on customers. In the case of projects developed under a common set of program rules, the Commission may look to the program rules under which a project or group of projects is developed to ensure sufficient protections against onerous exit fees are in place. Finally, for further guidance on how to determine whether a fee is onerous or punitive, SEIA recommends looking to best practices from other leading community solar programs, as well as the impact a proposed exit fee would have on a customer’s ability to opt out of a community solar program.

3. Application for Commission Approval (Section 10-115(b))

The Commission should clarify who is considered the “administrator” of a community solar generating system in the context of a community solar program where there are multiple independently developed/owned projects under a common set of program rules. This currently remains unclear under the regulations and guidance documents.

SEIA appreciates the opportunity to comment on the revised regulations and looks forward to collaboration with the Commission and stakeholders on the development of the 2022 BEES.

/s/ Rick Umoff

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² Bold underlined language is new language that SEIA recommends adding to the code section.