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**STATE OF CALIFORNIA
BEFORE THE CALIFORNIA ENERGY COMMISSION**

In the matter of:)	Docket No. 19-BSTD-03
)	
<i>2022 Energy Code Pre-Rulemaking</i>)	SMUD Comments on Pre-
)	Rulemaking Express Terms for
)	2022 Update to Energy Code
)	
)	March 9, 2021
)	

**COMMENTS OF SACRAMENTO MUNICIPAL UTILITY DISTRICT
ON PRE-RULEMAKING EXPRESS TERMS FOR 2022 UPDATE TO
ENERGY CODE**

The Sacramento Municipal Utility District (“SMUD”) respectfully submits the following comments to the California Energy Commission (“CEC”) regarding the Pre-Rulemaking Express Terms for 2022 Update to Energy Code (“2022 Energy Code”).

SMUD appreciates the CEC’s leadership in prioritizing decarbonization in the 2022 Energy Code. There is a climate change crisis, and we encourage the swift implementation of known strategies that reduce greenhouse gas (GHG) emissions from fossil fuels and refrigerants. California cannot achieve its landmark 2030 and 2045 carbon reduction goals without electrification of most energy end uses. Moving to an all-electric baseline will provide greater access for equity communities to clean energy and energy efficiency to reduce overall utility costs. Building electrification combined with clean electricity is a critical component to meeting the state’s emissions and air pollution goals. Building electrification also has a lower first cost than gas construction and is cost-effective for consumers.¹ SMUD strongly supports the CEC adopting an all-electric baseline for the 2022 Energy Code for residential and commercial buildings.

Introduction

The inclusion of heat pump baselines and the option of community solar to meet proposed rooftop solar mandates are important elements in achieving building electrification. SMUD has been generally supportive of staff proposals as noted in our

¹ Rocky Mountain Institute (<https://rmi.org/insight/the-economics-of-electrifying-buildings/>;
<https://www.greenbiz.com/article/yes-clean-electric-buildings-can-reduce-emissions-and-save-money-new-construction>)

earlier comments² throughout the pre-rulemaking. We offer suggestions for improvement to the 2022 Pre-Rulemaking Express Terms for these two elements. We also support the joint letter submitted by the Coalition for strong building decarbonization standards filed March 5, 2021 by NRDC and 62 others³ on these issues.

Community Solar

- Building Owner Opt-out –SMUD is reviewing the implications of an opt-out and how that would impact the Neighborhood SolarShares program approved by the Commission.⁴ Any opt-out provision must be carefully designed to preserve the Community Solar alternative that offers property owners flexibility for meeting the solar generation system requirement. It must also recognize that Code compliance monitoring and enforcement is outside the purview of the Community Solar administrator.
- Original Building Purchaser Choice – Builders should be permitted to continue offering customers the choice of on-site solar or the Community Solar alternative.
- Executive Director Approval of Revised Applications – Changes in the Community Solar requirements, including new program constructs, cannot be applied to retroactively require amendments to approved projects and programs. Community Solar administrators and customers that have acted based on applications that have been approved by the Commission should not be subjected to the uncertainty of future Code modifications.

Heat Pump Baselines

SMUD supports the Express Terms' inclusion of electric appliances in the baseline for new residential construction. We appreciate the Commission's incorporation of prior comments⁵ which include:

- Updated space and water heating electric baselines that will require at

² 12/23/20 SMUD Comments Re 2022 Energy Code Solar PV & HP Baselines

(<https://efiling.energy.ca.gov/GetDocument.aspx?tn=236132&DocumentContentId=69129>)

07/08/20 SMUD Letter to CEC Commissioners 2022 Energy Code

(<https://efiling.energy.ca.gov/GetDocument.aspx?tn=233801&DocumentContentId=66449>)

04/10/20 SMUD Comments on 2022 Energy Code Compliance Metrics

(<https://efiling.energy.ca.gov/GetDocument.aspx?tn=232711&DocumentContentId=64781>)

³ 3/5/21 Coalition for strong building decarbonization standards (NRDC and 62 others) Joint Letter on March 5, 2021 (<https://efiling.energy.ca.gov/GetDocument.aspx?tn=237028&DocumentContentId=70198>)

⁴ CEC Resolution No. 20-0220-11

(<https://efiling.energy.ca.gov/GetDocument.aspx?tn=232201&DocumentContentId=64186>)

⁵ 2/11/21 NRDC and 13 Organizations Joint Comments on January 26, 2021 Workshop on Single-Family Electrification (<https://efiling.energy.ca.gov/GetDocument.aspx?tn=236741&DocumentContentId=69767>)

least one electric appliance in each climate zone (and generally the bigger of the space and water heating appliances in most of the high-construction zones);

- All-electric readiness measures for space heating, water heating, stoves, and dryers;
- Differentiated range hood ventilation requirements for gas and electric stoves for both residential and multifamily construction; and
- Electric heat pump space and water heating baselines in schools.

Further, for California to shift to all-electric new construction in order to meet its climate goals, avoid future costs, and proactively send the right signals to builders and appliance manufacturers, we encourage the Commission to make a public commitment to an all-electric 2025 building code.

SMUD may have additional comments on the Express Terms and proposed regulatory language based on these Terms, as the rulemaking proceeds. We look forward to working with staff to further refine the Express Terms into feasible regulations that provide necessary certainty to the stakeholders, including end-use customers.

Discussion

1. Section 10-115 - Community Solar

a. 10-115 (a) (4) Building Owner Opt-out - Community solar administrators as the providers of energy are not the entities responsible for code compliance.

Community Solar provides a viable alternative necessary for California to meet its building energy efficiency goals. SMUD believes that the Community Solar alternative provides developers, builders, and property owners an important tool for meeting the solar generation obligation in the Code. The opt-out as proposed in the Express Terms may create unintended consequences and requires further examination. SMUD is currently reviewing this issue to determine the administrative, logistical, and customer issues associated with implementation of an opt-out provision. Any approach adopted must maximize the carbon reduction benefits associated from the use of solar energy without creating additional regulatory hurdles or setting technology preferences. We look forward to continued dialog with staff on this issue.

For example, SMUD requests the Commission clarify that the point of compliance for Section 150.1(b)(1) is with the local jurisdiction building department where the building is located, consistent with the point of compliance for building construction and modification permitting.

Likewise, SMUD requests that the Commission clarify that the requirement for “all costs” associated with the Community Solar participation to cease does not preclude the recovery of the actual cost incurred to effect the “opt out.”

b. 10-115 (a) (8) Original Building Purchaser Choice - – Builders should be permitted to continue to offer customers choice of on-site solar or the Community Solar alternative.

The Community Solar option is intended to add choices for builders rather than restricting them, thereby reducing overall costs to purchasers. SMUD agrees that consumers should have a choice among all available Community Solar and on-site solar options to make fully informed decisions. However, mandating that a builder offer the option of installing an on-site solar generation system is problematic as it could in many cases result in unnecessary infrastructure, the need for duplicative compliance calculations and other efforts, higher costs for purchasers, and penalties to developers that cannot feasibly install on-site solar. Further, such mandate gives preference to on-site solar irrespective of cost.

SMUD further believes that nothing in a Community Solar program should preclude the home purchaser from installing on-site solar or on-site storage in the future.

c. 10-115 (c) Executive Director Approval of Revised Applications - Community Solar administrators should not be required to submit revised applications to existing approved programs to retroactively apply changes to Section 10-115 in future code cycles.

SMUD seeks clarity on the proposed requirement for an administrator “of an *approved* community shared solar electric generation system” [emphasis added] to submit a revised application when the Commission modifies the requirements of the Community Solar regulation provisions. The broad mandate as stated would effectively create a retroactive application of such new revisions to the Code to already implemented programs that have been approved by the Commission. Community Solar administrators and the property owners act in reliance on the Commission’s approvals. For example, the Declaration of Covenants, Conditions and Restrictions (CC&Rs) recorded for Community Solar developments necessarily contain provisions committing the properties to the 20-year Community Solar alternative to ensure compliance with the Code. Complicated and costly changes to the CC&Rs would be required to retroactively permit changes to the Community Solar terms. Subsequent changes in the law should not invalidate projects and systems in which millions of dollars have been invested. While SMUD supports the application of new requirements to the location and size of new resources; however, new requirements should not invalidate already approved programs.

d. 10-115 (a)(6) Location – Locational requirements are appropriately aligned with individual utility system design.

SMUD is supportive of staff’s interest in localizing the Community Solar systems to the communities such systems are intended to serve. Aligning locational requirements with the utility service area rather than city or county boundaries will achieve staff’s objective while recognizing the real-world utility system operation. SMUD supports the proposed

language requiring the Community Solar project to be located on a distribution system of the utility providing electric service. We suggest that the language be clarified to recognize that a “distribution system” is subject to the design of the specific utility system.

e. 10-115 (a) (7) Size

SMUD also supports the proposed 20 MW or less size parameter for new Community Solar resources. The 20 MW threshold mirrors the maximum size limit for resources in the CPUC Green Tariff/Shared Renewables (GTSR) program and is consistent with the parameters in the Coalition for Community Solar Access March 2019 publication “Community Solar Policy Decision Matrix”⁶, which recommends resources be within a utility service area and no more than 20 MW in size. We caution, however, that Community Solar program standards should be sufficiently flexible to allow projects sized to enable utilities to meet demand as it grows. For example, SMUD will only retire RECs on behalf of the NSS program participants from **new** resources that are **20 MW or less**, unless there is program demand that cannot be met from these resources at a particular point in time.

2. Heat pump baselines

We appreciate the CEC’s continued efforts to establish heat pump baselines that promote zero-emission electric construction. These efforts are critical to accelerating building decarbonization in alignment with California’s broader emissions reduction goals. Staff’s proposal provides meaningful incentives for electrification which should result in most of the market transition to all-electric over the next code period, while giving builders flexibility to transition at their own pace.

Conclusion

SMUD strongly supports advancing the 2022 Energy Code by further prioritizing details that advance building decarbonization. Recognizing the urgency of climate change, we hope the Commission moves swiftly to head off the most critical impacts of this climate crisis. With the extensive data on climate, gas prices, electricity prices, and state policies in support of building decarbonization, updates to the 2022 Energy Code present a prime opportunity to keep pace with other statewide policies and climate goals.

As always, SMUD appreciates the opportunity to provide comments on the 2022 Energy Code. We look forward to working with the CEC to continue to advance efficient, all-electric construction and provide a Community Solar option as key elements in achieving the state’s policy goals.

⁶ <http://www.communitysolaraccess.org/wp-content/uploads/2019/04/2019CommunitySolarPolicyMatrix-2.pdf>, page 14

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