



BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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Order Instituting Rulemaking to Revisit
Net Energy Metering Tariffs Pursuant to
Decision 16-01-044, and to Address Other
Issues Related to Net Energy Metering.

Rulemaking 20-08-020

**OPENING COMMENTS OF THE PUBLIC ADVOCATES OFFICE ON ORDER
INSTITUTING RULEMAKING TO REVISIT NET ENERGY METERING TARIFFS
PURSUANT TO DECISION 16-01-044, AND TO ADDRESS OTHER ISSUES RELATED
TO NET ENERGY METERING**

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I. INTRODUCTION

Pursuant to the *Order Instituting Rulemaking to Revisit Net Energy Metering Tariffs Pursuant to Decision 16-01-044, and to Address Other Issues Related to Net Energy Metering* (OIR) issued by the California Public Utilities Commission (Commission) on September 3, 2020, the Public Advocates Office at the California Public Utilities Commission (Cal Advocates) hereby submits these opening comments on the scope and issues in the OIR.

The OIR created Rulemaking (R.) 20-08-020 to develop a successor tariff to the existing Net Energy Metering (NEM) tariffs and address related issues. Cal Advocates provides comments on the preliminary scope of the OIR,¹ the OIR's description of the proceeding's major focus,² the coordination of this proceeding with other Commission proceedings,³ the categorization of the proceeding,⁴ and the proceeding's preliminary schedule.⁵

The Commission should establish four principles to guide the development of a NEM successor tariff: sustainable growth, equity and affordability, efficient electricity use, and urgency. To this end, the Commission should make the following changes to the OIR's preliminary scope:

- Modify scoping item number 1 to include the above four principles.

¹ OIR, pp. 8-9. Specifically, the OIR lists five scoping items:

1. Identification of guiding principles, or goals, to assist in the development and evaluation of different tariff or contract options for the NEM 2.0 successor tariff.
2. Identification of "program elements," or specific features that may be included in a NEM 2.0 successor tariff or contract, such as pricing mechanisms, fees or fee waivers, timing for meter reads and billing, or other items.
3. Development of a variety of possible options for a NEM successor tariff or contract.
4. Analysis of the various elements of a potential NEM 2.0 successor tariff or contract to identify one or more tariff or contract options that will meet the goals of AB 327 and other guiding principles.
5. Modification of NEM tariff schedules, including but not limited to VNEM, VNEM for multifamily affordable housing, NEM aggregation, the Renewable Energy Self-Generation Bill Credit Transfer (RES-BCT) program, and other NEM tariffs applicable to different generation sources such as fuel cell customer-generators.

² OIR, pp. 6-7.

³ OIR, pp. 7-8.

⁴ OIR, pp. 9-10.

⁵ OIR, pp. 10-11.

- Modify scoping item number 2 to align “successor tariff program elements” with the above four principles.
- Modify scoping item number 3 to specify that the Commission will determine a NEM successor tariff in this proceeding instead of “tariff options.”
- Modify scoping item number 4 to specify that the Commission will authorize a NEM successor tariff in this proceeding.
- Modify scoping item number 5 to specify that this proceeding will modify tariff schedules to improve program equity and cost-effectiveness.

The Commission also should apply the following recommendations in the remaining OIR sections:

- Determine that both the definition of “sustainable growth” and this proceeding’s major focus should spotlight NEM’s impacts on program non-participants.
- Coordinate this proceeding with the Self-Generation Incentive Program’s (SGIP) proceedings to better incent storage resources paired with solar energy (often referred to as “solar plus storage”).
- Categorize this proceeding as ratesetting due to its impact on customer rates.
- Set an expeditious proceeding timeline due to the urgency of the issues at hand in this proceeding.

II. BACKGROUND

Prior to the issuance of the current OIR, R.14-07-002 was the forum for addressing NEM program requirements. Decision (D.) 16-01-044 implemented provisions in Assembly Bill (AB) 327⁶ ordering the Commission to create a NEM successor tariff (commonly termed “NEM 2.0”) to the original NEM tariff (“NEM 1.0”).⁷ AB 327 added Section 2827.1 to the Public Utilities Code, which provides that any NEM successor tariff must ensure “that customer-sited renewable distributed generation continues to grow sustainably.”⁸ The NEM successor tariff must also include alternatives designed to encourage growth among residential customers in disadvantaged

⁶ (Perea, Stats. 2013, ch. 611).

⁷ *Decision Adopting Successor to Net Energy Metering Tariff*, D.16-01-044 (February 5, 2016), p. 2.

⁸ Public Utilities Code (Pub. Util. Code) § 2827.1(b)(1).

communities.⁹ Critically, the NEM successor tariff must be based on the costs and benefits of renewable electrical generation facilities,¹⁰ and “[e]nsure that the total benefits of the standard contract or tariff to all customers and the electrical system are approximately equal to the total costs.”¹¹ Furthermore, customers generators must be provided electric service at just and reasonable rates.¹²

Section 2827.1 also requires the Commission to establish transition periods, allowing NEM customers to remain on their current NEM tariff for a period of time to set “a reasonable expected payback period based on the year the customer initially took service under the tariff.”¹³ D.14-03-041 establishes a 20-year transition period, beginning when the system was interconnected for NEM 1.0 customers.¹⁴ D.16-01-044 creates a 20-year transition period for NEM 2.0 customers.¹⁵

In D.16-01-044, the Commission committed to reviewing the NEM 2.0 tariff in 2019 to consider “adjustments to the successor tariff that include an export compensation rate for NEM successor tariff customers that takes into account locational and time-differentiated values.”¹⁶ However, in 2019, the Commission announced it would not review a potential NEM successor until 2020.¹⁷ On September 3, 2020, the Commission issued the OIR establishing this proceeding, R.20-08-020, to create a NEM successor tariff.¹⁸

III. DISCUSSION

A. The Commission Should Determine Four Principles to Guide the Development of a NEM Successor Tariff: Sustainable

⁹ Pub. Util. Code § 2827.1(b)(1).

¹⁰ Pub. Util. Code § 2827.1(b)(3).

¹¹ Pub. Util. Code § 2827.1(b)(4).

¹² Pub. Util. Code § 2827.1(b)(7).

¹³ Pub. Util. Code § 2827.1(b)(6).

¹⁴ *Decision Establishing a Transition Period Pursuant to Assembly Bill 327 for Customers Enrolled in Net Energy Metering Tariffs*, D.14-03-041 (March 27, 2014), p. 2.

¹⁵ D.16-01-044, p.100.

¹⁶ D.16-01-044, p. 4.

¹⁷ *Sixth Amended Scoping Memo and Ruling of Assigned Commissioner*, R.14-07-002 (June 28, 2019), p. 5.

¹⁸ OIR, p. 1.

Growth, Equity and Affordability, Efficient Electricity Use, and Urgency.

Reforming the NEM program is a critical part of a broader urgent need to achieve the state’s aggressive climate change goals. A successful, expedient transformation to clean energy requires that programs such as NEM not increase the cost of electricity service. The adoption of building decarbonization and transportation electrification requires affordable electricity rates. To guide the effort to establish a NEM successor tariff that effectively supports the state’s goals, the Commission should immediately incorporate the following principles outlined below in R.20-08-020’s final scope. In the OIR’s preliminary schedule, the Commission proposes the “[d]evelopment of guiding principles and program elements” by “Fall/Winter 2020.”¹⁹ The Commission should not spend potentially five months determining guiding principles for this proceeding, as the urgency of this issue requires that this time be spent on more substantive topics and the development of program details. The Commission, therefore, should adopt the following principles, which would lead to the timely creation of an equitable, cost-effective NEM successor tariff that benefits program participants and non-participants.

- Principle #1 - Sustainable growth: NEM’s successor tariff should align with the rate of growth of distributed generation needed to attain California’s clean energy goals in the most cost-effective, expeditious, and equitable manner.
- Principle #2 - Equity and affordability: The NEM successor tariff, in combination with other incentives, should provide incentives to increase participation of lower income customers.
- Principle #3 - Efficient electricity use: The NEM successor tariff should incentivize the efficient use of electricity that is aligned with grid needs and the state’s decarbonization goals, including the ability to dispatch distributed energy resources (DERs) like solar plus storage.
- Principle #4 - Urgency: As the existing NEM tariffs are misaligned with the above principles, reform to the existing NEM tariff is needed immediately. Reforms to the NEM program also should identify a reasonable timeline to shift customers on existing NEM tariffs to the new cost-effective and equitable NEM successor tariff.

¹⁹ OIR, p. 10.

1. Principle #1 - Sustainable Growth

NEM reform can help ensure the sustainable growth of California's DER market, as required by the statute.²⁰ Reaching California's greenhouse gas (GHG) goals²¹ will require a balance of DERs and other renewable energy technologies. Moreover, to achieve the state's climate goals, rates must be sufficiently affordable to incentivize electric vehicle adoption, building decarbonization, and other GHG-reducing efforts.

By enhancing the DER market, the NEM successor tariff helps California meet its goals in the quickest, most cost-effective, and most equitable way. NEM reform also can lower electricity rates by lessening the cost burden of the program, which will support the transition to building decarbonization and electric vehicles as electricity becomes cheaper than gasoline and natural gas.

Also, the NEM successor tariff should be cost-effective²² to ensure ratepayer money is being spent in an appropriate, impactful way. This means that the benefits the program provides to NEM participants and non-participants should outweigh the program's costs. A cost-ineffective program will unreasonably burden ratepayers and waste resources that could be invested in more effective methods of curbing GHG emissions.

NEM 1.0 and NEM 2.0, which set compensation for NEM customers based on retail rates, currently account for significant costs to non-participating customers and are driving up

²⁰ Pub. Util. Code § 2827.1(b)(1).

²¹ Senate Bill (SB) 100, De León, Stats. 2018, ch. 312: "it is the policy of the state that eligible renewable energy resources and zero-carbon resources supply 100% of retail sales of electricity to California end-use customers and 100% of electricity procured to serve all state agencies by December 31, 2045." §2(e)(1): "[s]upplying electricity to California end-use customers that is generated by eligible renewable energy resources is necessary to improve California's air quality and public health, particularly in disadvantaged communities identified pursuant to Section 39711 of the Health and Safety Code, and the commission shall ensure rates are just and reasonable, and are not significantly affected by the procurement requirements of this article;" and Executive Order (EO) B-55-18 to Achieve Carbon Neutrality, September 10, 2018. This EO sets a statewide goal of carbon neutrality by 2045. The EO emphasizes that "all policies and programs undertaken to achieve carbon neutrality shall seek to improve air quality and support the health and economic resiliency of urban and rural communities, particularly low-income and disadvantaged communities."

²² AB 327 states any NEM successor tariff incentive should be "based on the costs and benefits of the renewable electrical generation facility," and "[e]nsure that the total benefits of the standard contract or tariff to all customers and the electrical system are approximately equal to the total costs." Furthermore, Public Utilities Code Section 451 requires that all proposed utility rates and services must be both just and reasonable.

electric bills. The Ratepayer Impact Measure (RIM) test in the “Net Energy Metering 2.0 Lookback Study” (NEM 2.0 Study) measured “what happens to customer bills or rates due to changes in utility operating revenues and costs caused by the NEM 2.0 program.”²³ In the NEM 2.0 Study, the RIM test results were low, at 0.46,²⁴ indicating that NEM 2.0 is currently costing non-participating customers much more than it is benefiting them. This is unreasonable on its face. Therefore, the design of the NEM successor tariff must address this imbalance and create a more cost-effective program. This in turn should lower electrical bills and enable the Commission to invest the money saved into technologies and behaviors that more cost-effectively reduce GHG emissions, creating more sustainable growth for the DER market.

2. Principle #2 - Equity and Affordability

The NEM successor tariff should better support customers that are most in need of assistance. As noted in the OIR, the intent of AB 327 was to give the Commission the ability to “address current electricity rate inequities, protect low income energy users and maintain robust incentives for renewable energy investments.”²⁵ Recent studies show that lower income customers and communities of color are not receiving the benefits of clean energy programs, and instead face disproportionately high utility cost burdens.²⁶ The existing NEM tariffs compensate NEM customers based on their retail rate. Consequently, customers participating in the California Alternative Rates for Energy (CARE) and Family Electric Rate Assistance (FERA) programs receive a lower compensation rate through NEM than non-CARE and non-FERA customers.²⁷ This means the existing NEM tariffs provide lower rates of compensation for lower income customers than for higher income customers. As currently designed, the existing NEM

²³ Verdant, “Net Energy Metering 2.0 Lookback Study” (August 14, 2020), p. 1-6.

²⁴ NEM 2.0 Study, p. 1-6.

²⁵ OIR, p.3, citing Letter to State Assembly Members regarding AB 327, from Governor Edmund G. Brown Jr., October 7, 2013 (Governor’s Signing Statement).

²⁶ ELEMENTA Science of the Anthropocene, On Energy Sufficiency and the Need for New Policies to Combat Growing Inequities in the Residential Energy Sector (December 21, 2019). See <https://www.elementascience.org/article/10.1525/elementa.419/>; and

ScienceDirect, Distributed Solar and Environmental Justice: Exploring the Demographic and Socio-economic Trends of Residential PV Adoption in California (November 2019). See <https://www.sciencedirect.com/science/article/abs/pii/S0301421519305221>.

²⁷ CARE customers receive a 30-35 percent discount on their electrical bills, and FERA customers receive an 18 percent discount. See <https://www.cpuc.ca.gov/care/>.

program increases challenges to bill affordability, particularly for lower income customers, and is antithetical to AB 327's directive to mandate additional support and protections for lower income customers.

3. Principle #3 - Efficient Electricity Use

The NEM program should fund DERs that maximize grid benefits. To do this, the Commission should incent dispatchable resources such as solar plus storage through the NEM successor tariff. To make NEM as cost-effective as possible, the program should also maximize investment benefits. In particular, the NEM successor tariff should fund DERs that maximize GHG reductions, strengthen grid resilience in the face of increasing natural disasters and power shutoffs, and lower peak grid demand. These investments will create a stronger, more cost-effective grid.

For example, solar plus storage can reduce a customer's GHG emissions significantly more than if the customer had rooftop solar only. Solar plus storage customers can use more electricity during the day when renewable energy is abundant, and discharge during the evening when renewable energy is constrained and demand for capacity is high.²⁸ If storage is dispatched to maximize grid benefits, solar plus storage can also help increase resiliency, support reliability during periods of system and local peak demand, and improve customer bill savings.²⁹

4. Principle #4 - Urgency

The Commission should reform the existing NEM tariffs as quickly as possible, as the current limitations of the existing NEM tariff are hampering the achievement of the state's GHG reduction goals.³⁰

²⁸ ITRON, 2018 SGIP Advanced Energy Storage Impact Evaluation (January 29, 2020), p. 1-10. See https://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/Utilities_and_Industries/Energy/Energy_Programs/Demand_Side_Management/Customer_Gen_and_Storage/SGIP%20Advanced%20Energy%20Storage%20Impact%20Evaluation.pdf.

²⁹ 2018 SGIP Advanced Energy Storage Impact Evaluation, p. 4-14.

³⁰ For state GHG goals see Senate Bill (SB) 100, De León, Stats. 2018, ch. 312; and Executive Order (EO) B-55-18 to Achieve Carbon Neutrality, September 10, 2018.

While California should be leading the adoption of cost-effective, equitable DER policy it lags behind states like Arizona,³¹ Hawaii,³² Indiana,³³ Michigan,³⁴ and New York,³⁵ which have already engaged in NEM reform efforts. It is time for California to take the lead again and adopt a sustainable and equitable NEM tariff within the next year.

B. The Commission Should Modify Preliminary Scoping Items to Include Principles #1 – 4 and Add More Specificity.

The OIR proposes five scoping items. To ensure an effective and efficient proceeding, the Commission should incorporate principles #1 – 4 in the five scoping items. Cal Advocates recommends the Commission adopt the scoping item text edits provided in Appendix A.

1. The Commission Should Modify Preliminary Scoping Item Number 1 to Include Principles #1 – 4.

Scoping item number 1 in the OIR proposed scope is the “[i]dentification of guiding principles, or goals, to assist in the development and evaluation of different tariff or contract options for the NEM 2.0 successor tariff.”³⁶ Cal Advocates agrees this issue is within the scope of the proceeding. The Commission should use the above principles #1 - 4 as guiding principles for R.20-08-020, as these will best lead to the timely creation of an equitable, cost-effective NEM successor tariff that benefits program participants and non-participants.

2. The Commission Should Modify Preliminary Scoping Item Number 2 to Align “Successor Tariff Program Elements” With Principles #1 – 4.

Scoping item number 2 in the OIR proposed scope is the “[i]dentification of ‘program elements,’ or specific features that may be included in a NEM 2.0 successor tariff or contract,

³¹ Arizona Corporation Commission, Decision No. 75859, Docket E-00000J-14-0023, In the matter of the Commission's Investigation of Value and Cost of Distributed Generation (January 3, 2017). See <https://docket.images.azcc.gov/0000176114.pdf>.

³² Hawaii PUC Docket No. 2014-0192, Decision and Order No. 33258 (November 3, 2015). See <https://dms.puc.hawaii.gov/dms/DocumentViewer?pid=A1001001A15J13B15422F90464>.

³³ Indiana SB 309 (Signed May 2, 2017). See <http://iga.in.gov/legislative/2017/bills/senate/309/>.

³⁴ Michigan Public Service Commission, “Distributed Generation.” See https://www.michigan.gov/mpsc/0,9535,7-395-93308_93325_93423_93502_94989-506586--,00.html.

³⁵ New York Department of Public Service, “The Value Stack.” See <https://www.nyserda.ny.gov/All-Programs/Programs/NY-Sun/Contractors/Value-of-Distributed-Energy-Resources>.

³⁶ OIR, p. 8.

such as pricing mechanisms, fees or fee waivers, timing for meter reads and billing, or other items.”³⁷ Cal Advocates agrees this issue is within the scope of the proceeding. For the reasons set forth above in discussion of the “sustainable growth” principle, the potential tariff elements listed in scoping item number 2 should be utilized to create a NEM successor tariff that promotes the sustainable growth of DERs.

In keeping with the above “equity and affordability” principle, the Commission should include program elements that resolve equity concerns with the existing NEM tariffs. For example, this proceeding should explore options that target lower income customers in multifamily housing. Specifically, this proceeding should explore options for and establish whether the Solar on Multifamily Affordable Housing (SOMAH), the Disadvantaged Communities – Single-Family Solar Homes (DAC-SASH), and SGIP programs are sufficiently prioritizing rooftop solar and solar plus storage on lower income housing. If these programs are not sufficiently prioritizing these customers, then the Commission should consider replacements for, or enhancements to, the programs.

3. The Commission Should Modify Preliminary Scoping Item Number 3 to Specify that the Proceeding will Determine a NEM Successor Tariff Instead of “Tariff Options.”

Item number 3 in the OIR proposed scope is the “[d]evelopment of a variety of possible options for a NEM successor tariff or contract.”³⁸ This scoping item should instead read the “[d]evelopment of a NEM successor tariff or contract.”

Consistent with the need for urgency, the outcome of this proceeding should not be a variety of possible options. Instead, the Commission should expeditiously adopt a NEM successor tariff for the reasons mentioned in these opening comments. If necessary, the Commission could establish phases within this proceeding to address other topics that are less directly related to tariff development.

³⁷ OIR, p. 8.

³⁸ OIR, p. 8.

4. The Commission Should Modify Preliminary Scoping Item Number 4 to Specify that the Commission Will Authorize a NEM Successor Tariff in this Proceeding.

Item number 4 in the OIR proposed scope is an “[a]nalysis of the various elements of a potential NEM 2.0 successor tariff or contract to identify one or more tariff or contract options that will meet the goals of AB 327 and other guiding principles.”³⁹ This scoping item instead should read an “[a]nalysis of the various elements of a NEM 2.0 successor tariff that will meet the goals of AB 327 and other guiding principles.”

Similar to Cal Advocates’ concerns with scoping item number 3, this proceeding’s end goal should not be to identify “options” for a NEM successor tariff; this proceeding should determine the NEM successor tariff to allow certainty and a path forward.

5. The Commission Should Modify Preliminary Scoping Item Number 5 to Specify that this Proceeding will Modify Tariff Schedules to Improve Program Equity and Cost-effectiveness.

Scoping item number 5 in the OIR proposed scope is the “[m]odification of NEM tariff schedules, including but not limited to VNEM, VNEM for multifamily affordable housing, NEM aggregation, the Renewable Energy Self-Generation Bill Credit Transfer (RES-BCT) program, and other NEM tariffs applicable to different generation sources such as fuel cell customer-generators.”⁴⁰ Cal Advocates agrees this issue should be in scope.

Consistent with the goal of equity and affordability, these modifications should be explored in this proceeding. However, given the immediacy of the existing NEM tariffs’ equity issues, only those matters directly relevant to equity and lower income participation should be included in the first phase of this proceeding. If there are tariff modifications unrelated to equity and lower income participation, they should be included in a subsequent phase.

Pursuant to the urgent need for a NEM successor tariff and due to NEM’s growing cost burden, the first phase of this proceeding should also identify a reasonable timeline to shift customers on existing NEM tariffs to a new cost-effective and equitable NEM tariff.

C. The Commission Should Determine Both that the Definition of “Sustainable Growth” and this Proceeding’s Major Focus

³⁹ OIR, p. 8.

⁴⁰ OIR, pp. 8-9.

Should Spotlight NEM’s Impacts on Program Non-participants.

Consistent with the goals of sustainable growth as well as equity and affordability, the Commission should better focus R.20-08-020 on the existing NEM tariffs’ impacts on non-participating customers, especially lower income customers.

Section 2.2 of the OIR details this proceeding’s major focus: creating a NEM successor tariff.⁴¹ As noted above, the Commission must create a NEM successor tariff (pursuant to the requirements of AB 327) that: “a) balances the costs and benefits of the renewable electrical generation facility and b) allows customer-sited renewable generation to grow sustainably among different types of customers and throughout California’s diverse communities.”⁴²

D.16-01-044, which established the NEM 2.0 tariff, did not define “sustainable growth,” but merely noted definitions offered by various parties.⁴³ In D.16-01-044 the Commission also noted that the Energy Division’s Staff Tariff Paper “propos[ed] that growing sustainably should be interpreted as ‘preserving and fostering sufficient market conditions to facilitate robust adoption of customer-sited renewable generation while minimizing potential cost impacts to non-participants over time.’”⁴⁴

The Commission should adopt this definition of “sustainable growth” to provide clarity and guidance in this proceeding, as well as to better focus this proceeding on the customers most negatively impacted by NEM: non-participating customers, including lower income customers.

The major focus of the proceeding should also include a NEM successor tariff that provides a net benefit to all customers, again, including non-participating customers and especially lower income customers. Cal Advocates recommends the Commission adopt the “definition” and “major focus” text edits provided in Appendix A.

⁴¹ OIR, p. 6.

⁴² OIR, pp. 6-7.

⁴³ D.16-01-044, p. 51.

⁴⁴ D.16-01-044, p. 51.

D. The Commission Should Coordinate this Proceeding with the SGIP Proceedings to Better Incent Solar Plus Storage.

Consistent with the goal of efficient electricity use, the Commission should fund DERs that maximize grid benefits. Section 2.4 of the OIR lists other proceedings the Commission intends to coordinate with including R.12-11-005 and R.20-05-012, both of which will determine rules for the SGIP program.⁴⁵

Cal Advocates supports the Commission comprehensively coordinating across relevant proceedings. Due to the previously mentioned benefits that dispatchable DERs can provide the grid, environment, and ratepayers, the Commission should coordinate this proceeding with other proceedings that incent these resources programs including SGIP.

E. The Commission Should Categorize this Proceeding as Ratesetting Due to its Impact on Customer Rates.

Section 3 of the OIR determines the categorization and need for hearings⁴⁶ in this proceeding.⁴⁷ The Commission preliminarily categorized this proceeding as ratesetting⁴⁸ Cal Advocates supports this categorization because the outcome of this proceeding will impact utilities' rates.

The Commission's Rules of Practice and Procedure states that a proceeding should be categorized at ratesetting if it impacts rates.⁴⁹ This proceeding will cover matters that have an impact on electrical rates faced by utility customers. As the OIR notes, NEM "is an electricity tariff-based billing mechanism" that directly impacts participant customer bills.⁵⁰ As previously mentioned, the existing NEM tariffs' cost burden also increase non-participant electrical bills.

⁴⁵ OIR, pp. 7-8.

⁴⁶ Cal Advocates does not object to the Commission's determination that that evidentiary hearings will not be necessary.

⁴⁷ OIR, pp. 9-10.

⁴⁸ OIR, p. 9.

⁴⁹ Rules of Practice and Procedure, Rule 1.3(f): "proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities)."

⁵⁰ OIR, p. 1.

Categorizing this proceeding as ratesetting improves the overall transparency and ensures rate impacts are appropriately considered.⁵¹ To ensure that all parties are afforded the same opportunity to be heard and have their input given due consideration, due process requires that this proceeding be categorized as ratesetting.

The OIR also anticipates that “the issues in this proceeding may be resolved through a combination of filed comments, workshops, and testimony, and that evidentiary hearings will not be necessary.”⁵² Cal Advocates agrees that filed comments, workshops, and testimony are sufficient for a swift and thorough proceeding here. Cal Advocates requests the Commission offer rulings or staff papers for public comments during this proceeding to allow ample opportunity for stakeholder feedback.

F. The Commission Should Set an Expedious Proceeding Timeline due to the Urgency of the Issues at Hand in this Proceeding.

The Commission should take swift action to create a NEM successor tariff that is equitable and cost-effective. Section 4 of the OIR lays out R.20-08-020’s preliminary schedule.⁵³ The Commission “expects to adopt a successor to existing NEM tariffs no later than December 31, 2021, and consistent with Public Utilities Code Section 1701.5, we expect this proceeding to be concluded within 18 months of the date of the scoping memo.”⁵⁴ The Commission should not waiver from the December 31, 2021 deadline for a NEM successor tariff.

The Commission should be similarly specific and stringent while determining phases for this proceeding. The OIR proposes completing the “[d]evelopment of guiding principles and program elements” by “Fall/Winter 2020.”⁵⁵ The Commission should not spend potentially five months determining guiding principles for this proceeding. Instead, the Commission should

⁵¹ Rules of Practice and Procedure, Rule 8.2(a): “In any quasi-legislative proceeding, ex parte communications are allowed without restriction or reporting requirement.”

⁵² OIR, p. 9.

⁵³ OIR, pp. 10-11.

⁵⁴ OIR, pp. 10-11.

⁵⁵ OIR, p. 10.

adopt the principles #1 – 4 above. Cal Advocates recommends this proceeding follow the schedule below.

CAL ADVOCATES’ PROPOSED PROCEEDING SCHEDULE:

Item	Date
Comments on the OIR filed and served	30 days from issuance of the OIR
Reply comments on the OIR filed and served	40 days from issuance of the OIR
PHC	November 2020
Scoping Memo and Ruling issued including questions on program elements	December 2020
Opening Comments due on the Ruling questions	30 days from issuance of the Scoping Memo and Ruling
Reply Comments due on Ruling questions	45 days from issuance of the Scoping Memo and Ruling
Workshops for the development of successor tariff program elements: 1) supporting equity and lower income participation, 2) creating a cost-effective program, and 3) incenting DERS including storage resources paired with solar energy	February 15-19, 2021
Staff Proposal on the successor tariff’s program elements	April 14, 2021
Comments on the Staff Proposal filed and served	May 14, 2021
Workshops on the modifications of any other NEM tariff: 1) creating a reasonable timeline to shift customers on existing NEM tariffs to the NEM successor, and 2) making any other modifications to NEM tariffs	June 1-4, 2021

Staff Proposal on the modifications of NEM tariffs	August 2, 2021
Comments on the Staff Proposal filed and served	September 2, 2021
Proposed decision on successor tariffs or contracts and modifications of NEM tariffs	October 15, 2021
Final Decision on successor tariffs or contracts and modifications of NEM tariffs	December 31, 2021

IV. CONCLUSION

The Public Advocates Office respectfully requests that the Commission adopt the recommendations contained herein.

Respectfully submitted,

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Appendix A

2.5. Preliminary Scope

In order to ensure a robust record for the development of a successor tariff, we anticipate that activities in this proceeding will include, but may not be limited to:

1. ~~Identification of guiding principles, or goals,~~ To assist in the development and evaluation of different tariff or contract options for the NEM 2.0 successor tariff, the proceeding will follow the following principles: sustainable growth, equity and affordability, efficient electricity use, and urgency.
2. Identification of “program elements,” or specific features that may be included in a NEM 2.0 successor tariff or contract, such as pricing mechanisms, fees or fee waivers, timing for meter reads and billing, or other items. “Program elements” must promote program equitability and affordability, as well as the sustainable growth of distributed energy resources (DERs). Specifically, this proceeding will explore options for and establish whether the Solar on Multifamily Affordable Housing (SOMAH), the Disadvantaged Communities – Single-Family Solar Homes (DAC-SASH), and the Self-Generation Incentive Program (SGIP) programs are sufficiently prioritizing rooftop solar and storage resources paired with solar energy on lower income housing. If these programs are not sufficiently prioritizing lower income customers, then replacements of or enhancements to the programs will be explored and established.
3. Development of a ~~variety of possible options for a~~ NEM successor tariff or contract.
4. Analysis of the various elements of a ~~potential~~ NEM 2.0 successor tariff or contract ~~to identify one or more tariff or contract options~~ that will meet the goals of AB 327 and other guiding principles.
5. Modification of NEM tariff schedules, including but not limited to VNEM, VNEM for multifamily affordable housing, NEM aggregation, the Renewable Energy Self-Generation Bill Credit Transfer (RES-BCT) program, and other NEM tariffs applicable to different generation sources such as fuel cell customer-generators. Only

modifications of NEM tariff schedules directly relevant to equity and lower income participation will be included in the first phase of this proceeding. The first phase of this proceeding also will identify a reasonable timeline to shift customers on existing NEM tariffs to a new cost-effective and equitable NEM tariff. Any other tariff modifications will be included in a later phase of the proceeding.

2.2. Development of a Successor to Existing NEM 2.0 Tariffs

The major focus of this proceeding will be on the development of a successor to existing NEM 2.0 tariffs. Pursuant to the requirements of AB 327, this successor will be a mechanism for providing customer-generators with credit or compensation for electricity generated by their renewable facilities that a) balances the costs and benefits of the renewable electrical generation facility, ensuring all customers including non-participating customers, particularly lower income customers, receive a net-benefit from the program and b) allows customer-sited renewable generation to grow sustainably among different types of customers and throughout California's diverse communities. "Sustainable growth" is defined as: "preserving and fostering sufficient market conditions to facilitate robust adoption of customer-sited renewable generation while minimizing potential cost impacts to non-participants over time."