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Point of view by Steve Greenberg, Distributed Energy Strategies, Inc.

Urgent Action to Extend Standby Exemption Needed

Ask just about anyone in a position to know, and the answer is nothing has been fixed. The question is, what has been done to improve the performance of California's energy infrastructure since the quote "energy crisis of 2000 and 2001"? One small bright spot has been distributed energy resources (DER), also known as DG. Several hundred MW of new onsite generation has come on line in this period. This is a generation and demand reduction resource that is bought, paid for and operated by the end use customer. To any rational person, public policy to support this investment in infrastructure by private entities, with the benefits being shared by all ratepayers is a no brainer. Yet, the treatment of DER in rates and tariffs by California utilities may be about to undergo a fundamental change that threatens to shut the DER industry down. There are two fundamental problems that need to quickly be addressed.

The first problem is extension of the treatment afforded DER in Public Utilities Code (PUC) 353.3 and CPUC D. 03-04-060. PUC 353.3 required the CPUC to establish rates and tariffs for customers with DER that were no different than customers without DER. Although the words "standby", "waiver", or exemption do not occur in those sections of the PUC they are commonly known as the "standby waiver" or "standby charge exemption." Their primary effect has been to prohibit the levying of standby or reservation charges on certain customers installing qualifying DER. D.03-04-060 created a bridge between PUC 353.3 which was sunseting on December 31, 2003 and 353.13 which required the CPUC to establish new tariffs for DER based on the same non-discriminatory principle as 353.3, but allowed for the CPUC to complete a study of the benefits and costs of DER and report to the Legislature prior to implementing those new rates. D.03-04-060 kept the requirements of 353.1 in place through 2004. The CPUC sought to address the likelihood that its study, report and establishment of new rates would not be completed by the end of 2004 and put in place a recurring automatic 6 month extension that went into effect beginning Jan.1, 2005.

The problem with the extension is that a six month window is not long enough to make an investment decision. The length of time from conception to implementation of a DER project can be as little as 6 months under the best of circumstances, however practical experience has shown that 1 to 2 years is typical with 1.5 years being about average.

The solution is to extend the requirements of D.03-04-060 through the end of 2006. That will provide ample time for the CPUC to finish its work and allow DER investments to continue going forward. Another extension would be reasonable and is not without precedent.

The second problem is the utilities' interpretation of D.03-04-060. In the Decision, the CPUC established an additional opening of the window for ultra-clean DER through the end of 2005. In essence, ultra-clean DER must meet the 2007 CARB emission standards. However, as noted above, the CPUC also granted the automatic extension of its ruling *vis a vis* treatment of DER under 353.3 which was not tied to the ultra-clean standard.

The utilities have publicly declared that as of Jan. 1, 2005 they will only apply D.03-04-060 to DER that meets the ultra-clean standard in PUC 353.2. This in effect renders moot the PUC's intent in extending 03-04-060. Virtually all investment in natural gas fired DER will come to a halt and no manufacturer is offering equipment that meets the CARB 2007 standards. The solution we seek is a clarification from the Commission directed to the utilities that the extension in D.03-04-060 applies to all DER that meets the requirements of PUC 353.1.

The California DER industry has enjoyed non-discriminatory treatment in rates for CPUC jurisdictional utilities since June of 2001. It appears as though that treatment might be over. Unless urgent and concerted action is taken by the DER industry, the CPUC, or the Governor (it appears as though any chance to seek help from the legislature is over) we stand to lose the ability to develop DER for a substantial portion of an otherwise eligible market. We not only lose the opportunity to develop DER, the entire state loses the benefits of clean generation, demand reduction, lower prices and reduced ratepayer capital investment.

Steven A. Greenberg is one of the leading experts in distributed generation (DG) and combined heat and power (CHP) in the U.S. In October 2003, Greenberg founded Distributed Energy Strategies (DES), whose mission is to provide the energy industry's best assistance and guidance in five key areas: Engineering, Procurement and Construction; Operations; Business Development; Sales and Marketing; and Government Affairs. Prior starting DES, Steven was a founder and COO of RealEnergy. Among his contributions to the DG industry, he played a pivotal role in the passage of SB 5X that added the "standby charge" exemption to California law, as well as SB 1298, the nation's first emissions standard legislation for DG.