



# URGENT ITEM AGENDA MATERIAL

Government Code Section 54954.2(b)  
Rules of Procedure Chapter III.C.5

**THIS ITEM IS NOT YET AGENDIZED AND MAY OR MAY NOT BE  
ACCEPTED FOR THE AGENDA AS A LATE ITEM, SUBJECT TO THE  
CITY COUNCIL'S DISCRETION ACCORDING TO BROWN ACT RULES**

**Meeting Date: November 28, 2022**

**Item Description: Resolution in Support and Reaffirm Support for Net Energy  
Metering**

This item is submitted pursuant to the provision checked below:

**Emergency Situation (54954.2(b)(1) - majority vote required)**  
*Determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.*

**Immediate Action Required (54954.2(b)(2) - two-thirds vote required)**  
*There is a need to take immediate action and the need for action came to the attention of the local agency subsequent to the agenda for this meeting being posted.*

Once the item is added to the agenda (Consent or Action) it must be passed by the standard required vote threshold (majority, two-thirds, or 7/9).



## **TIME CRITICAL AGENDA MATERIAL**

**Council Meeting Date:** November 28, 2022

**Item Description:**

This council item will Send a Resolution in support of Net Energy Metering and transmit copies to Governor Gavin Newsom, State Senator Nancy Skinner, Assemblymember Buffy Wicks, and members of the California Public Utilities Commission Board (CPUC). The Proposed Decision (PD) issued by the CPUC on November 10, 2022, continues to threaten access to net energy metering and rooftop-scale solar and storage by homeowners and tenants alike, thus interfering with Berkeley's and California's climate action and equity goals.

**Reason for Time-Critical:**

The California Public Utilities Commission (CPUC) released its latest Net Energy Metering 3.0 proposed decision, which is the subject of this resolution, on November 10, 2022. Per CPUC rules, the Commission can vote on this proposal as early as December 15, 2022. The amount of time it took to analyze a lengthy proposed decision and prepare this resolution, compounded with the holiday calendar, form the basis for this urgency rationale.

**Time-Critical Items.** A Time-Critical item is defined as a matter that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by the City Manager, Auditor, Mayor or council member is received by the City Clerk after established deadlines and is not included on the Agenda Committee's published agenda.

The author of the report shall bring any reports submitted as Time Critical to the meeting of the Agenda Committee. If the Agenda Committee finds the matter to meet the definition of Time Critical, the Agenda Committee may place the matter on the Agenda on either the Consent or Action Calendar.



To: Honorable Mayor and Members of the City Council  
From: Councilmember Ben Bartlett (Author), Councilmember Susan Wengraf (Co-Sponsor), and Councilmember Kate Harrison (Co-Sponsor)  
Subject: Resolution in Support and Reaffirm Support for Net Energy Metering

RECOMMENDATION

Send the enclosed Resolution in support of Net Energy Metering and transmit copies to Governor Gavin Newsom, State Senator Nancy Skinner, Assemblymember Buffy Wicks, and members of the California Public Utilities Commission Board (CPUC). The Proposed Decision (PD) issued by the CPUC on November 10, 2022, continues to threaten access to net energy metering and rooftop-scale solar and storage by homeowners and tenants alike, thus interfering with Berkeley’s and California’s climate action and equity goals.

BACKGROUND

Customers who install small solar, wind, biogas, and fuel cell generation facilities to serve all or a portion of onsite electricity needs are eligible for the state's Net Energy Metering (NEM) program. NEM allows customers who generate their energy to serve their energy needs directly on-site and to receive a financial credit on their electricity bills for any surplus energy fed back to their utility.

The current NEM program was adopted by the CPUC in Decision (D.)16-01-044 on January 28, 2016. The program provides customer-generators rate credits for energy exported to the grid and requires them to pay charges that align NEM customer costs more closely with non-NEM customer costs. NEM is designed to support the installation of customer-sited renewable energy generation.

In 2020, the CPUC launched a formal proceeding to update the current NEM structure. The new rulemaking is called NEM 3.0 because this is the third iteration of the NEM program. Over 17 proposals were submitted to the CPUC for consideration, including a joint proposal from the state’s big three investor-owned utilities (IOUs): Pacific Gas & Electric, Southern California Edison, and San Diego Gas & Electric. Opponents of the big three IOUs’ joint proposal claim that it would hinder the state’s highly successful rooftop solar market, which is a key strategy in reaching its lofty clean energy and environmental goals.

On November 10, 2022, the CPUC released the latest NEM 3.0 PD.<sup>1</sup> While, unlike a previous iteration of the proposal, this PD does not propose a tax on solar and solar-plus-storage consumers that intend to use NEM, the following aspects of the PD are still too extreme:

- Most residential NEM solar consumers after April 2023 will see an average of 75% reduction in the credit they receive for sharing their extra energy with the grid – from an average of \$0.30/kilowatt-hours (kWh) to about \$0.08/kWh.
- Churches, schools, and businesses that go solar after April 2023 will see an even bigger reduction in the solar credit.<sup>2</sup>

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<sup>1</sup> Docs.cpub.ca.gov. <https://docs.cpub.ca.gov/PublishedDocs/Efile/G000/M498/K526/498526033.PDF>.

<sup>2</sup> Rosenfeld, Dave. "Update: State Officials Release New Rooftop Solar Proposal." *Solar Rights Alliance*, 22 Nov. 2022, <https://solarrights.org/update-state-officials-release-new-rooftop-solar-proposal/>.



As such, this PD – while an improvement over its predecessor issued in December 2021<sup>3</sup> – continues to violate the following principles expressed by the City Council in 2021<sup>4</sup> and 2022,<sup>5</sup> respectively:

- Protecting and expanding rooftop solar via a strong succeeding NEM tariff and expanding clean energy access by making it easier, not harder, for people to adopt rooftop solar and energy storage to meet California's ambitious clean energy targets and deploy solar in all communities and households, particularly those struggling to pay for electricity; and
- Expressing its support for the items as stated above, including urging the CPUC to:
  - (i) strengthen NEM to expand access to all households, particularly of low-and-moderate income;
  - (ii) expand access to other clean energy technologies that pair with solar, such as batteries;
  - (iii) ensure that the solar installations continue to grow to meet State and City climate goals; and
  - (iv) exclude provisions outlined in the IOU Proposal such as high monthly fixed fees and reducing or eliminating credits for sharing electricity with the power grid.

A consensus has emerged among stakeholders that a fair and effective rooftop solar policy must share its benefits with low-income and disadvantaged communities that have previously been left out. As such, the latest PD is still too extreme, particularly through its proposal to dramatically slash net energy compensation over just six months from its issuance – the steepest such cut proposed at any time, anywhere in the nation.

### FINANCIAL IMPLICATIONS

Limited staff time associated with sending a letter to designated recipients.

### ENVIRONMENTAL SUSTAINABILITY

No direct identifiable environmental sustainability savings are associated with this item. However, the passage of the latest NEM 3.0 PD will likely squelch rooftop-scale solar and storage deployment in the City of Berkeley, which would interfere with a key strategy in realizing Berkeley's Climate Action goals.

### CONTACT PERSON

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### ATTACHMENT

1. Resolution

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<sup>3</sup>Auth, Test. "Energy Division." *California Public Utilities Commission*, <https://www.cpuc.ca.gov/about-cpuc/divisions/energy-division>.

<sup>4</sup>*The City of Berkeley*, 30 Nov. 1970, <https://berkeleyca.gov/>.

<sup>5</sup>*Please Post Where Employees Can Read Easily Violators Subject to ...*

<https://berkeleyca.gov/sites/default/files/2022-04/English%20-%20MWO-and-Labor-Notice-Multi-year%20FY23.pdf>.



Attachment 1

RESOLUTION NO. ##,###-N.S.

IN SUPPORT OF NET ENERGY METERING

WHEREAS, Net Energy Metering (NEM) is designed to support the installation of customer-sited renewable energy generation; and

WHEREAS, NEM allows customers to receive bill credits for power generated by their solar system and shared with the power grid and ultimately save money on their utility bills; and

WHEREAS, NEM is what has allowed solar to become increasingly accessible to low- and moderate-income households; and

WHEREAS, In 2020 the California Public Utilities Commission (CPUC) launched a formal proceeding to update the current NEM structure as NEM 3.0, and a number of parties have submitted their proposal for what they believe NEM 3.0 should look like; and

WHEREAS, the California Investor Owned Utilities (IOUs), Pacific Gas and Electric, San Diego Gas & Electric and Southern California Edison, have submitted a joint proposal (the "IOU Proposal") that calls for drastic changes to NEM that would make customer-sited renewable energy more expensive, increase the amount of time it takes for customers to pay off their systems, and ground to a halt the installation of distributed solar in California; and

WHEREAS, The IOU Proposal would make it impossible for customer-sited renewables to continue to grow sustainably as mandated by law as a result of high monthly fixed fees for all solar installations, and slashing credits customers receive for sharing their excess electricity with the power grid; and

WHEREAS, proposals submitted to the CPUC by Protect Our Communities Foundation, California Solar & Storage Association, Vote Solar, GRID Alternatives, Solar Energy Industries Association, and others not only would encourage new solar adoption but also include additional subsidies for low-income customers; and

WHEREAS, On November 10, 2022, the CPUC released the latest NEM 3.0 proposed decision which includes the following features:

- Most residential NEM solar consumers after April 2023 will see an average 75% reduction in the credit they receive for sharing their extra energy with the grid – from an average of \$0.30/kilowatt-hours (kWh) to about \$0.08/kWh.
- Churches, schools, or businesses that go solar after April 2023 will see an even bigger reduction in the solar credit.

WHEREAS, California cannot meet its clean energy targets in time with utility-scale solar alone and needs to triple the amount of rooftop solar, as reported by the California Energy Commission 2021 SB 100 Joint Agency Report Summary; and



WHEREAS, protecting rooftop solar and expanding access to rooftop solar in communities of concern will help California as well as our City to move toward 100 percent clean energy, lessen the impacts of the climate crisis and reduce climate injustices from dirty energy; and

WHEREAS, we are in a climate crisis and need to make the transition to clean energy more accessible.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it supports protecting and expanding rooftop solar via a strong succeeding NEM tariff and expanding clean energy access by making it easier, not harder, for people to adopt rooftop solar and energy storage in order to meet California's ambitious clean energy targets and deploy solar in all communities and households, particularly those struggling to pay for electricity;

BE IT FURTHER RESOLVED that the Berkeley City Council declares that the NEM 3.0 proposed decision issued by the CPUC on November 10, 2022, while an improvement over its predecessor, is still too extreme;

BE IT FURTHER RESOLVED that the Berkeley City Council urges the CPUC to

- (i) strengthen NEM to expand access to all households, particularly of low-and-moderate income;
- (ii) expand access to other clean energy technologies that pair with solar, such as batteries;
- (iii) ensure that the solar installations continue to grow in order to meet State and City climate goals; and
- (iv) continue to exclude provisions set forth in the IOU Proposal such as high monthly fixed fees; and
- (v) reverse the proposed dramatic slashing of credits for sharing electricity with the power grid.

BE IT FURTHER RESOLVED that copies of this Resolution shall be sent to Governor Gavin Newsom, State Senator Nancy Skinner, Assemblymember Buffy Wicks, and members of the California Public Utilities Commission Board.