

**SENATE COMMITTEE ON ENERGY, UTILITIES AND
COMMUNICATIONS**
Senator Ben Hueso, Chair
2021 - 2022 Regular

Bill No: AB 2143

Hearing Date: 6/15/2022

Author: Carrillo

Version: 4/18/2022 Amended

Urgency: No

Fiscal: Yes

Consultant: Nidia Bautista

SUBJECT: Net energy metering

DIGEST: This bill requires prevailing wage are paid for renewable energy installations with a generating capacity of more than 15 kilowatts (kWs) that receives service pursuant to an electric utility's net energy metering (NEM) tariff. Additionally, this bill requires an annual report on the growth of distributed energy resources, as specified.

ANALYSIS:

Existing law:

- 1) Establishes and vest the California Public Utilities Commission (CPUC) with regulatory authority over public utilities, including electrical corporations. (Article XII of the California Constitution)
 - 2) Requires every electric utility, defined to include electrical corporations, local publicly owned electric utilities, and electrical cooperatives, to develop a standard contract or tariff for NEM, for generation by a renewable electrical generation facility, and to make this contract or tariff available to eligible customer-generators, upon request on a first-come-first-served basis until the time that the total rated generating capacity used by eligible customer generators exceeds five percent of the electric utility's aggregate customer peak demand. (Public Utilities Code §2827)
 - 3) Requires the CPUC, for a large electrical corporation, as defined, to have developed a second standard contract or tariff to provide NEM to additional eligible customer-generators in the electrical corporation's service territory and imposes no limitation on the number of new eligible customer-generators entitled to receive service pursuant to this second standard contract or tariff. (Public Utilities Code §2827.1)

- 4) Requires the CPUC to ensure that the second standard contract or tariff made available to eligible customer-generators by large electrical corporations ensures that customer-sited renewable distributed generation continues to grow sustainably. Requires the CPUC, in developing this standard contract or tariff, to include specific alternatives designed for growth among residential customers in disadvantaged communities. (Public Utilities Code §2827.1(b)(1))
- 5) Imposes various requirements on public works projects, as defined, including a requirement that, at minimum, all workers employed on a public works project be paid the general prevailing rate of per diem wages for work of a similar character in the locality in which a public work is performed, as specified. (Labor Code §1720)
- 6) Requires the CPUC to submit various reports to the Legislature, including those related to the California Solar Initiative (CSI). (Public Utilities Code §913.7)

This bill:

- 1) Applies public works project requirements, specifically prevailing wage requirements, to the construction of any renewable electrical generation facility, and any associated battery storage, after December 31, 2023, that receives service pursuant to the NEM 2.0 standard contract or tariff, except a residential facility that will have a maximum generating capacity of 15 kWs or less of electricity.
- 2) Requires the CPUC, by June 30 of each year, to submit to the Legislature a report on the progress made to grow the use of distributed energy resources among residential customers in disadvantaged communities and in low-income households, and an aggregated list of all renewable electrical generation facilities that began to receive service pursuant to a NEM contract or tariff during the preceding calendar year, as specified.

Background

Net Energy Metering (NEM). Electric utility customers have long subsidized the cost of customer-sited electricity generation from renewable resources, which is largely electricity generated by rooftop solar. The vast majority of rooftop solar customers are enrolled in NEM (NEM 1.0) or NEM Successor (NEM 2.0) tariffs, established under Public Utilities Code §§2827 and 2827.1, respectively. The NEM program supports onsite renewable energy (largely rooftop solar) installations designed to offset a portion, or all, of the customer's electrical energy usage. Under NEM, customers receive a bill credit (in dollars) based on the retail

rate (including generation, transmission, and distribution rate components) for any excess generation (in kWh) that is exported back to the grid. In periods when a customer's bill is negative (because the amount of energy the solar system exported to the grid exceeded the amount of energy consumed by the customer), the bill credits are carried forward up to one year, at which point customers may elect to receive net surplus compensation for any electricity produced in excess of on-site energy usage. Customers taking service under NEM 2.0 pay the cost to connect to the grid, take service on a "time-of-use" rate plan, and pay "non-bypassable" charges that are not offset with surplus energy credits. On August 27, 2020, the CPUC initiated Rulemaking (R. 20-08-020) to develop a successor to the NEM 2.0 tariff, as part of the requirement in statute and a commitment in a previous decision to review the current tariff to address the shift in costs to nonparticipating customers. The CPUC released a proposed decision in December 2021. However, a revised proposed decision is pending as the CPUC is currently soliciting additional stakeholder comments.

Public works projects. Public works projects are, generally, those funded in part by public dollars. All workers employed on public works projects must be paid the prevailing wage determined by the Director of the Department of Industrial Relations (DIR), according to the type of work and location of the project. In California, the prevailing wage rate is an hourly rate paid on public works projects that is often set in the terms of a collective bargaining agreement. Prevailing wage creates a level playing field by requiring an across-the-board rate for all bidders on publicly subsidized projects. According to the DIR, the wage rate relies upon such factors as:

"the particular craft, classification or type of work within the locality and in the nearest labor market area (if majorities of such workers are paid at a single rate). If there is no single rate paid to a majority, then the single or modal rate being paid to the greater number of workers is prevailing."

Rooftop solar wages. Residential rooftop solar installation does not currently require payment of the prevailing wage, as such, rooftop solar installers are generally making below the wage rate paid to other building and construction trade workers. According to the Bureau of Labor Statistics, Occupational Employment Statistics, the median hourly wage in 2015 for a solar installer was a little under \$21 an hour. According to a UC Berkeley Labor Center report on solar jobs:

"residential rooftop solar companies, whether they directly employ workers or subcontract out the work to other installation crews, essentially compete in the residential construction market where barriers to entry are low, unionized contractors are absent, and contractors who comply with

employment laws and building codes must compete with many who skirt these regulations. All of this puts downward pressure on wages.”

NEM renewable energy systems over 15 kWs. Based on data collected as part of the CSI, the interconnection of all customer-sited renewable generating facilities has been tracked and updated on a regular basis. Based on this data, about three percent of the NEM systems interconnected to the three large electric investor-owned utilities are greater than 15 kWs in size, with 3.6 percent in Pacific Gas & Electric (PG&E) service territory, and 2.5 percent in each of the territories of Southern California Edison (SCE), and San Diego Gas & Electric (SDG&E). In aggregate, across all three utilities, there are nearly 40,000 NEM connected systems greater than 15 kWs of the nearly 1.3 million NEM connected systems.

Comments

AB 2143. This bill would expand the application of “public works” definition to include NEM solar and associated battery storage installations greater than 15 kWs. This bill would also require specified reporting by the CPUC of progress made to grow the use of distributed energy resources among residential customers in disadvantaged communities and low-income households.

Need for prevailing wages. As noted above, the mostly solar rooftop projects compensate customers through a utility NEM tariff paid for by other electric utility customers. The proponents of this bill argue that applying prevailing wage requirements is warranted as NEM projects over 15 kWs tend to be the larger, commercial projects and rooftop solar installers should be compensated prevailing wages. Those in opposition to this bill argue that such an expansion will have a myriad of consequences, including slowing down California’s clean energy goals by increasing costs of NEM projects. In data provided by a solar installation company for projects located in inland southern California, the costs increases by applying public works prevailing wages could result in quadrupling the contractors’ costs. As currently drafted, this bill would expand the public works prevailing wage requirements mostly to commercial projects not currently subject to prevailing wage requirements, given that projects that receive public funding (such as schools, government buildings, etc.) would likely already require prevailing wages. In the case of non-public buildings, such as commercial or homes, it is not clear whether application of public works is warranted for projects that receive no explicit public funding, though they do receive a utility tariff compensation that is funded by other customers in the corresponding utility.

Solar system size. California Solar and Storage Association notes that inland areas in California experience hotter temperatures and, therefore, average larger solar

energy systems. They cite a statewide average of seven kWs for solar rooftop energy systems, but eight kWs for areas such as Fresno. In conversations with a solar developer focused on inland southern California, they note that many homes in these areas require a solar system sized over 15 kWs, including homes that range from 1,800 to 2,500 square feet in areas such as Cathedral City. They express concerns that the increased costs for prevailing wages will make solar rooftop energy less accessible to inland residents, including low-income residents.

Amendments. The author and committee may wish to amend this bill to delete reference to the CSI report, Public Utilities Code §913.7, and instead include the proposed in another section of the Public Utilities Code.

Double referred. This bill has been double-referred to the Senate Committee on Labor, Public Employment and Retirement.

Prior/Related Legislation

AB 841 (Ting, Chapter 372, Statutes of 2020) required that all electric vehicle charging infrastructure and equipment located on the customer side of the electrical meter that is funded or authorized, in whole or in part, by state entities shall be installed by a contractor with the appropriate license and at least one electrician on each crew, at any given time, who holds an Electric Vehicle Infrastructure Training Program certification.

SB 350 (De León, Chapter 547, Statutes of 2015) specified that construction, alteration, demolition, installation, or repair work on the electric transmission system located in California constitutes a public works project, subjecting these projects to prevailing wage.

AB 327 (Perea, Chapter 611, Statutes of 2013) instituted several rate reforms and required the CPUC to adopt a successor NEM tariff no later than December 31, 2015.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

SUPPORT:

California State Association of Electrical Workers, Co-sponsor
Coalition of California Utility Employees, Co-sponsor

OPPOSITION:

California Solar + Storage Association

Desert Valleys Builders Association
Silicon Valley Leadership Group

ARGUMENTS IN SUPPORT: The California State Association of Electrical Workers and the Coalition of California Utility Employees argue that the requirement for prevailing wages for NEM connected renewable energy systems will “stop large corporations and wealthy homeowners from taking advantage of rooftop solar installers, while ensuring the highest level of competence and safety over the lifetime of the project.” They also argue that the reporting requirements of this bill will help address “the exclusion of lower income communities from participating in rooftop solar.”

ARGUMENTS IN OPPOSITION: In opposition to the bill, the California Solar and Storage Association argues that this bill will: (1) slow down California’s clean energy goals by increasing costs; (2) increase the use of fossil fuels (especially fossil fueled generators); (3) establishes a bad precedent by defining independent, behind-the-meter solar projects contracted by and for individual consumers “public works projects;” (4) kill small businesses which represent over 80 percent of California’s solar contractors; (5) hurt the state’s affordable housing and commercial solar market; (6) create unnecessary red tape as “most solar installers do not have teams of lawyers to sort through California’s prevailing wage rules.”

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