

Community Shared Solar: Promising Option For Calif. Builders

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On Feb. 20, the California Energy Commission, or CEC, voted five-zero to approve a plan by the Sacramento Municipal Utility District, or SMUD, to build an off-site community shared solar project. This project will allow certain developers to forgo installing on-site solar panels on new residential buildings.[1]

This is the first such project approved since California’s 2019 Building Energy Efficiency Standards took effect on Jan. 1, 2020.[2] The 2019 standards were adopted unanimously by the CEC on May 9, 2018.[3]

SMUD’s community shared solar plan — dubbed the Neighborhood SolarShares Program — establishes a blueprint for other entities to develop new single-family residences and low-rise residential units without including on-site solar panels on each new building. Relatively more widespread community shared solar projects instead of on-site solar panels will likely financially benefit prospective homebuyers, but represents a loss for the rooftop solar industry.

2019 Building Energy Efficiency Standards, the Solar Mandate and the Community Shared Solar Exception

In September 2008, the California Public Utilities Commission adopted its Long Term Energy Efficiency Strategic Plan, which, among other things, set as a goal that all new residential construction in California be “zero net energy” by 2020.[4]

In furtherance of that goal, the CEC included in its 2019 standards a mandate that all new single-family residential buildings and low-rise residential units (i.e., those three stories or fewer) be built with on-site solar panels.[5]

The 2019 standards permit new residential buildings to be exempted in whole or in part from the solar mandate if the building is part of a community shared solar system approved by the CEC.[6] The community shared solar option comports with the California Integrated Energy Policy Report Guidelines that were in effect at the time.



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These guidelines noted that on-site solar systems are not always feasible or practical, and that California's zero net energy goal clearly envisioned developing community shared solar projects.[7]

To be approved by the CEC, a community shared solar project must meet six requirements:

- Be installed and available for inspection before the building(s) serviced by it would be subject to inspection for compliance with the solar mandate, and not cause delays in said inspection;
- Provide the same or better energy performance than the on-site solar system would have;
- Provide dedicated energy savings directly to the building(s) it services;
- Provide energy savings for said building(s) for at least 20 years;
- Not count energy savings toward other renewable energy requirements; and
- Keep detailed compliance records and make them available to the CEC, auditors, building developers and owners, and others.[8]

CEC Rejects SMUD's Original SolarShares Proposal

SMUD — the sixth-largest community-owned electric utility in the U.S. — services most of Sacramento County and parts of Placer and Yolo Counties.[9] It has been a leader among large California utilities in providing electricity from renewable sources.[10]

On Sept. 26, 2019, it submitted an application to the CEC for its SolarShares project to qualify as a community shared system under the 2019 standards.[11] This application was supported primarily by building development, electrical contractor and utility interests, including the California Building Industry Association and the California Municipal Utilities Association.[12]

Supporters argued that SolarShares would facilitate California's transition to renewable energy without unduly increasing the cost of housing in the midst of a statewide housing crisis.[13] SMUD's proposal was opposed vigorously by rooftop solar interests and certain environmental groups including Environment California and Sierra Club California.[14]

Opponents of SMUD's SolarShares proposal argued that SolarShares would not so much drive growth in solar deployment as reshuffle existing solar resources, providing meager financial benefits to homeowners and "threatening the underlying vision and promise of the new home solar mandate" by discouraging deployment of rooftop solar.[15]

Despite these objections, the CEC staff recommended that the proposal be approved.[16] Notwithstanding the recommendation of its staff, the CEC declined to approve the proposal on Nov. 13, 2019, following nearly three hours of public comments.[17]

CEC Approves SMUD's Revised SolarShares Proposal

Following the CEC's rejection of SMUD's original SolarShares proposal, SMUD submitted a revised proposal to the CEC on Jan. 17.[18] The revisions to SMUD's SolarShares proposal were primarily directed at the allegation that SMUD's original proposal sought to skirt the intent behind the community

shared solar exception by using large, remote, existing solar resources to meet the exception's requirements.[19]

In its revised application, SMUD committed to sourcing power only from resources within SMUD's service area, only diverting relatively small existing sources of energy toward the SolarShares project, and bringing online new solar resources for the project.[20]

The revised application also doubled the guaranteed financial benefit to participating homeowners, and committed to greater assistance for homebuyers opting to use rooftop solar.[21]

Nonetheless, SMUD's revised proposal reserved to SMUD the right to divert certain existing solar resources to SolarShares at "particular point[s] in time," including from:

- Existing feed-in tariff resources (both "to serve initial demand," and in case SMUD's yet-to-be-constructed solar resources "are insufficient at any point in time"); and
- Existing renewable energy certificates associated with resources that came online before Jan. 1 and/or exceed 20 megawatts (if "there is program demand that cannot be met" from renewable energy certificates associated with resources that came online after Jan. 1 and that are at or below 20 MW).[22]

Critics of the SolarShares proposal argued that this reservation exposes a "loophole in the additionally requirement." [23]

On Feb. 20, the CEC approved SMUD's revised SolarShares proposal by a unanimous vote.[24] In addition to receiving continued support from development and utility interests, SMUD's revised proposal received support from a number of California state legislators and other public officials, many of whom emphasized that failure to approve SolarShares or similar projects would harm prospective homebuyers, particularly those from disadvantaged communities, due to the cost of rooftop solar in some areas.[25]

CEC staff again recommended that the proposal be approved, conditional on SMUD working with the CEC to integrate the SolarShares program into the appropriate compliance software and forms.[26]

Likely Effects of CEC's Approval of SMUD's SolarShares Project

CEC's approval of the SolarShares project will likely have two main effects. First, it will likely encourage other entities to pursue community shared solar projects, taking potential business from the rooftop solar industry.

Indeed, this was one of the main concerns raised by the rooftop solar industry during the SolarShares review process.[27] Entities will now know that projects similar to SolarShares have at least a possibility, if not a likelihood, of being approved by the CEC, making development of these projects less risky.

Second, it will likely slow the rate of increase of new housing construction costs in SMUD's service area, and potentially throughout California if the CEC approves additional projects. By the CEC's own estimate, the solar mandate (without a community shared solar exception) would have increased the cost of a new home in California by an average of about \$9,500.[28]

Although the CEC also estimated that purchasers of new homes would see an average of about \$19,000 in energy-related savings over a 30-year period, the energy performance and dedicated building energy savings benefits requirements that must be met by community shared solar projects for CEC approval mean that buyers of new homes should still expect to see comparable or greater financial savings.

However, while it is true that more widespread community shared solar projects may take business from the rooftop solar industry, relative to a scenario in which the CEC provided no exception to the solar mandate, it may be more difficult for other entities than it was for SMUD to get their community shared solar projects approved.

Not only is SMUD both a relatively large utility and relatively advanced in its deployment of renewable energy, but it launched SolarShares more than a decade ago.[29] Thus, although SMUD had to alter its existing SolarShares program to be approved as a community shared solar system under the 2019 standards, SMUD did not design its system from scratch, as other entities might do.

SMUD also has existing solar resources that other utilities may not, which may help SMUD meet its energy savings requirements in times of system performance variability.

Of particular interest is how the CEC and various interest groups will react to the first community shared solar proposal that seeks not to substantially replace mandatory on-site solar installations in a given development area, but to merely partially offset that requirement.

On the one hand, a less ambitious proposal may receive less pushback from the rooftop solar industry. On the other hand, such a proposal may have a harder time providing the savings and consistency required for CEC approval, especially if it cannot be supported by existing solar resources in times of system performance variability.

Conclusion

CEC's approval of SMUD's SolarShares project is of major significance. It indicates that there exists a viable alternative to the CEC's solar mandate that went into effect on Jan. 1.

However, this is only the first such proposal that the CEC has addressed. The CEC should expect that it will grapple with a number of questions for future proposals, including how strictly to construe the requirements — including the additionally requirement — that it imposes on proposed community shared solar systems.

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[1] Cal. Energy Comm'n, California Energy Commission approves first community solar proposal under 2019 Energy Code (Feb. 20, 2020), <https://www.energy.ca.gov/news/2020-02/california-energy-commission-approves-first-community-solar-proposal-under-2019>.

[2] Id.

[3] Cal. Energy Comm'n, Energy Commission Adopts Standards Requiring Solar Systems for New Homes, First in Nation (May 9, 2018), <https://www.energy.ca.gov/news/2018-05/energy-commission-adopts-standards-requiring-solar-systems-new-homes-first>; see also Ivan Penn, California Will Require Solar Power for New Homes, N.Y. Times (May 9, 2018), <https://www.nytimes.com/2018/05/09/business/energy-environment/california-solar-power.html>.

[4] Cal. Pub. Util. Comm'n, Long Term Energy Efficiency Strategic Plan (September 2008), at 13-17, available at <https://www.cpuc.ca.gov/WorkArea/DownloadAsset.aspx?id=5305>.

[5] Cal. Energy Comm'n, 2019 Building Energy Efficiency Standards for Residential and Nonresidential Buildings ("2019 Standards"), at Section 150.1(b), available at <https://ww2.energy.ca.gov/2018publications/CEC-400-2018-020/CEC-400-2018-020-CMF.pdf>.

[6] Id.

[7] Cal. Energy Comm'n, 2015 Integrated Energy Policy Report, at 43, available at <https://efiling.energy.ca.gov/getdocument.aspx?tn=212018>; see also Cal. Energy Comm'n, Aug. 22, 2017, Community Shared Solar Alternative Compliance Option Presentation by Bill Pennington and Christopher Meyer, at 4, available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=220861&DocumentContentId=27161>.

[8] 2019 Standards, at Section 10-115.

[9] Sacramento Mun. Util. Dist., Company information, <https://www.smud.org/en/Corporate/About-us/Company-Information> (last accessed Feb. 25, 2020).

[10] See id.

[11] Sacramento Mun. Util. Dist., SMUD Community Solar Application, available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=229860>.

[12] See, e.g., KHovarian Homes, KHovarian Homes Comments — On Community Shared Electric Generation System Application by SMUD, available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=229873&DocumentContentId=61322>; Riverland Homes — Gred Judkis; Riverland Homes — Greg Judkins Comments — Support of SMUD Community Shared Electric Generation System Application, available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=229943&DocumentContentId=61424>; Matson Properties — David Matson, Matson Properites — David Matson Comments — Support of SMUD Community Shared Electric Generation System Application, available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=229945&DocumentContentId=61422>; CA Chapters of the Nat'l Elec. Contractors Ass'n, CA Chapters of the National Electrical Contractors Association Comments — Community Shared Solar Electric Generation System, Application by the Sacramento Municipal Utility District, available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=230604&DocumentContentId=62195>; L.A. Nat'l Elec. Contractors Ass'n, LA National Electrical Contractors Association Comments — Support for SMUD Community Shared System Application, available

at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=230603&DocumentContentId=62194>; Cal. Bldg. Energy Indus. Ass'n, California Building Industry Association Comments — Support for SMUD's Neighborhood Solar Shares Program, available

at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=230312&DocumentContentId=61857>; Cal. Mun. Util. Ass'n, CMUA Comments on Community Owned Solar, available

at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=230576&DocumentContentId=62157>.

[13] See supra note 12.

[14] See, e.g., UtilityAPI, UtilityAPI Comments — SMUD Application to Administer a Community Shared Solar System, available

at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=230089&DocumentContentId=61610>; Coal. for Cmty. Solar Access, Coalition for Community Solar Access Comments — SMUD Application to Administer a Community Shared Solar System, available

at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=230083&DocumentContentId=61600>;

Environment California, Environment California Comments — On SMUD Application to Administer a Community Shared Solar System, available

at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=230602&DocumentContentId=62190>; Sierra Club California, Sierra Club CA opposing comments on SMUD community solar proposal, available

at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=230600&DocumentContentId=62192>.

[15] See supra note 14.

[16] Cal. Energy Comm'n, Notice of Availability and Summary of Staff's Review of SMUD's Community Solar Application, at 4, available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=229834>.

[17] Cal. Energy Comm'n, Transcript of 11-13-2019 Business Meeting, at 191-92, available at <https://efiling.energy.ca.gov/getdocument.aspx?tn=230748>.

[18] Cal. Energy Comm'n, SMUD's Revised Application for SolarShare Program, available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=231588&DocumentContentId=63405>.

[19] See id. at 4-5.

[20] Id.

[21] Id.

[22] Id.

[23] Ctr. for Biological Diversity (Shiva Patel), Center for Biological Diversity (Shiva Patel) Comments — CBD Comments on SMUD's Revised Application, at 4-5 available

at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=231853&DocumentContentId=63719>.

[24] See supra note 1.

[25] See, e.g., Senator Dr. Richard Pan, Senator Dr. Richard Pan Comments — Support for Approval of SMUD's Neighborhood SolarShares Program, available

at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=232022&DocumentContentId=63887>;

Sacramento Cty. Bd. of Supervisors Chairman Phil Serna, Sacramento County Board of Supervisors Chairman Phil Serna Comments — Support for SMUD's Neighborhood SolarShares Program, available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=232008&DocumentContentId=63872>.

[26] Cal. Energy Comm'n, Notice of Availability and Summary of Staff's Review of SMUD's Revised Application, available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=231592&DocumentContentId=63410>.

[27] See supra note 14.

[28] Jeff Daniels, California clears final hurdle for stat'es landmark solar panel mandate for new homes, CNBC (Dec. 6, 2018), <https://www.cnbc.com/2018/12/06/california-clears-final-hurdle-for-state-solar-mandate-for-new-homes.html>.

[29] Sacramento Mun. Util. Dist., SolarShares, <https://www.smud.org/en/Going-Green/SolarShares> (last accessed Feb. 25, 2020).