Date of Hearing: April 6, 2022

ASSEMBLY COMMITTEE ON UTILITIES AND ENERGY
Eduardo Garcia, Chair
AB 2838 (O'Donnell) – As Introduced February 18, 2022

SUBJECT: Electrical corporations: green tariff shared renewables program

SUMMARY: Permits the California Public Utilities Commission (CPUC) to authorize an investor-owned utility (IOU) to terminate its Green Tariff Shared Renewables (GTSR) program via an advice letter on or after April 1, 2023. Additionally permits any outstanding GTSR costs to be recovered by the IOU's nonparticipating ratepayers, should the CPUC terminate or suspend the IOU's GTSR program.

EXISTING LAW:

1) Establishes the GTSR program with 600 megawatts (MWs) of renewable resources available to customers of the IOUs. Requires IOUs to permit customers to subscribe to the GTSR program until the 600 MW cap is reached, with each utility responsible for its proportionate share of GTSR participation. Specifies IOUs that must participate are those with 100,000 or more California customer accounts; i.e. Pacific Gas & Electric (PG&E), Southern California Edison (SCE), and San Diego Gas & Electric (SDG&E). Also sets aside the following GTSR program components:

    a. 100 MWs for facilities one MW or less located in areas identified by the California Environmental Protection Agency as the most impacted and disadvantaged communities;

    b. 100 MWs for residential customers; and

    c. 20 MWs for the City of Davis. (Public Utilities Code §§ 2831-2833)

2) Requires the CPUC to ensure that the GTSR charges and credits are set in a manner that ensures nonparticipant ratepayer indifference for the remaining bundled service, direct access (DA), and community choice aggregation (CCA) customers and ensures that no costs are shifted from participating to nonparticipating ratepayers. (Public Utilities Code § 2833(q))

3) Requires the IOUs, to the extent possible, to actively market the GTSR Program to low-income and minority communities and customers. (Public Utilities Code § 2833(j))

FISCAL EFFECT: Unknown. This bill is keyed fiscal and will be referred to the Committee on Appropriations for its review.

BACKGROUND:

The GTSR Program – The GTSR program was mandated by the Legislature in 2013 with the overall objective of expanding customer access to renewable energy and to build up to 600 MW in additional renewable facilities.[1] GTSR includes both a Green Tariff option (GT) and an Enhanced Community Renewables (ECR) option. The GT option allows customers to purchase more of their electricity from utility-procured renewables sources—often, 50% or 100%—than what they would receive under their utility's standard portfolio; while the ECR option creates a mechanism for consumers to directly purchase electricity from specific, local renewable projects (usually solar photovoltaic (PV)). Under ECR, a customer agrees to purchase a share of a local project directly from a developer, and in exchange the customer will receive a credit from their utility for the customer's avoided procurement and for their share of the benefit of the development to the utility. Because the customer is buying the generation directly from a third party, the customer's participation is treated like DA or CCA migration, resulting in a charge for departing load. When an ECR customer moves within the IOU's territory they can retain their ECR subscription at their new service address.

The GTSR program is designed to allow PG&E, SCE, and SDG&E customers to get more of their electricity demand from renewable generation. The program has a capped enrollment of 600 MWs statewide. Customers who have departed bundled service and are served by a CCA or DA provider are not eligible to participate in GTSR. The program was initially required to sunset, or close to new subscribers, on January 1, 2019, but the sunset clause was repealed in trailer legislation to the 2016 Budget Act.[2]

One hundred of the total 600 MWs in the program are reserved for residential customers. Neither of these GTSR sub-components, either GT or ECR, are dedicated to a certain amount of the overall 600 MW cap. The City of Davis has reserved 20 MWs as well. Additionally, 100 MW of the energy procured through GTSR must be sited in areas identified by the CalEnviroScreen as being one of the 20% most disadvantaged census tracts in each IOU's territory; those projects capacity are capped at one MW. Other GTSR projects may be up to 20 MWs.

As shown in Table 1, the participation rates in the GTSR program are still well below the 600 MW cap.

Table 1: GTSR Capacity Procured (MW)[3]

IOU	Total GTSR Program Capacity	GT Capacity Under Contract	ECR Capacity Under Contract
PG&E	272	53	2
SCE	269	60	6
SDG&E	59	40	2
Total	**600**	**153**	**10**

[1] SB 43 (Wolk, Chapter 413, Statues of 2013)
[2] SB 840 (Committee on Budget and Fiscal Review, Chapter 341, Statutes of 2016)
[3] https://www.cpuc.ca.gov/industries-and-topics/electrical-energy/electric-rates/green-tariff-shared-renewables-program

Table 1 shows the bulk of the enrollment for GTSR has been in the GT component. The ECR option has faced barriers to success, primarily due to the highly prescriptive nature of program requirements and the significantly higher cost of distributed solar compared to utility-scale solar.[4] Solar developers seeking to participate in a competitive IOU solicitation for a contract must demonstrate "community interest;" in other words, that they have marketed to and subscribed a certain number of IOU customers that agree to participate in the program first.[5] This process, coupled with the higher cost of distributed solar compared to utility-scale solar, has made it challenging for the IOUs to contract for significant capacity in the ECR program.

IOU Applications to Terminate or Suspend GTSR – On September 26, 2018, SCE filed an application[6] requesting CPUC approval to recover up to $5.87 million in implementation, administration, and marketing costs associated with five new green energy programs (collectively, the Green Energy Programs, or GEPs). The GEPs would have allowed customers the opportunity to use renewable energy resources to meet their electricity needs. SCE proposed to replace its GTSR program with the GEPs starting in 2021. In 2019, the CPUC denied SCE's request to terminate its GTSR program, stating that terminating their program before reaching their MW cap would violate statute.[7] Parties to the proceeding cited the removal of the sunset date in the 2016 budget trailer bill[8] as evidence of Legislative intent for GTSR to continue operation.[9]

In December 2021, SDG&E filed an advice letter at the CPUC requesting suspension of its GTSR programs.[10] Unlike the SCE application which sought to *terminate* its program, the SDG&E request is to *suspend*, which is permitted under the CPUC guidelines as a consumer protection measure.[11] SDG&E's request to suspend arose from large customer migration to CCAs in their territory. Once a customer is no longer a bundled customer of an IOU, they can no longer participate in GTSR. This SDG&E customer migration lead to an 89% decrease in SDG&E's GTSR participation during 2021.[12] Given the structure of the GTSR program, the program costs must be borne only by GTSR participants; which for SDG&E was a dwindling number of customer accounts. As a result, those 11% remaining GTSR program participants[13] experienced a ~378% increase in their rates from 2021 to 2022. For some customers, this equated to a tripling of the electric bill without any change in their usage. The CPUC has yet to rule on SDG&E's advice letter, and SDG&E GTSR customers experienced that massive rate increase in January 2022.

COMMENTS:

[4] Utility-scale power plants are generally defined as having a capacity of 20 MW or greater.
[5] Community interest in ECR projects is demonstrated through documentation that community members have committed to enroll in 30% of the project's capacity or expressed interest to reach a 50% subscription rate and must have a minimum of three separate subscribers. (See CPUC D.15-01-051)
[6] A. 18-09-015
[7] D. 19-05-031
[8] SB 840 (Committee on Budget and Fiscal Review, Chapter 341, Statutes of 2016)
[9] Pg. 10, *Ibid.*
[10] Advice Letter 3920-E (U902-E)
[11] Pg. 11, D. 19-05-031
[12] Pg. 5, AL 3920-E
[13] For residential participants; small commercial and medium/large commercial/industrial experienced similar increases.

1) *Author's Statement.* According to the author, "The Green Tariff Shared Renewables Program (GTSR) was enacted in 2013, pursuant to SB 43 (Wolk), Chapter 413, Statutes of 2013. Over the past seven years, the procurement landscape has changed dramatically with the expansion of Community Choice Aggregation (CCA). This has led to an increasing volume of customers departing electric utility bundled service, which has impacted GTSR enrollment and rates. The change has been swift in some parts of the state. For example, San Diego Gas & Electric (SDG&E) anticipates that approximately 65% of its bundled customers will have departed bundled service by June 2022, making those customers no longer eligible to participate in GTSR. Other local governments have declared their intent to depart bundled service beginning in 2023, further increasing the share of departed customers to more than 80%.[14] The decrease in customers, along with the costs to administer the program, have resulted in high rates for GTSR. Current law requires the CA Public Utilities Commission (CPUC) to require investor-owned utilities (IOUs) to administer the program, and does not allow the CPUC to authorize termination of the program. AB 2838 gives the CPUC the authority to allow an IOU to terminate its GTSR program, beginning April 1, 2023, through an advice letter."

2) *Ratepayer Indifference.* This bill seeks to allow IOUs to terminate their GTSR programs, which seems reasonable given the program's recent performance. The language in the bill is permissive, allowing the CPUC the flexibility to sunset the program should a utility request such a termination. However, the bill does allow outstanding program costs to be recovered from the IOU's nonparticipating ratepayers upon program termination.

   Customer indifference is a central tenet of the GTSR program. It may seem unfair to allow costs to be borne by nonparticipants, who did not subscribe to the program nor agreed to pay for its associated costs. However, in the case of SDG&E, there may be so few participants remaining in their GTSR program that it would be untenable to have them exclusively bear the outstanding costs.

   It is also not clear what "outstanding" costs are included. As shown in Table 1, there are 163 MW of signed 20-year GTSR contracts across the three IOUs. It is not explicit that the termination of an IOU GTSR program will lead to the termination of these contracts. Statute does permit an IOU with unsubscribed GTSR procurement—which would be the case if the program terminates—to use those resources to satisfy Renewables Portfolio Standard requirements and shift those contracts into the larger energy portfolio used by the broader pool of bundled customers.[15] The remaining outstanding program costs at that point would be largely administrative, such as marketing costs used to advertise GTSR to all bundled ratepayers. It seems reasonable that some of these costs could be borne by nonparticipants; however such a decision is best left to be scrutinized in a proceeding at CPUC. *Therefore, the committee may wish to consider an amendment clarifying that the commission may consider whether any outstanding program costs should be recovered*

[14] SDG&E Advice Letter 3920-E.
[15] PU Code § 2833 (t) *A participating utility shall, in the event of participant customer attrition or other causes that reduce customer participation or electrical demand below generation levels, apply the excess generation from the eligible renewable energy resources procured through the utility's green tariff shared renewables program to the utility's renewable portfolio standard procurement obligations or bank the excess generation for future use to benefit all customers in accordance with the renewables portfolio standard banking and procurement rules approved by the commission.*

from nonparticipants, and direct the IOUs to fully detail all outstanding program costs they wish to recover.

3) *Related Legislation.*

   AB 2316 (Ward, 2022) mandates the CPUC to establish a new Community Renewable Energy Program, as specified, by July 1, 2023 for distribution customers of large IOUs. Status: *set for hearing* in this committee on April 20th, 2022.

4) *Previous Legislation.*

   SB 366 (Leyva, 2017) would have revised the GTSR program to permit the CPUC to increase the program cap from 600 MWs to 800 MWs to accommodate projects for low-income customers and projects located in disadvantaged communities. Would have allocated revenues from IOU greenhouse gas emission allowances to fund the Renewable Energy for All program. Status: Died – In the Assembly Committee on Utilities and Energy.

   SB 793 (Wolk) requires an IOU that offers a GTSR program to permit a participating customer to subscribe to the program and be provided with a nonbinding estimate of reasonably anticipated bill credits and bill charges, as determined by the CPUC, for a period of up to 20 years. Status: Chapter 587, Statutes of 2015.

   SB 43 (Wolk) established, until January 1, 2019, a Shared Renewable Self Generation Program allowing IOU customers to purchase an interest in a "community renewable energy facility" and receive a bill credit for the generation component of the customer's electrical service. Status: Chapter 413, Statues of 2013.

   AB 327 (Perea) among other provisions, requires the CPUC to develop specific alternatives to the net energy metering tariff to ensure that customer-sited renewable distributed energy is available to residential customers in disadvantaged communities. Status: Chapter 611, Statutes of 2013.

REGISTERED SUPPORT / OPPOSITION:

Support

Edison International and Affiliates, including Southern California Edison
Sempra Energy Utilities

Opposition

None on file.

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