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Utilities Request that the CPUC Incorporate the Inflation Reduction Act Tax Credit Changes into the Net Energy Metering Proceeding

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On August 19, 2022, the California investor-owned utilities filed a joint motion for official notice at the California Public Utilities Commission (CPUC), saying that the recently adopted Inflation Reduction Act of 2022 (HR 5376) is "directly relevant" to the CPUC's open net energy metering (NEM) proceeding.

The CPUC is currently contemplating a revision to its NEM tariff (referred to as NEM 2.0), which is a billing mechanism that allows utility customers to generate their own electricity—e.g., from solar panels—to serve their own energy needs onsite. Customers also receive a financial credit on their electric bills for any surplus energy that is fed back to the utility. On December 13, 2021, the CPUC issued a proposed decision revising the NEM 2.0 tariff, finding that it currently "negatively impacts non-participating customers; is not cost-effective; and disproportionately harms low-income ratepayers." The proposed decision's changes to rates and export compensation was controversial, and led to an outcry by the solar industry. The CPUC is expected to issue an alternate proposed decision in the near term.

The joint utilities (Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company) submitted its filing in the open proceeding, asserting that the Inflation Reduction Act reinstates and extends the following clean energy credits that were scheduled to be scaled back:

- Sections 13102 and 13702 (extending and modifying the energy credit) amend Sections 48 and 48E, respectively, of the Internal Revenue Code, providing a 30 percent credit for certain renewable energy projects (including solar and energy storage technology) that (a) are sized less than one megawatt; or (b) meet certain wage and apprenticeship requirements.
- The Residential Clean Energy Credit (Section 13302) amends Section 25D of the Internal Revenue Code (26 U.S.C. § 25D) to (a) extend through December 31, 2034 the tax credit available to individuals for qualifying solar electric property expenditures (among other types of clean energy property expenditures); (b) reinstate the available credit at 30 percent of the qualifying expenditure (which, prior to amendment, had dropped to 26 percent and was scheduled to drop to 22 percent as of January 1, 2023); (c) extend availability of the 30 percent credit to January 1, 2033, and phase out the credit thereafter; and (d) expand the credit to apply to qualified battery storage technology expenditures.

The joint utilities explain that "the extension of the 30 percent tax credit for both non-residential and residential solar projects, is directly relevant to the modeling of a successor net energy metering tariff in this proceeding." The CPUC has not issued a ruling or response to the joint utilities' motion for official notice, and it remains to be seen the extent to which the alternate decision will incorporate the Inflation Reduction Act.

The IRA is a complex piece of legislation with many nuances. If you have any questions regarding financial incentives under the Act or energy regulatory changes as a result of the IRA please contact any of the authors listed below.

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