

California

PPA fix beat the clock

Al Rosen knows all about patience. Two years ago Rosen and his business partner, Peter Weich, who together operate California-based solar developer Absolutely Solar Inc., began installing photovoltaic (PV) projects under the CREST program from Southern California Edison (SCE). The program was created through the state's Assembly Bill (AB) 1969, which was passed in 2009. Designed to spur the development of wholesale renewable energy projects 1.5 MW and smaller, CREST is SCE's version of the feed-in-tariff program that was mandated for investor-owned utilities (IOUs) by the same legislation.

Rosen has been persistent in his efforts to develop his portfolio of small PV projects in Southern California's Antelope Valley. «One major issue, according to Rosen, is the fact that the power purchase agreement (PPA) offered by SCE had terms that made it extremely difficult for developers to obtain financing. »The biggest problem was that the PPA contained termination language which was unacceptable to any

of the mainstream financing sources,« says Rosen. He's referring to wording that made banks worry that projects could be cancelled almost on a whim.

Rosen's experience was not unique. According to SCE's own statistics, only 3.4 MW of an almost 248 MW program have reached the point where they can execute contracts. Understanding there was a problem, the Clean Coalition, a Palo Alto-based advocacy group, filed a motion with the California Public Utilities Commission (CPUC) in August to fix the troubling language. According to Craig Lewis, the group's executive director, there was real urgency to the matter because of the looming expiration of the federal government's 1603 cash-in-lieu-of-tax-credit program, which provides developers with a 30-percent cash payment, rather than the traditional investment tax credit. With the 1603 program set to expire on Dec. 31, 2011, the need to move quickly was paramount, says Lewis.

Evidently the CPUC agreed. In November, regulators opted to include almost all

of the Clean Coalition's suggested changes, which more or less rewrote the CREST PPA to, as Lewis puts it, »remove the poison pills.« One of the provisions that has been stripped allowed SCE to modify PPAs unilaterally after they were signed. The changes will also allow projects to come on line faster than was the case previously.

William Walsh, SCE's manager of renewable energy contract origination, says the changes are a slight improvement. »I think in terms of a contractor's ability to get financing, it's incrementally better,« says Walsh, who notes that the utility is reserving its right to contest the changes. »We are certainly missing some pieces that would have protected customers that we would have wanted.«

But Lewis of the Clean Coalition is convinced that the changes to the PPA will spur a lot of pent up demand for PV. »Developers have been lining up to participate but haven't been able to because of the poison pill language,« he says. »We know there will be instant uptake on CREST.« *cw*

Illinois

A step backward in the Land of Lincoln

At first glance, it would appear that the sprawling energy bill passed by the Illinois Legislature over Governor Pat Quinn's veto late last October gave a boost to net metering in the state. The legislation was largely designed to give Commonwealth Edison, the Illinois' largest distribution utility, automatic 2-percent annual increases in its delivery rates, but buried in the bill was language raising eligible system sizes for net metering from 40 kW to 2 MW and boosting the overall cap from 1 percent to 5 percent of a utility's peak load.

Although some green groups cheered the change, Madeleine Weil, a policy analyst with the Environmental Law and Policy Center (ELPC) in Chicago, says the legislation also includes provisions that

make those improvements meaningless. To Weil, the law has taken what was a straightforward, albeit modest, net-metering arrangement and made it ultracomplex. »It used to be that anybody could install a system and net meter at retail rates for net exports with systems under 40 kW,« she notes. »Now it says you can only net meter if you're in a noncompetitive customer class.«

The problem is that the language of the newly passed law makes it so that most customers will eventually be deemed »competitive« – meaning that virtually nobody will be able to net meter at the same rates they pay for electricity. Already, commercial customers with over 100 kW of peak load are considered competitive and are there-

fore ineligible for beneficial net-metering rates. Residential and most other nonresidential customer classes will also likely fall under that umbrella in the next few years, thanks to the complex state law that says that a customer class becomes competitive when a third of all ratepayers sign up to receive their electricity from an alternative retail electric supplier – something that is happening rapidly in the state.

Commonwealth Edison did not respond to requests for comment. It's unclear how current net-metering customers will be treated and the rulemaking for implementing the law has not yet begun. Already, the ELPC has made the elimination of these net-metering changes a priority for the next legislative session. *cw*