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INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

January 12, 2022

VIA OVERNIGHT DELIVERY

22-0002

Anabel Renteria
Initiative Coordinator
Office of the Attorney General
1300 I Street, 17th Floor
Sacramento, CA 95814

Re: Request for Title and Summary for Proposed Initiative

Dear Ms. Renteria:

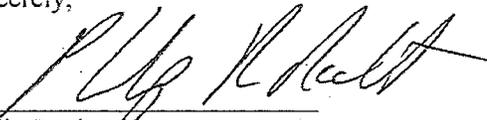
Pursuant to Article II, Section 10(d) of the California Constitution, I submit the attached proposed initiative, entitled the "Solar Bill of Rights Act (2022)," and request that your office prepare a circulating title and summary of the chief purpose and points of the proposed measure. I am the proponent of this initiative. Included with this submission is the required proponent certifications pursuant to sections 9001 and 9608 of the California Elections Code, along with a check for \$2,000.00.

All inquiries or correspondence relating to this proposed initiative should be directed to me at:

Philip Recht
Mayer Brown LLP
350 South Grand Avenue, 25th Floor
Los Angeles, CA 90017
Tel: (213) 229-9500

Thank you for your attention to this matter.

Sincerely,


Philip Recht

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

SECTION 1. Title.

This measure shall be known and may be cited as “The Solar Bill of Rights Act (2022).”

SECTION 2. Findings and Declarations.

The people of California find and declare:

(a) All Californians have the right to generate and store solar energy. Californians installing solar energy and storage systems have the right to reduce and modify their use of electricity obtained from the electrical grid, whether their solar energy systems are off-grid or interconnected to the grid.

(b) These rights to self-generation and storage of solar energy extend to all Californians, regardless of income level, geographic location, and property ownership.

(c) The generation of solar energy by homeowners and other property owners improves air quality, reduces global warming and climate change, increases employment opportunities for those installing and maintaining the solar panels and batteries, and results in electrical systems that are less subject to failure due to transmission line outages.

(d) Making solar energy generation and storage more affordable also promotes equitable participation in the energy, health, safety, career, and financial benefits of the clean energy economy.

(e) Customer-sited solar energy systems and battery energy storage devices are valuable assets for efficiently managing, and improving the reliability and resiliency of, the electrical grid.

(f) Removing barriers to the installation of customer-sited solar energy systems and battery energy storage devices will help reduce costs and facilitate the deployment of these resources.

(g) The time required for utility review and approval of interconnection applications and the lack of transparency in interconnection costs have impeded customer adoption of solar energy and battery energy storage devices.

(h) The construction and maintenance of customer-sited solar energy systems generates tens of thousands of clean energy jobs that are critical to promoting a clean economy.

SECTION 3. Section 2827.12 is added to the Public Utilities Code, to read:

2827.12. (a) As used in this section, the following terms have the following meanings:

(1) “Default retail electricity rate” means, for residential customers, the rates selected as default in commission decisions 18-12-004 and 19-07-004, and any subsequent decisions that update

those selected rates. "Default retail electricity rate" means, for non-residential customers, the rates most commonly used by customers in the same rate class.

(2) "Electrical cooperative" means an electrical cooperative as defined in Section 2776.

(3) "Electric utility" means an electrical corporation, a local publicly owned electric utility, or an electrical cooperative.

(4) "Eligible customer-generator" means a residential customer, small commercial customer as defined in subdivision (h) of Section 331, or commercial, industrial, or agricultural customer of an electric utility, who uses a solar energy system that is located on the customer's owned, leased or rented premises and that is sized to generate no more than the customer's historic or expected future annual electricity consumption.

(5) "Solar energy system" means a solar energy device that has the primary purpose of providing for the collection and distribution of solar energy for the generation and storage of electricity, and that produces at least one kilowatt, and produces not more than five megawatts, alternating current rated peak electricity.

(b) Notwithstanding any other law, an electric utility shall not:

(1) Assess any recurring fees or charges on an eligible customer-generator that are not also assessed on customers who do not use solar energy systems. Nothing in this paragraph (1) shall be read to prohibit an electric utility from assessing a one-time fee that reimburses the electric utility for costs associated with processing an interconnection application for an eligible customer-generator or from assessing a recurring charge on all customers in the same customer class irrespective of whether they use a solar energy system.

(2) Prohibit an eligible customer-generator from collecting and storing electricity generated from a solar energy system for onsite consumption.

(3) Charge an eligible customer-generator for electricity generated by a solar energy system that is consumed onsite, whether such electricity is used simultaneously with its generation or stored and consumed at a later time.

(4) Require an eligible customer-generator to accept service on a rate schedule that has not been widely adopted by, and cannot reasonably be expected to be widely adopted by, customers of the electric utility who do not use a solar energy system.

(c) (1) Notwithstanding any other law, each electric utility shall develop a tariff that complies with subdivision (b) and that provides bill credits for electricity exported to the electrical grid by an eligible customer-generator, and shall make such tariff available, continuously and without interruption, to all of its new and existing eligible customer-generators by June 30, 2023.

(A) For an eligible customer-generator with household income of less than 80% of the area median income, as defined in subdivision (f) of Section 50052.5 of the Health and Safety Code,

the tariff shall provide a bill credit for electricity exported to the electrical grid over a time period of not less than 15 minutes, equal to the default retail electricity rate in effect at the time that the eligible customer-generator's solar energy system was installed.

(B) For an eligible customer-generator who aggregates meters at a multifamily residential or agricultural property, the tariff shall provide a bill credit for electricity exported to the electrical grid over a time period of not less than 15 minutes, equal to the default retail electricity rate in effect at the time that the eligible customer-generator's solar energy system was installed, less volumetric charges for public purpose programs. The electric utility shall apportion bill credits to the participating accounts on such properties.

(C) For all other eligible customer-generators, the tariff shall provide a bill credit for electricity exported to the electrical grid over a time period of not less than 15 minutes, equal to the expected utility avoided costs that result from such exports, levelized over the life of the solar energy system as measured during the year of its installation, plus any measurable societal benefits that result from such exports. Notwithstanding the above, the bill credit rate for an eligible customer-generator under this subparagraph (C) shall not exceed the default retail electricity rate in effect at the time that the eligible customer-generator's solar energy system was installed, less volumetric charges for public purpose programs.

(2) If, at any time after January 2, 2022, an electric utility adopts or implements a tariff that conflicts with this section, then such tariff shall be void and immediately replaced by the tariff that was in effect for the electric utility on January 1, 2022. Nothing in this paragraph (2) shall be read to discharge the obligation of an electric utility to adopt a tariff that is compliant with this section by June 30, 2023.

(3) The terms of the tariff in effect on the date that a solar energy system is installed shall apply to the system for twenty years following the date of installation, regardless of a change in customer name or owner of the system. Notwithstanding the above, if a solar energy system was installed prior to the implementation of a tariff that complies with subdivision (c), the tariff implemented to comply with subdivision (c) shall apply to such system for twenty years following the date that such system was installed, regardless of a change in customer name or owner of the system. For purposes of clarity, the terms of the tariff that cannot be altered during such periods include, without limitation, the bill credit rate established for a solar energy system pursuant to paragraph (1) of subdivision (c).

(4) This subdivision (c) shall not apply to any solar energy system that is installed after December 31, 2035.

SECTION 4. Section 25785 is added to the Public Resources Code, to read:

25785. (a) The Battery Incentives Fund is hereby created in the State Treasury, to be administered by the commission. Notwithstanding Section 13340 of the Government Code, all monies in the fund are continuously appropriated to the commission for carrying out the purposes of this section.

(b) Starting in budget year 2023-2024, in any fiscal year for which there is a projected state budget surplus exceeding two billion dollars (\$2,000,000,000) at the time that the state budget is finalized, as calculated by the Legislative Analyst, there is hereby appropriated from the General Fund of the state to the commission a sum equal to ten percent of the projected state budget surplus during such fiscal year, not to exceed the sum of nine hundred million dollars (\$900,000,000), to carry out the purposes of the Battery Incentives Fund. Such appropriations to the Battery Incentives Fund shall continue in subsequent fiscal years for which there is a projected state budget surplus exceeding two billion dollars (\$2,000,000,000), as calculated by the Legislative Analyst at the time that the state budget is finalized, until a total of three billion dollars (\$3,000,000,000) has been appropriated to the Battery Incentives Fund. After such time, this subdivision (b) shall become inoperative. In each fiscal year, the Legislature may appropriate additional amounts to the commission as may be necessary to carry out the provisions of this section.

(c) As used in this section, "battery energy storage device" means a commercially available device that can absorb electrical energy, store it for a period of time, and thereafter discharge the electrical energy.

(d) The commission shall use the Battery Incentives Fund to provide rebates to residential and non-residential consumers who purchase or lease a battery energy storage device.

(1) No less than fifty-five percent of the total funds distributed as rebates to residential consumers shall be distributed to residential consumers with household income of less than eighty percent of the area median income as defined in subdivision (f) of Section 50052.5 of the Health and Safety Code and multifamily properties in low income communities as defined in paragraph (2) of subdivision (d) of Section 39713 of the Health and Safety Code.

(2) No less than forty percent of the funds distributed as rebates to non-residential consumers shall be distributed to non-residential consumers in disadvantaged communities identified by the California Environmental Protection Agency pursuant to Section 39711 of the Health and Safety Code.

(3) The commission shall set rebate levels at amounts designed to achieve market transformation and promote the value and self-sustaining presence of battery energy storage devices after termination of the Battery Incentives Fund.

(4) As a condition to receiving a rebate, the commission may require consumers to accept electricity service under time-varying rate schedules that are in common use and that are designed to encourage battery operation that results in reductions of greenhouse gas emissions.

(e) The commission shall, by June 30, 2023, establish guidelines governing the application, eligibility, award, and administration of rebates distributed from the Battery Incentives Fund. Such guidelines shall allow consumers to file, and the commission to begin processing, rebate applications by July 1, 2023.

SECTION 5. Section 913.14 is added to the Public Utilities Code, to read:

913.14. (a) As used in this section, the following terms shall have the following meanings:

(1) "Battery energy storage device" means a commercially available device that can absorb electrical energy, store it for a period of time, and thereafter discharge the electrical energy.

(2) "Solar energy system" means a solar energy device that has the primary purpose of providing for the collection and distribution of solar energy for the generation and storage of electricity, and that produces at least one kilowatt, and produces not more than five megawatts, alternating current rated peak electricity.

(b) On or before June 1, 2023, and on or before June 1 of each year thereafter, the commission shall produce an annual report evaluating electrical corporations' performance of interconnection review to the Legislature containing data of electrical corporations, compiled by year of initial interconnection request and segregated by market segment and technology type, for solar energy systems, including battery energy storage devices, proposed for interconnection with the electrical grid, and containing other information that the commission may require.

(c) The reports required pursuant to subdivision (b) shall include all of the following information:

(1) The amount of time that the electrical corporations have taken to complete each step in the review of interconnection requests.

(2) The number of interconnection requests initially received and the number of interconnection requests deemed complete.

(3) The amount of fees charged for processing the interconnection requests and the basis for those fees.

(4) A summary of challenges in reducing the amount of time for interconnection review and improvements to the interconnection review process that occurred in the previous year.

(d) The commission shall develop enforcement mechanisms, including financial penalties, to ensure annual improvement in the metrics evaluated in the annual interconnection performance reports.

SECTION 6. Section 25790 is added to the Public Resources Code, to read:

25790. (a) As used in this section, the following terms shall have the following meanings:

(1) "Battery energy storage device" means a commercially available device that can absorb electrical energy, store it for a period of time, and thereafter discharge the electrical energy.

(2) "Solar energy system" means a solar energy device that has the primary purpose of providing for the collection and distribution of solar energy for the generation and storage of electricity, and that produces at least one kilowatt, and produces not more than five megawatts, alternating current rated peak electricity.

(b) On or before June 1, 2023, and on or before June 1 of each year thereafter, the commission shall produce an annual report evaluating local publicly owned electric utilities' performance of interconnection review to the Legislature containing data of local publicly owned electric utilities, compiled by year of initial interconnection request and segregated by market segment and technology type, for solar energy systems, including battery energy storage devices, proposed for interconnection with the electrical grid, and containing other information that the commission may require.

(c) The reports required pursuant to subdivision (b) shall include all of the following information:

(1) The amount of time that the local publicly owned electrical utilities have taken to complete each step in the review of interconnection requests.

(2) The number of interconnection requests initially received and the number of interconnection requests deemed complete.

(3) The amount of fees charged for processing the interconnection requests and the basis for those fees.

(4) A summary of challenges in reducing the amount of time for interconnection review and improvements to the interconnection review process that occurred in the previous year.

(d) A local publicly owned electrical utility serving more than 25,000 customer service connections shall establish a streamlined and standardized process for review of interconnection requests for customers seeking to install solar energy systems or battery energy storage devices on the customer side of the point of interconnection to minimize uncertainty and the amount of time and cost of the review while maintaining electric system safety and reliability. Such process shall reflect, at a minimum, all of the following principles:

(1) Minimization of the interconnection fees and timelines for processing and reviewing interconnection applications.

(2) Provision of certainty and transparency in interconnection review timelines, fees, distribution upgrade costs, project status, engineering analysis, and billing.

(3) Maintenance of a clear, efficient, and accessible process for resolving disputes.

(4) Recognition that equipment or systems certified to national standards will perform as certified when installed to applicable codes.

(5) Keeping interconnection rules updated to adapt to changing circumstances and technological advances.

SECTION 7. Severability.

If any provision of this Act, or part thereof, or the application of any provision or part to any person or circumstance, is for any reason held to be invalid, the remaining provisions, or applications of the provisions, shall not be affected, but shall remain in full force and effect, and to this end the provisions of this Act are severable.

SECTION 8. Conflicting Measures.

In the event that this measure and another measure addressing solar energy systems and battery storage energy devices shall appear on the same statewide ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes than a measure deemed to be in conflict with it, the provisions of this measure shall prevail in their entirety, and the other measure or measures shall be null and void.

SECTION 9. Construction.

This Act shall be liberally construed to effectuate its purposes.

SECTION 10. Amendment.

Pursuant to subdivision (c) of Section 10 of Article II of the California Constitution, this Act may be amended only by a subsequent measure submitted to a vote of the people at a statewide election.

SECTION 11. Proponent Standing.

Notwithstanding any other provision of law, if the State, government agency, or any of its officials fail to defend the constitutionality of this Act, following its approval by the voters, any other government agency, the proponent, or in his or her absence, any citizen of this State shall have the authority to intervene in any court action challenging the constitutionality of this Act for the purpose of defending its constitutionality, whether such action is in trial court, on appeal, or on discretionary review by the Supreme Court of California and/or the Supreme Court of the United States. The reasonable fees and costs of defending the action shall be a charge on funds appropriated to the California Department of Justice, which shall be satisfied promptly.

SECTION 12. Effective and Operative Dates.

This Act shall become effective and operative as provided in subdivision (a) of section 10 of article II of the California Constitution.