

## MEMO

**To:** State Board of Equalization – Property Tax Department

**From:** Industry Members - Solar

**Members:** Berkshire Hathaway Energy Company  
Clearway Energy Group, LLC  
EDP Renewables, LLC  
NextEra Energy Resources, LLC  
Terra-Gen Power, LLC

**Date:** January 13, 2020

### **SCOPE:**

On November 13, 2019 feedback was requested regarding the Active Solar Energy Systems New Construction Exclusion Reporting Requirements. This memo is a response from a group of industry members expressing related concerns. The concerns addressed below are:

- (1) Providing a definition of “Owner Type”
- (2) Defining what size of facility is required to file this form
- (3) Excessive reporting requirements
- (4) Further defining “stage of conveyance and use of electricity”
- (5) Further defining battery storage

### **FEEDBACK:**

#### Definition of Owner Type

On the lower section of page 1 of the form, a selection of “Owner Type” is required from a list. The listed options of “Owner-Builder,” “First-Buyer,” and “Lessee” are not defined later in the form. It would be beneficial to define these classifications to ensure appropriate selection.

#### Power Plant Covered by Reporting Requirements

The BOE’s draft form does not define what size of facility would be subject to the proposed reporting requirements. In general, we believe this form has the potential to unnecessarily increase compliance responsibilities for both the taxpayers and the counties. Therefore, we request for the BOE to endorse the suggested reporting requirements form for large facilities (i.e. greater than 5 MWdc).

## Reporting Requirements

The substantial reporting requirements are burdensome to apply to all circumstances. Specifically, the most troublesome requests are for PPAs, production tax credit details, and any actual profit and loss information for Active Solar Energy Systems that qualify for the New Construction Exclusion.

We propose adding an additional question to the start of Section A6 *Questionnaire* inquiring whether the owner of the facility is the “Owner-Builder” or “First Buyer”. If the owner is one of these, they may skip Section A7 *Systems and Subsystems Information* and Part C *Revenue and Expense Information*. Alternatively, we propose requesting supplemental schedules for those that are not “Owner-Builder” or “First-Buyer” properties rather than have this be required by all facilities.

For those facilities that are not eligible for the New Construction Exclusion, the requested information is concerning in that it may not be applied properly to value a facility. It is common for older solar generation facilities to have above-market PPAs, which are intangible assets and should be exempt from ad valorem taxation. California county appraisers could be encouraged to assess non-exempt renewable energy properties differently than other locally assessed properties (e.g. commercial real estate) if the BOE promotes the collection of PPAs and actual income data. Consequently, we disagree with all requirements which suggest that it is appropriate to mandate PPA/income data submittals with annual personal property declarations. If the BOE is insistent that PPAs and related info are necessary, the request to provide available energy market rates should be included as well to support an appropriate valuation.

According to Rule 6(a), “the replacement cost approach to value is used in conjunction with other value approaches and is preferred when neither reliable sales data nor reliable income data are available and when the income from the property is not so regulated as to make such cost irrelevant.” The most relevant assessment methodology for non-exempt solar facilities will be the replacement cost approach which estimates the cost to construct a property of equal utility as of the effective date of value.

## Stage of Conveyance

Clarification is requested regarding the definition of “stage of conveyance or use of electricity” as referenced in Part D, definition of “Active Solar Energy System (ASES)”. Part D and Cal. Rev. & Tax. Cd. §73(d)(1)(B) defines “active solar energy system” as a system that includes “storage devices, power conditioning equipment, transfer equipment and parts related to the functioning of those items.” It would be the understanding of the property owner that equipment that is related to the function of the storage devices, power conditioning equipment and transfer equipment would qualify as solar property, including equipment after the step-up transformer.

Substations of a generation facility do not use the electricity but rather supply it to “the grid” at the “point of interconnection” (POI). At the POI the electricity is transferred from the generating facility to the transmission facility to convey to the end consumer. The POI generally includes a meter to measure the energy generated to then be transmitted. It is at the POI that the use of electricity or stage of conveyance commences.

## Battery Energy Storage

Part D states that an ASES includes storage devices. However, the definition of storage devices is ambiguous by means of the conveyance or use of electricity for qualification of the exclusion. Specifically, the battery energy storage in question is a system coupled with a utility scale photovoltaic generating solar facility. The solar facility is utility scale size for production of electricity that is not consumed on site, and instead, is electricity generated for sale in the wholesale market.

Battery energy storage systems are comprised of battery cells that are assembled into modules within a racking system. There is also an inverter and step-up transformer to the storage system as well as a power control system. Battery energy storage systems are protected in an enclosure against the weather elements and to keep the batteries at cold temperatures. Battery energy storage systems can be front of the meter (“FTM”) or behind the meter (“BTM”). They are determined to be FTM or BTM depending on how the system is charged for storage of energy. FTM indicates energy storage systems charged from the grid; whereas BTM indicates energy storage systems charged from the generating facility.

We request further guidance to define whether FTM and BTM storage systems are qualified for the exclusion in relation to the language regarding the conveyance or use of electricity. The solar industry has received various responses in regards to the exclusion for battery energy storage systems. The current language is very broad in terms of the definitions.

### **REQUEST:**

It would be beneficial if this form was produced in both PDF and Excel formats for each county and taxpayer for ease of preparation.

### **CONCLUSION:**

The drafted Solar Energy Power Plant Property Statement is overall burdensome with the significant reporting requirements that may or may not be applicable to all solar facilities. We request that modifications be made to request only the needed information for specific operations in the form of supplemental schedules and to reduce the requirements for excluded facilities. We ask that further clarification be given in regards to size of facility required to file this form, the language regarding “stage of conveyance or use of the electricity” and battery storage.