

## Proposed comments on Solar Energy Systems New Construction Exclusion

Barry,

Please see below for comments regarding the proposed reporting requirements for active solar energy systems (“ASES”) new construction exclusion. We send these on behalf of Tesla, Inc. and Vivint Solar, Inc. Thank you in advance for your consideration.

1. Definition of “Industrial Scale Solar Plants.” We understand that this form is intended to apply only to “industrial scale solar plants” (per the BOE webpage at <http://www.boe.ca.gov/proptaxes/solar-energy-systems.htm>). For these purposes, we suggest that an “industrial scale solar plant” be defined as a system that is more than 1,000 kilowatts (KW) / 1 megawatt (MW) in size. We believe there are several reasons to limit the applicability of these new reporting requirements based on a system’s size, and that 1 MW is a logical cutoff to differentiate industrial scale solar plants from smaller ASES, including:
  - a. The nature of information being requested on this form is extensive and would be difficult or impossible to produce for ASES of smaller size and, in particular, ASES designed for on-site consumption. Please see our comment number 2, below, for a more detailed explanation of the difficulty in producing this information.
  - b. In general, all (or almost all) of the costs to construct ASES that are intended primarily for on-site consumption (and that generally are constructed on a single customer’s rooftop) are eligible for the property tax exemption under Cal. Rev. Tax Code (“Code”) section 73. Thus, for these systems, the proposed information requested (including, for example, detailed cost breakdowns, projected income information on an asset by asset basis, etc.), does not seem necessary.
  - c. We believe that 1 MW is a logical cutoff to differentiate “industrial scale solar plants” from smaller ASES, given that 1 MW is such an important threshold under the California Public Utilities Code. Most notably, between 1996 and 2017, net metering was only available for systems that were 1 MW or less in size. See Pub. Util. Code Section 2827(b)(4)(A). (In 2017, the CPUC approved a NEM successor tariff with no size limit; however, systems greater than 1 MW are still required to show that they do not have significant impact on the distribution grid. See Pub. Util. Code section 2827.1(b)(5)). Thus, for decades, customers and solar developers have relied on this limitation, and there will be many systems intended for on-site consumption, including for residences, schools, and small businesses, that were constructed at or below 1 MW and for which much of the proposed requested information is not available.

2. Unavailability of Information for Smaller Systems. The proposed form requests information that, with respect to systems 1 MW or less: (a) many companies in our industry – especially those focused on distributed energy generation – generally do not track, (b) is not germane to the assessment function or does not seem necessary, (c) is unduly burdensome and expensive to collect, (d) needs clarification, (e) potentially places us in the untenable position of violating customer privacy, and (f) requires us to provide confidential and competitive information. The following provides more detail regarding some of the information that falls within the above categories (a)-(f). This list of categories and information is provided by way of example and not limitation.

a. Requests for information that is not tracked in the industry.

- Section A7, Systems and Subsystems Information: in order to respond to this section, we would need to file an application for each PV system installed on a rooftop.
  - i. A1 APN: we do not currently track individual APN numbers for our PV systems nor do we have maps to be able to attach to this request.
  - ii. C (Photovoltaic Modules) and G (Power Storage Equipment): these sections seek information with a greater level of granularity than we have readily available.
- Section B1, Schedule of Cost Information: Many solar developers obtain systems on a turnkey basis and do not track / separate the individual cost components. In other words, there is no cost break-down of PV Modules, Power Conditioning Equipment, Thermal Collectors, etc. Requiring this information would be analogous to requiring the owner of a car to report the cost of the tires, the engine, the transmission, the sheet metal, etc. instead of the cost of the complete car.
- Section C1, Revenue and Expense Information: we do not maintain P&L information on an asset by asset basis and therefore cannot provide this information.
- Section C2, Anticipated Operating Results. We do not maintain P&L information on an assets by assets basis and therefore cannot provide this information.

b. Requests for information that is not germane to the assessment function or not relevant for smaller systems.

- Section A6, Questionnaire: This information seems relevant only to utility scale or industrial scale solar systems with a defined facility footprint.
- Section C1, Revenue and Expense Information: this information is not necessary if it relates to ASES in which 100% of the costs to construct are eligible for the property tax exemption under section 73.
- Section C2, Anticipated Operating Results: same.
- Section C3, Plant Off-Line Information: same.

- c. Requests with which it would be unduly burdensome and expensive to comply.
    - Section A6, Questionnaire: all the questions here seem to apply more appropriately to a utility scale power plant rather than smaller ASES. Otherwise, to comply with this section would require that we attach copies of all the customer agreements (questions 3, 4, 7, etc...)
  
  - d. Requests that need clarification.
    - Section A4, Name and Type of Power Plant: it is unclear whether a separate form needs to be completed for each PV system (in which case completing this form for smaller ASES is unduly burdensome).
    - Section A6, Questionnaire: the dates requested here apply more appropriately to a utility scale power plant rather than smaller ASES (questions 10, 11, 12, 13, etc...).
    - Part D, Definitions & Examples: the term “Solar Energy Power Plant” is currently not defined. Note 38 refers the user to BOE Guidelines for Active Solar Energy System New Construction Exclusion, which also lacks a definition for the term “Solar Energy Power Plant”.
  
  - e. Requests for information that potentially puts solar developers in the untenable position of violating customer privacy.
    - Section A6, Questionnaire: all the questions here seem to apply more appropriately to a utility scale power plant rather than smaller ASES. Otherwise, to comply with this section would require that we attach copies of all the customer agreements (questions 3, 4, 7, etc...). Because these agreements include sensitive customer information, we cannot comply with it without reviewing all our contracts with a view towards disclosure.
  
  - f. Requests to disclose competitive and confidential information.
    - Section A6, Questionnaire, question 5: requires us to provide the fair market analysis, information which is competitive and confidential.
    - Section C, Operating Results: requires us to provide detailed cost and income information that is competitive and confidential.
3. Timing of Requested Information and New Proposed Form. We understand that the proposed property tax form was created for the January 1, 2020 lien date. Under section 452, the BOE must provide in detail the content and specifications of property statements to be used by all assessors – and shall notify assessors of those specifications – no later than August 31 prior to the tax lien date on which they become effective. Please confirm that the requirements of section 452 have been met in order for this form to be prescribed for the 2020 lien date. If not, please confirm if this form will instead be intended for the 2021 lien date.

Thanks,

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