



**California Energy Commission  
September 13, 2023 Business Meeting  
Backup Materials for Agenda Item No 03c:  
Trinity Public Utility District's (Trinity) Application for Solar Photovoltaic (PV)  
Determination**

The following backup materials for the above-referenced agenda item are available as described below:

1. Proposed Resolution, attached below
2. CEQA analysis, attached below.
3. Trinity PUD's Application, available at  
<https://efiling.energy.ca.gov/GetDocument.aspx?tn=247659&DocumentContentId=81989>
4. Staff Analysis, available at  
<https://efiling.energy.ca.gov/GetDocument.aspx?tn=251982&DocumentContentId=86993>.

For the complete record, please visit: [California Energy Commission : Docket Log](#)

To stay informed about this project and receive documents as they are filed, please subscribe to the proceeding list serve, which can be accessed here:  
<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=22-BSTD-04>. The list serve sends out email notifications and direct links when documents are filed in the proceeding docket.

STATE OF CALIFORNIA  
STATE ENERGY RESOURCES  
CONSERVATION AND DEVELOPMENT COMMISSION

RESOLUTION APPROVING THE DETERMINATION THAT THE SOLAR  
PHOTOVOLTAIC REQUIREMENTS IN THE 2022 BUILDING ENERGY EFFICIENCY  
STANDARDS §140.10 SHALL NOT APPLY

**RESOLUTION:** California Energy Commission (CEC) approval of the determination that the solar photovoltaic (PV) requirements in the 2022 Building Energy Efficiency Standards (Energy Code) §140.10 and §170.2(g) shall not apply to the Trinity Public Utility District (Trinity PUD) service territory, pursuant to California Code of Regulations, Title 24, Part 6, and associated administrative regulations in Part 1, Chapter 10.

**WHEREAS**, California Code of Regulations, Title 24, Part 1, Chapter 10, §10- 109(k) and §10-110, establishes a process for the CEC to determine that the solar PV requirements in §140.10 and §170.2(g) shall not apply to particular buildings; and

**WHEREAS**, on November 10, 2022, the Trinity PUD conducted a public hearing and approved the decision to seek a solar PV system requirements determination; and

**WHEREAS**, the Trinity PUD submitted an application to the CEC for the solar PV and battery storage system requirements determination pursuant to California Code of Regulations, Title 24, §10-109(k) on November 21, 2022; and

**WHEREAS**, the Trinity PUD, in its application to the CEC, presented evidence that its low energy rates cause the solar PV system and battery storage system requirements to not be cost-effective for its service area; and

**WHEREAS**, CEC staff has considered the application of CEQA to the proposed determination and concluded that (1) approval of Trinity PUD's application is not a project within the meaning of CEQA and (2) even if it is, it is subject to the Common-Sense Exception.

**WHEREAS**, CEC staff analyzed whether Trinity PUD public agency rules causes the CEC's cost-effectiveness conclusions to not hold, and determined that the solar PV and battery storage requirements are indeed not cost-effective as a result of Trinity PUD public agency rules, pursuant to Public Resources Code 25402(b)(3).

**WHEREAS**, that documents and other materials that constitute the determination record can be found online at [Docket Number 22-BSTD-04](https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=22-BSTD-04), <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=22-BSTD-04>; and

**THEREFORE, THE CALIFORNIA ENERGY COMMISSION FINDS:**

With regard to the California Environmental Quality Act (CEQA):

- The CEC has considered the application of CEQA to the proposed determination and concluded that approval of Trinity PUD’s September 6, 2022 application is not an activity that may cause a direct or reasonably foreseeable indirect physical change to the environment within the meaning of CEQA Guidelines § 15378 and therefore not a project under CEQA, and that it can be seen with certainty to have no possibility for causing a significant effect on the environment within the meaning of CEQA Guidelines § 15061(b)(3), and therefore subject to the Common-Sense Exception even if it is a project under CEQA; and

With regard to the requirements of 10-109(k):

- The Trinity PUD application meets all applicable §10-109(k) requirements, and determines that the solar PV requirements in the 2022 Energy Code, §140.10 and §170.2(g), shall not apply to newly constructed nonresidential and high-rise residential buildings within Trinity PUD service territory; and

**THEREFORE BE IT RESOLVED**, that the CEC adopts the findings of staff that the approval of Trinity PUD’s November 21, 2022 application has met all of the applicable requirements of 10-109(k).

**FURTHER BE IT RESOLVED**, that the CEC hereby grants the approval of the November 21, 2022 application from Trinity PUD, effective solely for the 2022 Energy Code cycle; and

**FURTHER BE IT RESOLVED**, that the Executive Director or their designee shall take all actions to implement this resolution.

**CERTIFICATION**

The undersigned Secretariat to the CEC does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the CEC held on MM DD, YYYY.

AYE:  
NAY:  
ABSENT:  
ABSTAIN:

Dated:

\_\_\_\_\_  
Kristine Banaag  
Secretariat

# Memorandum

To: Docket 22-BSTD-04

Date: 08/31/2023

Telephone: (916) 776-7187

From: Muhammad Saeed, Senior Electrical Engineer  
Building Standards Branch

Subject: Basis for Finding Trinity Public Utility District's Non-Residential Application Solar Photovoltaic Determination as Not Cost-Effective is Exempt under the California Environmental Quality Act

## I. CEQA

The California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.; see also CEQA Guidelines, Cal. Code Regs., tit. 14, § 15000 et seq.) requires that state agencies consider the environmental impact of their discretionary decisions. CEQA allows for certain projects to be exempted from its requirements. Of relevance here, and discussed further below, is the definition of a project (Cal. Code Regs., tit. 14, § 15378(a) and common sense exemption (Cal. Code Regs., tit. 14, §15061(b)(3)).

## II. The CEC's 2022 Building Energy Efficiency Standards

On August 11, 2021, the California Energy Commission (CEC) adopted the 2022 Building Energy Efficiency Standards (California Code of Regulations, Title 24, Part 1, Chapter 10, and Part 6; also known as the California Energy Code), which went into effect January 1, 2023. The Energy Code requires the installation of solar photovoltaic systems and battery storage systems on newly constructed certain non-residential high-rise multifamily buildings in section 140.10 and section 170.2(g). As part of the adoptions, section 10-109(k) Photovoltaic System Requirement Determination, states, "The Commission may, upon written application or its own motion, determine that the photovoltaic or battery storage requirements in Section 150.1(a)3, Section 140.0(c), Section 170.0(a)3 shall not apply, if the Commission finds that the implementation of public agency rules regarding utility system costs and revenue requirements, compensation for customer-owned generation, interconnection fees, or other factors, causes the Commission's cost-effectiveness conclusions, made pursuant to Public Resources Code 25402(b)(3), to not hold for particular buildings.

## III. The Proposed Action

The CEC is proposing to approve Trinity Public Utility District's (Trinity PUD) application to the CEC for a determination, pursuant to the California Code of Regulations, Title 24, Part 1, Section 10-109(k), that the CEC's solar PV requirements for new certain non-residential and high-rise residential construction in the 2022 Energy Code are not cost effective in Trinity's

service area and should not be required for those building types. Staff has performed a cost-effectiveness analysis based on the public agency rules adopted by Trinity and recommends approval of this application.

Trinity PUD serves most of Trinity County, serving about 7,200 customers. Trinity PUD distributes and sells 100 percent hydroelectric power to its customers. Therefore, none of the proposed regulatory changes would cause a direct or reasonably foreseeable indirect physical change in the environment.

#### **IV. The proposed determination is not a project within the meaning of CEQA.**

A project is defined as the “whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. (Cal. Code Regs., tit. 14, § 15378(a).) The CEC has considered the application of CEQA to this proposed determination and concluded that approval of Trinity PUD’s November 21, 2022 application does not meet CEQA’s definition of a project as it is not an activity that may cause a direct or reasonably foreseeable indirect physical change to the environment. The only two possible outcomes of this action are either (1) rejection of Trinity PUD’s application, which would not qualify as a project, or (2) approval of the application, which would result in an exception from a requirement that photovoltaic panels be installed in new non-residential and high-rise multifamily construction within Trinity PUD’s service territory. Neither potential outcome has the possibility of causing a direct or reasonably foreseeable indirect physical change to the environment. Therefore, the proposed determination is not a project within the meaning of Section 15378. (Cal. Code Regs., tit. 14, § 15378(a).)

#### **V. Even if the proposed determination is a project under CEQA, it is subject to the Common Sense Exemption.**

If it is found that the proposed determination is a project within the meaning of Section 15378, then the proposed determination will be exempt from CEQA under the common sense exemption. CEQA only applies to projects that have the potential for causing a significant effect on the environment. (Cal. Code Regs., tit. 14, § 15061(b)(3).) A significant effect on the environment is defined as a substantial, or a potentially substantial, adverse change in the environment, and does not include an economic change by itself. (Pub. Resources Code, § 21068; Cal. Code Regs., tit. 14, § 15382.) Staff reviewed the Trinity PUD application and performed life-cycle cost-effectiveness analysis to determine if Trinity PUD public agency rules would cause solar PV to not be cost effective in their service territory. Staff found that applying Trinity PUD’s residential and commercial rates and its net energy metering rules for the analysis resulted in solar PV to not be cost effective. Even if this determination is to be considered a project under CEQA, the common sense exemption would apply, as it can be seen with certainty that there is no possibility that this determination will have a significant effect on the environment. As discussed above, Trinity PUD’s application will either result in no action being taken by the Commission, or a waiver of CEC’s photovoltaic system requirements for new construction. (Cal. Code Regs., tit. 14, § 15061(b)(3).) For these reasons, CEC’s determination regarding Trinity PUD requirements would not be subject to CEQA under the common sense exemption of section 15061(b)(3).

#### **V. Conclusion.**

As shown above, the proposed determination would have no significant effect on the environment. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. Therefore, this action is not a project or, alternatively, exempt pursuant to the common sense exemption under section 15061(b)(3) of the CEQA Guidelines.