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In solar/utility fight, some question us vs. them framing

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Calls to temper rhetoric and build a collaborative relationship between electric utilities and the solar industry have met with a mixture of optimism and disdain.

Those urging restraint on the solar side say a mature industry will have to consider what it means to be a "citizen of the grid" and will recognize the value of helping utilities develop a new business model that benefits utility shareholders, solar customers and the entire power system. Utilities, meanwhile, insist they are not the enemies of solar they often are cast as and are only searching for fair and sustainable policy.

Then there is Jigar Shah, the founder and former CEO of SunEdison who now heads Jigar Shah Consulting. Shah revels in the fear he says solar strikes in the hearts of utility executives, and he sees the heated fight over net-energy metering in Arizona as the industry's chance to send a message to utilities across the U.S.

At a solar conference in Chicago on Oct. 24, Shah argued for an aggressive campaign to force utilities to drop what is seen as resistance to distributed generation and net metering, which compensates solar customers for electricity they export to the grid. When it comes to political and regulatory fights, "I love kicking people in the head," Shah said. "And this is going to be amazing with Arizona for us to practice this kicking style and see where it goes."

The solar debate raging in Arizona was sparked by Arizona Public Service Co.'s effort to convince state regulators that its net-metering policy needs to be adjusted to stop what the utility said is a multimillion-dollar annual cost shift that saddles its nonsolar customers with an increasing share of the expense of maintaining the electricity grid.

The petition, which regulators are expected to take up in November, triggered what is triumphantly viewed in some solar circles as a public backlash against APS.

"I think back to when I worked with a utility. ... When we would poll our customers, they generally liked us. ... A lot of people don't seem to like their utility anymore," Jason Keyes, a partner at Keyes Fox & Wiedman LLP, said during a panel discussion at the Solar Power International 13 conference on Oct. 24.

In many cases, net metering is the issue chafing at the relationship, Keyes said. "I would say the bulk of utilities are resistant to [net metering], and that resistance causes sort of feedback into the developers being able to say, 'Your utility doesn't want you to do this. So do it now, and we'll help you get around your utility bill,'" he said.

At the end of September, staff of the Arizona Corporation Commission urged regulators to reject a pair of proposals that APS, a subsidiary of Pinnacle West Capital Corp., offered as potential solutions. Net metering, and the various costs and benefits it presents, should be considered in the context of a general rate case, staff said.

APS continues to argue for a net-metering overhaul outside of a rate case. There is "a lot of precedent for exploring new regulated issues outside of that [general rate case] forum," Greg Bernosky, APS's manager of renewable energy programs, said in Chicago.

And contrary to the claims of some solar advocates, Bernosky said, "The net-metering fight in Arizona is not about collecting more money and making and having more money available for the utility."

Not changing net metering 'one iota'

With the public fight in Arizona building, Shah said the solar industry must re-evaluate its game plan. APS is cornered, Shah said, and the solar industry should press its advantage rather than negotiate.

"We should be all the way on this side saying, 'No ... way, we're not going to change net metering one iota. We're not going to even acknowledge that it has any cost to the people. In fact, we're going to say something even more outrageous, which is that we save them [thousands of dollars] per system that we install," Shah said. "We should be just as outrageous as the utility is, and at the time at which they cry uncle, we should then have a negotiated settlement process."

It is the kind of tactic that Bernosky blamed for a breakdown in productive dialogue in Arizona. "I think the thing that [is] a challenge is when any one voice says, 'Nothing can change.' Even the topic of conversation is a nonstarter. And I don't think that we would want to approach any topic with a position that nothing can change — the position or the law we have now is the only way it can be," he said. "I think the substance of the solution will ultimately come from ongoing conversation, thoughtful dialogue with our regulators and then input from stakeholders, which I hope we'll see more of in Arizona and nationwide."

APS finds support in First Solar

While much of the solar industry has lined up against APS' proposals, at least one solar company has broken ranks to publicly defend the utility's position. In a September filing with the ACC, First Solar Inc. said the solar industry in Arizona has matured from a "nascent" sector and that to maintain its "public and political support," solar subsidies should decline to reflect cost reductions the industry has achieved in recent years.

"The current review and proposed revision of NEM have been criticized by some as anti-solar. We believe just the reverse to be true," James Woodruff, First Solar's vice president of state and local government affairs, wrote to regulators. "Unless the regulatory structure is adjusted to incorporate current market realities, the unforeseen economic impact of NEM may result in an indiscriminate backlash against solar of all sizes and types."

Woodruff's comments drew a quick rebuke from some corners of the solar industry.

Bryan Miller, vice president of public policy and power markets for SunRun Inc., said First Solar's position reflects fears that its own business will be wiped out by a continuing surge in the rooftop market.

"My sense is that this is an act of desperation," Miller told SNL Energy. "Do some of the other companies have concerns about sort of where the different market segments are headed? I'm sure they do. But every one of them has said a growing solar market is good for everybody — a rising tide lifts all ships. And you know, nobody has publicly advocated — no solar company has publicly advocated — against solar until First Solar did it."

'Recognize the interest of both parties'

Both sides in the Arizona debate have expressed confidence that they will secure a favorable outcome. APS interpreted the September staff report as an acknowledgement that "the current net metering structure is not fair for all customers and must be changed." Shah predicted that the solar industry will "win resoundingly."

Miller agrees that a solar victory is likely; cases in other markets show regulators siding with the solar industry, he said. But that should not preclude collaboration, Miller added.

"I hope that [utilities] will come to the conclusion that they are better off participating in the space in some way rather than fighting it," he said. "It's just that my hunch is that participation will look more like investing in companies like ours rather than trying to do it from scratch themselves."

However the relationship shakes out, Shah advocated a rigid stance. "The utilities fear us," he said. "I hope that we don't get in the notion of being fair and balanced here."

To be sure, though, Shah does not speak for the entire industry. Shihab Kuran, president of advanced solutions at SunEdison, said framing the issue as "us versus them" misses the opportunity for "an amazingly collaborative effort."

"I've been to utility conferences and when there was energy legislation in Washington, every utility CEO stood up and had two or three slides on how they would comply with the new energy legislation. When the energy legislation was dropped, every single CEO deleted those slides from their financial presentations. So they'll comply if there's legislation; but we have to define the rules and allow their investors to be profitable and remain profitable," Kuran told SNL Energy.

"We have to recognize the interests of both parties — the renewable energy party and utilities. But in the long term there are many solutions, and we need that strategic, forward-looking-solution dialogue rather than the tactical one," he said.