Jody London Consulting ◆ P.O. Box 3629 ◆ Oakland, CA 94609 ◆
jody_london_consulting@earthlink.net ◆ 510-459-0667

July 26, 2011

Honesto Gatchalian
California Public Utilities Commission, Energy Division
DMS Branch
Tariff Files, Room 4005
505 Van Ness Avenue
San Francisco, California 94102

RE: Protest of Sustainable Conservation to Pacific Gas & Electric Advice Letter 3830-E, Southern California Edison Advice Letter 2593-E, and SDG&E Advice Letter 2262-E

Dear Mr. Gatchalian:

As directed by the Energy Division of the California Public Utilities Commission ("Commission"), Sustainable Conservation submits this protest to the above referenced Advice Letters filed by Pacific Gas & Electric Company ("PG&E"), Southern California Edison Company ("SCE"), and San Diego Gas & Electric Company ("SDG&E"), all of which request permission to transfer jurisdiction over interconnection tariffs for projects that interconnect at the distribution level to the Federal Energy Regulatory Commission ("FERC"), with the exception of net metering facilities.

The Commission should either reject these Advice Letters or suspend their processing until the Commission acts on the Petition discussed below, or the issue is otherwise addressed by the Commission itself – not the Commission's Staff. Given the critical significance of this issue in installing renewable distributed generation, the Commission must address the question of interconnection in a definitive manner. The Commission should *not* abdicate its responsibility to regulate the investor-owned utilities to FERC. These jurisdictional issues must be resolved if there is to be stability in the small renewable market sufficient to convince customers with the potential to install distributed renewable generation facilities that the risks are worth taking. If jurisdiction shifts to FERC, we lose the opportunity to use our own experience in dealing with the barriers in the California context, particularly in light of our unique geography and public policy goals.

Sustainable Conservation has long been on record as supporting the authority and jurisdiction of the Commission over distribution level interconnection. On June 29, 2011, Sustainable Conservation filed a Petition to Modify Decision 07-07-027 ("Petition"), requesting the Commission direct the utilities to use Rule 21 for interconnection at the distribution level (something California's local public utilities have been able to do, and seem to prefer over FERC's process, regardless of whether or not the Rule 21 process may need updating). The Petition outlines the history of interconnection in California at the distributed generation level, reviews inconsistencies in policy, and advocates that the Commission issue a clear statement of

Commission policy regarding use of the existing Commission-approved interconnection process, where no use of the transmission system is involved. The Petition is attached to this Advice Letter as Attachment A.

In addition to overarching jurisdictional concerns, the Commission should be mindful that approving the Advice Letters now would be counter-productive to the Commission's ongoing implementation of SB 32. The Commission has commenced and is aggressively pursuing a rulemaking proceeding (R.11-05-005), and Commission staff has scheduled several meetings of the Rule 21 Working Group. Affirmatively ceding jurisdiction to the federal government as a stopgap measure at this time would be ill-advised. Doing so now will only create more difficulties, delays, and confusion if the Commission later requires the investor-owned utilities to switch back to using Rule 21.

In closing, the Commission should either reject the Advice Letters outright or suspend them and preserve the status quo, for the reasons stated above and detailed in the Petition attached to this Advice Letter as Attachment A.

Sincerely,

Jody London
Regulatory Consultant to Sustainable Conservation

cc: Service Lists R.08-06-024, A.08-11-001, R.10-05-004, R.11-05-005
Megan Caulson, SDG&E
Akbar Jazayeri, SCE
Bruce Foster, SCE
Brian Cherry, PG&E

ATTACHMENT A

PETITION OF SUSTAINABLE CONSERVATION FOR MODIFICATION OF D.07-07-027: OPINION ADOPTING TARIFFS AND STANDARD CONTRACTS FOR WATER, WASTEWATER AND OTHER CUSTOMERS TO SELL ELECTRICITY GENERATED FROM RPS-ELIGIBLE RENEWABLE RESOURCES TO ELECTRICAL CORPORATIONS

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Continue Implementation and Administration of California Renewables Portfolio Standard Program.	Rulemaking 11-05-005 (Filed May 5, 2011)

PETITION OF SUSTAINABLE CONSERVATION FOR MODIFICATION OF D.07-07-027: OPINION ADOPTING TARIFFS AND STANDARD CONTRACTS FOR WATER, WASTEWATER AND OTHER CUSTOMERS TO SELL ELECTRICITY GENERATED FROM RPS-ELIGIBLE RENEWABLE RESOURCES TO ELECTRICAL CORPORATIONS

Donald C. Liddell
DOUGLASS & LIDDELL
2928 2nd Avenue
San Diego, California 92103
Telephone: (619) 993-9096
Facsimile: (619) 296-4662
Email: liddell@energyattorney.com

Counsel for
SUSTAINABLE CONSERVATION

June 29, 2011

TABLE OF CONTENTS

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Continue Implementation and Administration of California Renewables Portfolio Standard Program.	Rulemaking 11-05-005 (Filed May 5, 2011)

PETITION OF SUSTAINABLE CONSERVATION FOR MODIFICATION OF D.07-07-027: OPINION ADOPTING TARIFFS AND STANDARD CONTRACTS FOR WATER, WASTEWATER AND OTHER CUSTOMERS TO SELL ELECTRICITY GENERATED FROM RPS-ELIGIBLE RENEWABLE RESOURCES TO ELECTRICAL CORPORATIONS

Pursuant to Rule 16.4 of the California Public Utilities Commission's ("Commission's") Rules of Practice and Procedure ("Rules"), Sustainable Conservation[1] respectfully submits this Petition for Modification of Decision ("D.") 07-07-027 entitled *Opinion Adopting Tariffs and Standard Contracts for Water, Wastewater and Other Customers to Sell Electricity Generated from RPS-Eligible Renewable Resources to Electrical Corporations* ("Petition").

I. INTRODUCTION.

California's feed-in tariff ("FIT") that was implemented by Decision 07-07-027, issued July 26, 2007, should be modified by the Commission to (i) account for changes in the FIT program resulting from enactment of SB 32 in 2009,[2] and (ii) accept the Commission's express offer extended to parties, including Sustainable Conservation, in D.07-07-027 (which was issued to implement AB 1969)[3] to file a petition such as this one if interconnection of eligible water, wastewater, and other electric utility customers ("Customers") to local utility power lines under AB 1969 should at some future date become "a matter that needs attention at the Commission level".[4]

[1] Founded in 1993, Sustainable Conservation is a San Francisco based non-profit environmental organization whose effectiveness lies in building partnerships with business, agriculture and government – and establishing models for environmental and economic sustainability that can be replicated across California. Developing farm scale renewable energy over the last ten years has been a signature issue.
[2] SB 32 (Stats. 2009, ch 328) amended California Public Utilities ("P.U. Code" § 399.20 and added § 387.6. All code references are to the P.U. Code unless noted otherwise.
[3] P. U. Code § 399.20. (Assembly Bill (AB) 1969 (Yee) Stats. 2006, Chapter 731.) SB 380 (Stats. 2008, ch. 544) amended § 399.20.
[4] D.07-07-027, Mimeo p. 37.

In the course of its long-running rulemaking to administer the Renewables Portfolio Standard ("RPS") program[5] the CPUC issued a decision in July 2007 to implement a statute (AB 1969), that was enacted as part of the RPS program requiring utilities to enter into standard power purchase contracts – or FITs - with Customers for power generated by renewable resources on-site.[6] In relevant part for purposes of this Petition, D.07-07-027 addressed the question of whether Customers should use State or Federal administrative processes to interconnect with their local utilities' distribution-level power lines. The CPUC left the decision as to whether a State or Federal process should be used up to the utilities. SCE and SDG&E subsequently opted to offer interconnection under California's process, known as "Rule 21,"[7] PG&E chose instead to require interconnection under the Federal "Small Generator Interconnection Process."[8]

Since 2007, the wisdom of the choice of which administrative process should be used to interconnect Customers at the distribution level of the grid has been addressed in a variety of CPUC proceedings to implement programs mandated by statute.[9] Each utility has continued to chart its own course. PG&E's problematic decision to seek to "federalize" what has historically been a process managed locally by California's electric utilities, subject to oversight by the Commission, has created an increasingly acute public policy problem that is throttling distributed generation, and needs urgent attention at the Commission. Inconsistent treatment of the same issue in various Commission programs intended to promote renewable energy has contributed to confusion among the stakeholder group of Customers that were the intended beneficiaries of AB 1969 and D.07-07-027, as well as reported delays in the interconnection process that can now take up to two years. It is also important to recognize that California's municipal electric utilities have chosen the path of using Rule 21[10] and have not experienced the type of problems we have

---

[5] To comply with statutory requirements, the "RPS Rulemaking," has closed and been re-opened as a successor proceeding with a new proceeding number several times. In 2006 it was known as R.06-05-027, in 2008 it was known as R.08-08-009, and today it is known as R.11-05-005.

[6] *Opinion Adopting Tariffs and Standard Contracts for Water, Wastewater and Other Customers to Sell Electricity Generated from RPS-Eligible Renewable Resources to Electrical Corporations*, D.07-07-027, issued July 26, 2007.

[7] *Rule 21 – Generating Facility Interconnections – Generating Facility Design and Operating Requirements* is a rule proscribed by the CPUC and published by each utility along wit hits tariffs in substantially the same proscribed form tariffs on their web sites

[8] *See, Order Conditionally Accepting Tariff Revisions* 133 FERC ¶61,223 (2010).

[9] *See, e.g.* R.08-06-024, (AB 1613) Combined Heat and Power; and A.10-03-001, *et al.*, (AB 970), Net Surplus Compensation.

[10] *See, e.g.* Sacramento Municipal utility Districts comments submitted to the California Energy Commission on May 23, 2011: ". . . some utilities have noted in the California Public Utilities Commission's Rule 21 Working Group and its Renewable Distributed Energy Collaborative (Re-DEC) that up to 15 percent of peak load for individual circuits could reliably interconnect with minimal system upgrades. Other utilities have said that

seen with the FERC process. We are also keenly aware that the Utilities have often performed poorly in managing the interconnection process whether a Rule 21 or FERC administered process is used.

Assuring easier access to interconnection is a key provision of SB 32, which was enacted to expand the scope and improve the effectiveness of the FIT program. Commissioner Mark Ferron, the Assigned Commissioner for this proceeding has signaled his intent to achieve implementation of the provisions of SB 32 this year.[11] We are hoping that happens. However, the time is right to file this Petition now for three reasons.[12] First, the three largest Investor Owned Utilities ("Utilities") have recently submitted substantially similar advice letters requesting modification of the currently Commission-approved AB 1969 tariffs well in advance of planned SB 32 implementation that seek to put in place a new set of interconnection procedures and criteria. This poses an immanent threat of creating momentum and precedent that will be very difficult to undo in the new SB 32 tariffs that the Utilities will certainly be ordered to submit by the Commission in due course as part of the RPS proceeding. With the RPS now set by law at 33%, keeping Commission oversight of the interconnection process is a very important way to both help California's electric utilities in meeting the newly amended RPS,[13] and to provide local Customer recourse for resolution of disputes. As soon as possible, the Commission must clarify its jurisdiction over the process of interconnecting Customers to local utility distribution power lines that are not subject to the jurisdiction of the California Independent System Operator ("CAISO") under the Federal Power Act ("FPA").[14] In recent months it has become increasingly obvious that a clear statement of Commission policy

---

individual circuits could handle distributed generation additions for up to 50 to 100 percent of minimum load. Could a 15 percent of peak load or 50 to 100 percent of minimum load penetration rate be implemented statewide? If so, how much renewable capacity would be installed per utility? Response: SMUD has been an active participant in the standardized Rule 21 development effort in California. SMUD voluntarily chose to adopt the same Rule 21 language, screens and procedures as required of the IOUs because SMUD believes standardization of the interconnection processes Statewide will benefit the DG community - allowing them cost reductions through consistent requirements regardless of utility service territory. Penetration limits on a per circuit basis such as the 15% of peak load screen has served as a proxy for how much DG capacity could be interconnected to a circuit during minimum load conditions -- a condition of concern to utilities. Since there is generally a ratio of 3:1 between a circuit's peak load and average minimum load in California, the 15% of peak load is a proxy for 50% of average minimum load." (pp. 7-8).

[11] R.11-05-005, *Order Instituting Rulemaking to Continue Implementation and Administration of California Renewables Portfolio Standard Program*, filed May 5, 2011. *See,* transcript of Prehearing Conference held on June 13, 2011.

[12] Specific modifications to the language of D.07-07-027 that, if adopted, would achieve the result advocated for in this Petition are attached as Attachment A.

[13] P.U. Code 399.10, *et seq,* as amended by enactment of SB2X on April 12, 2011.

[14] Facts that support granting the Petition are detailed in the Declaration of Allen Dusault attached as Attachment B.

regarding use of the existing Commission-approved interconnection process, where no use of the transmission system is involved, is the only rational way to bring order to a rising cacophony of disparate stakeholder opinions.[15] The Commission should act now because, as described in detail below, the way the dialogue has been framed thus far plainly ignores the class of Customers that SB 32 was enacted to help while blurring legal distinctions between FERC and Commission jurisdiction and rules.

Second, as detailed in the Declaration of Allen Dusault attached as Attachment B to this Petition, in recent months there have been several small generators that have been brought to their knees, in some cases bordering on financial ruin, waiting as long as two years for approval to interconnect, particularly in PG&E territory, which appears to have completely abandoned the Commission-approved Rule 21 process in favor of FERC-approved Wholesale Distribution Access Tariffs ("WDATs"). The Utilities need a clear signal from the Commission that (i) there is local recourse when the Utilities fail to deliver timely services and (ii) the Commission is not going to allow the entire local interconnection process to be "federalized." It is not just Customer generation project hosts that are being undone by unconscionable delay. Investors have grown wary of California as they see words and actions that are divergent. California seems increasingly likely to lose new FIT projects, in part because of the difficult, costly and lengthy interconnection process that is now the norm, particularly in PG&E's service territory.

Third, in Reply Comments in response to an Administrative Law Judges ruling filed March 23, 2011, in R.08-08-009 PG&E has essentially threatened to litigate SB 32 implementation.[16] This is an exceedingly disconcerting development. Sustainable Conservation observed with concern the Utilities' legal challenge to AB 1613 tariff implementation as it dragged on for more than a year and cost combined heat and power industry stakeholders dearly in unwarranted legal expenses and project delays. By this Petition, we hope to minimize the possibility of further disruption to the emerging farm-scale renewable energy industry by having a well defined locally managed FIT and interconnection process that makes a bright line

[15] The Federal Energy Regulatory Commission ("FERC") alternative processes are (i) the Generation Interconnection Procedure ("GIP") for direct interconnection to transmission lines or 9ii) a Wholesale Distribution Access Tariff ("WDAT"), which is used to gain indirect access to transmission service through use of local distribution lines that are already used for transmission service.

[16] ". . . . [all] transmission and distribution Generator Interconnection Procedures ("GIP") are FERC-jurisdictional and are established under the CAISO's Tariff for transmission and PG&E's Wholesale Distribution Tariff ("WDT") for distribution. *The Commission does not have jurisdiction to change these procedures, or to order expedited interconnection for certain SB 32 eligible facilities.* If the Commission or parties in this proceeding believe that expedited consideration of SB 32 eligible facilities is necessary, the appropriate venue for addressing these issues is FERC. [Emphasis added]" (Reply Comments, p. 13).

distinction between medium sized and large complex transmission level projects and small, lower voltage and simpler distributed generation projects that should benefit as intended by enactment of SB 32.

II. THE COMMISSION SHOULD CONSIDER THIS PETITION TIMELY FILED BECAUSE THE PRESSING NEED FOR MODIFICATION OF D.07-07-027 ONLY BECAME EVIDENT VERY RECENTLY.

As explained in detail below, and supported by the Declaration of Allen Dusault attached as Attachment B, this Petition could not have been filed within one year of the effective date of D.07-07-027 (July 26, 2007), and should therefore be deemed filed timely in accordance with Section 16.4(d) of the Commission's Rules. The need to consider modification of D.10-01-022 only became fully evident to stakeholders in the emerging farm-scale renewable industry when the Commission began to examine interconnection issues present in the FIT program in January 2011.[17] It also only recently became irrefutable that the Commission has taken substantially inconsistent positions on interconnection policy in several of the Commission's programs, notably including the very recent issuance of the final decision to require use of Rule 21 in the net surplus compensation proceeding.[18]

In addition, the utilities each submitted advice letters on June 17[19] that blandly state in language substantially similar to that of SCE:

> "The purpose of this Advice Letter is to establish an interim interconnection procedure that will allow SCE to use the California Independent System Operator (CAISO) Tariff or Wholesale Distribution Access Tariff (WDAT) for Rule 21 applicants that have contracted to sell or intend to sell to SCE all exports to the grid and to insert language in SCE's Rule 21 reflecting this procedure. . . SCE's proposal is not intended to call into question the California Public Utilities Commission's (Commission's) jurisdiction over QF interconnections, but rather is to allow the interconnection process to proceed efficiently for new QF procurement programs and the CREST Program. For these reasons and those summarized below, SCE requests that the Commission exercise its jurisdiction and require that specified new interconnections use the existing CAISO and WDAT interconnection procedures on an interim basis." (pp. 1 and 3).

[17] *See, Administrative Law Judge's Ruling Setting Schedule for Briefs on Implementation of SB 32*, issued January 27, 2011.
[18] *See*, D.11-06-016, issued June 9, 2011, in A.10-03-001, *et al.*
[19] SCE Advice Letter 2593-E, PG&E Advice Letter 3864-E, and SDG&E Advice Letter 2262-E.

In other words, Customers interested in participating in the FIT program, and presumably those interested in the net surplus compensation program, should now have the rug abruptly pulled out from under them by SCE, PG&E, and SDG&E. To the extent that any of the regulatory developments that are all believed to be matters of public record also involve questions of fact, they are corroborated by in the Declaration of Jody London attached as Attachment C to this Petition.

III. THE COMMISSION SHOULD DIRECT THE UTILITIES TO USE RULE 21 FOR INTERCONNECTION OF CUSTOMERS THAT INTERCONNECT TO DISTRIBUTION POWER LINES THAT ARE NOT USED FOR TRANSMISSION SERVICE.

A. The California Independent System Operator Does Not Have Jurisdiction Over Customers That Connect To Distribution Lines That Are Not Used To Provide Transmission Services.

Section 215(a) of the Federal Power Act ("FPA")[20] explicitly exempts facilities "used in local distribution of electric energy" from the FERC's jurisdiction. The FERC has long applied the FPA, and its Order 2003,[21] to determine the outer limit of its jurisdiction over distribution lines. For example, the FERC was asked by PJM Interconnection to approve interconnection service agreements for interconnection of wind generating plants to Commonwealth Edison, and in an *Order Rejecting Filings*[22], it took the opportunity to very clearly articulate where the jurisdictional line has traditionally been drawn:

> "The Commission rejects these filings because the [FERC] lacks jurisdiction over these [Interconnection Service Agreements]. In Order No. 2003, the [FERC] found that it does not have jurisdiction over an interconnection where the interconnection customer seeks to interconnect to a "local distribution" facility that is unavailable for jurisdictional transmission service under a Commission-approved [Open Access Transmission Tariff] at the time an interconnection request is made. (Footnote omitted). Thus, under Order No. 2003, *in order for the Commission to assert jurisdiction over interconnections to local distribution facilities, there must be a preexisting interconnection and a*

[20] On August 8, 2005, the Electricity Modernization Act of 2005, which is Title XII, Subtitle A, of the Energy Policy Act of 2005 (Epact 2005), was enacted into law. Epact 2005 added a new section 215 to the FPA, codified as Title 16 U.S.C. §8240.

[21] *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 68 Fed. Reg. 49,845 (Aug. 19, 2003), FERC Stats. & Regs. ¶ 31,146 (2003), *order on reh'g*, Order No. 2003-A, 69 Fed. Reg. 15,932 (Mar. 26, 2004), FERC Stats. & Regs. ¶ 31,160 (2004), *order on reh'g*, Order No. 2003-B, 70 Fed. Reg. 265 (Jan. 4, 2005), FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh'g*, Order No. 2003-C, 70 Fed. Reg. 37,661 (June 30, 2005), FERC Stats. & Regs. ¶ 31,190 (2005); *see also Notice Clarifying Compliance Procedures*, 106 FERC ¶ 61,009 (2004).

[22] *Order Rejecting Filings,* 114 FERC ¶61,191 (2006).

> *wholesale transaction over these local distribution facilities prior to the new interconnection request being made.* (Footnote omitted). In the absence of these requirements being met, and as discussed below, we find that the Commission lacks jurisdiction. [Emphasis added]." (p. 5).

In the same Order, the FERC just as forcefully put parties on notice that an Open Access tariff (such as a WDAT) cannot confer jurisdiction where there is none. Whether the Commission decides to exercise it or not, the FERC has clearly ceded jurisdiction to the Commission for the type of interconnections typically employed for on-site generation such as the FIT program.[23]

> ". . . we disagree that the [FERC] has jurisdiction over this interconnection because it is governed by PJM's [Open Access Transmission Tariff. GSG cites to section 52.4 of PJM's [Open Access Transmission Tariff] which states: 'to the extent that a Generation Interconnection Customer uses distribution facilities for the purpose of delivering energy to the Transmission System, Interconnection Service under this Tariff shall include the construction and/or use of such distribution facilities.' Under Order No. 2003, [FERC] jurisdiction arises when a facility is used to provide jurisdictional transmission service or deliver wholesale sales in interstate commerce. (Footnote omitted). The PJM [Open Access Transmission Tariff] cannot determine Commission jurisdiction, nor can it confer jurisdiction where the Commission otherwise lacks jurisdiction. We, therefore, will interpret the PJM [Open Access Transmission Tariff] consistent with our jurisdiction under Order No. 2003 such that it applies to interconnections to local distribution facilities where there is a preexisting interconnection and a wholesale transaction over the local distribution facilities prior to the new interconnection request being made." (p. 6).

B. The Commission Should Assert Its Jurisdiction Over The Distribution-Level Power Lines of California's Electric Utilities And Require Them To Use Rule 21.

The Commission has clearly taken inconsistent positions on interconnection in State and Federal regulatory proceedings. For example, the Utilities have taken the position at the FERC that *all* interconnection of Qualifying Facilities ("QFs") should be subject to exclusive FERC jurisdiction, regardless of whether interconnection is at the local distribution level or the

[23] Typical electric transmission grid or "bulk electric system" facilities operate at or above 100kV. *See, Mandatory Reliability Standards for the Bulk-Power System*, Order No. 693, FERC Stats. & Regs. ¶ 31,242, at P 31 (2007), *order on reh'g*, Order No. 693-A, 120 FERC ¶ 61,053 (2007). *Revision to Electric Reliability Organization Definition of Bulk Electric System*, Notice of Proposed Rulemaking, 75 FR 14097 (Mar. 24, 2010), FERC Stats. & Regs. ¶ 32,654 (2010).

transmission level.[24] At the same time the Commission has "reserved the position" that local distribution interconnection should be within its exclusive jurisdiction. Meanwhile, the Commission has approved use of Wholesale Distribution Access Tariffs ("WDATs") that were developed and have been consistently used where distribution-level interconnection is made for the sole purpose of gaining access to the transmission system. The Commission has done so on an "interim basis" in each instance when requested to do so by the utilities, for example, with the PG&E and SCE Solar PV programs, while "reserving the right" to order them to switch to Rule 21 at any time.[25] This month, by contrast, the Commission has approved use of Rule 21 for the Net Surplus Compensation program.[26]

Fortunately, the problem and its solution were both anticipated by the Commission in 2007, and the problem can be swiftly and clearly remedied. The necessary policy decision for the Commission to make is to state unequivocally that *all* interconnection at the local distribution level that is not used to provide transmission service is subject to the jurisdiction of the Commission, and should therefore be governed by Rule 21. By modifying D. 07-07-027, the Commission can cut what has become a Gordian knot for renewable distributed generation at a singe stroke. A chronological description of the way in which the jurisdictional issue has evolved as follows.

1. Decision 07-07-027.

On July 26, 2007, the Commission briefly summarized the two well-established interconnection application processes and concluded as follows:

> "Commission-approved Rule 21 already provides orderly and timely interconnection procedures and processes. It establishes a timeframe not unlike that suggested by Sustainable Conservation and RCM. Other interconnection situations are addressed by a FERC-approved small

---

[24] *See*, *Application of Pacific Gas and Electric Company, San Diego Gas & Electric Company and Southern California Edison Company*, Docket Number QM11-2, filed March 18, 2011.

[25] *See, e.g.*, Southern California Edison Company FERC Electric Tariff, Second Revised Volume No. 5 Page 1 Docket No. ER10-1356-000 Effective Date: 5-28-2010 1. Preamble and Applicability 1.1 (Not Used), 1.2 Applicability The Distribution Provider will provide Distribution Service pursuant to the applicable terms and conditions contained in this Tariff and Service Agreement. *The Tariff is applicable for the transportation of capacity and energy that is (1) generated or purchased by a Distribution Customer at a generation source and transported to the ISO Grid using the Distribution Provider's Distribution System, or (2) generated or purchased by a Distribution Customer from generation sources and transported from the ISO Grid to the Distribution Customer's Service Area using the Distribution Provider's Distribution System*. The Tariff is also applicable for delivery to the ISO Grid of any capacity and energy generated or purchased by the Distribution Provider that uses the Distribution Provider's Distribution System. Distribution Service shall be provided between the Distribution Provider's interconnection with the ISO Grid and the Distribution Customer's interconnection with the Distribution Provider's Distribution System. [Emphasis added].

[26] *See,* D.11-06-016, issued June 9, 2011.

generator interconnection Procedure (SGIP). The SGIP includes a fast track process for small generators (e.g., less than 2 MW), with timeframes not unlike those recommended by Sustainable Conservation and RCM. We are not persuaded that anything more is needed at this time. We will reconsider this issue if and when presented with convincing evidence of a problem, a systematic pattern of abuse, or other matter that needs attention at the Commission level. [Emphasis added]." (pp. 36-7).

2. Resolution E-4137

On January 28, 2008, as directed by the Commission in D.07-07-027, the utilities submitted advice letters establishing their programs that were approved by Resolution E-4137, as follows:

> "Interconnection may be accomplished using Commission-approved Rule 21, or FERC-Small Generator Interconnection Procedures (SGIP), as long as the process follows the principles of timely review and disposition, and does not present a barrier to project completion." (p. 2). "Both FERC-SGIP and Commission-approved Rule 21 procedures are potentially appropriate and applicable, and the "Respondents," in this case the utilities, get to decide. *If there is a problem, the Commission expects to deal with them on a case by case basis, declining to require one or the other*." (p. 17).

3. Recent Developments.

a. PG&E's Solar PV Program

On December 16, 2010, the Commission issued a Resolution approving PG&E' Solar PV program.[27] The intent of PG&E's Solar PV Program is to facilitate the development of 500 MW of solar PV facilities over five years, half of which will be owned and operated by PG&E and half of which will be owned and operated by independent power producers with the generation sold to PG&E pursuant to power purchase agreements. In that Resolution the Commission stated:

> "*We also note that the CAISO process only addresses transmission level interconnection.* Many of the projects participating in the PPA Program will likely interconnect at the distribution level. It is unclear at this time what changes PG&E will have to make to its WDAT or Rule 21 interconnection tariffs to seek deliverability studies for projects interconnecting at the distribution level. [Emphasis added]"[28]

The ordering paragraphs of the Resolution said the following:

---

[27] Resolution E-4368. http://www.pge.com/b2b/energysupply/wholesaleelectricsuppliersolicitation/PVRFO/
[28] Mimeo, p. 21, footnote 43.

"9. The Commission reserves the right to consider and address interconnection issues in the future as appropriate and necessary, including, without limitation, ordering changes to solar photovoltaic program documents based on developments in or resolution of FERC Docket No. ER 11-1830-000.

10. Pacific Gas and Electric Company's election to use a particular interconnection process for the power purchase agreement program does not constitute an admission or decision by the Commission that it is the jurisdictionally appropriate or mandated process for interconnection under the power purchase agreement program.

11. It is reasonable to expect Pacific Gas and Electric Company to proactively modify its interconnection protocols for use in the power purchase agreement program where such modifications are reasonable and would enhance the implementation timelines and probability of the program's success." (p. 25).

b. SCE' Solar PV Program

On January 21, 2010, the Commission issued a Resolution approving SCE' Solar PV, program that is substantially the same as PG&E's Solar PV program.[29] In that Resolution the Commission stated:

"Reliance on SCE's WDAT for IPP Program interconnection implementation does not constitute an admission or decision by the Commission that the WDAT is the jurisdictionally appropriate process for facilitating the distribution level interconnection process needed to implement the IPP Program. Rather, it is being deployed as an interim measure until we revisit the interconnection process." (p. Footnote 12, p. 8). . . . A timely, reliable, and efficient interconnection process is key to the success of the IPP Program. Consequently, it is critical that the Commission retain the discretion to require timely improvements to the interconnection protocols, and for SCE to make changes proactively to constantly improve the process." (p.10). To the extent that SCE suggests that any proposal to modify the interconnection protocols for the IPP Program conflicts with the WDAT and therefore cannot be accommodated, we clarify here that we do not agree that the WDAT must govern the interconnection of IPP Program projects. Among other things, *the interconnections here will facilitate IPP interconnection at the distribution level to make energy sales directly to SCE to meet California load, and so do not necessarily involve facilities or transactions governed by the FERC-filed WDAT. The Rule 21 process set forth in SCE's CPUC-filed tariff, or a new process, may be more appropriate*." (pp. 10-11).

SCE required successful bidders to agree in their power purchase agreements ("PPAs") that

[29] Resolution E-4299.

the "delivery point" would be the nearest substation on the CAISO-controlled grid in an apparent attempt to assure a transmission-level interconnection regardless of the actual location of the generator on the grid.[30]

c. SCE's Renewable Auction Mechanism

On February 25, 2010, SCE issued Advice Letter 2557-E to implement a new Commission- ordered procurement process called the Renewable Auction Mechanism ("RAM") to procure renewable energy from RPS projects 20 MW or less in size.[31] The Commission ordered the utilities to implement the RAM to procure a total of 1000 MW over a two year period through competitive auctions using standard non-negotiable contracts as describes on the Commission's website.[32] The Commission's Decision said the following:

> "We note that issues regarding jurisdiction of distribution-level interconnections have been raised in FERC Docket No. ER11-1830-000. Commission staff will consider and address these issues in the future as appropriate and necessary, including, without limitation, ensuring nondiscriminatory interconnection procedures based on developments in or resolution of the FERC proceeding. Furthermore, we strongly encourage the IOUs to proactively modify their interconnection protocols for use in RAM where such modifications are reasonable and would enhance the implementation timelines and probability of success of RAM projects. Among other things, the IOUs should consider adopting or modifying criteria for expedited processing where possible, either at the FERC or at this Commission." (pp. 67-68).

Here again SCE required bidders to agree in the PPA to agree to interconnect to the CAISO-controlled transmission system.

d. PG&E's Proposal to Suspend Rule 21.

On March 3, 2011, PG&E solicited a meeting of interested stakeholders in advance of a filing it planned to make that would suspend the use of Rule 21 for an unspecified "interim period" for renewable generators that are QFs[33]. PG&E pronounced that it planned to ask the Commission to approve a plan that would require all QFs, regardless of the specific CPUC-approved program they applied for, to interconnect to any part of its distribution or transmission system tariffs administered by the California Independent System Operator ("CAISO") and approved by the FERC, rather than Rule 21 administered by the utilities subject to oversight by

[30] *See*, generally, SCE - 2011 Request for O#D62170.
[31] D.10-12-048.
[32] http://www.cpuc.ca.gov/PUC/energy/Renewables/hot/Renewable+Auction+Mechanism.htm
[33] A meeting was held at PG&E's offices on March 15, 2011.

the Commission. PG&E solicited comments from parties by the end of March 2011, but discontinued the stakeholder process it had started without any explanation to interested parties.

e. Suspension of QF Mandatory Purchase Obligation.

On March 21, 2011, PG&E, along with Southern California Edison and San Diego Gas & Electric, submitted an Application to the FERC, supported by the Commission, asking the FERC to suspend the utilities' obligation to purchase electric energy from most QFs going forward.[34] The utilities asserted that all interconnection of generation should be the exclusive province of the FERC. The Commission intervened and filed its own Application on April 15, 2011, where it noted parenthetically that: ". . . the CPUC disagrees with the assertion that "interconnections for all non-QF generators selling wholesale energy are FERC-jurisdictional, whether the interconnection is to distribution or transmission." (p. 36).[35]

f. PG&E's Advice Letter 3830-E-A

On April 15, 2011, PG&E filed Advice Letter 3830-E, which would update its tariffs and standard contracts for eligible Customers to reflect FERC-approved changes to its WDAT procedures.[36] In approving Advice Letter 3830-E on June 23, 2011, the Commission's Energy Division staff observed that the changes do not alter the substance of PG&E's current interconnection process, and note that it is reasonable to allow the requested minor changes to become effective while the Commission addresses SB 32-related interconnection issues in the context of the RPS Rulemaking proceeding. This approval occurred immediately prior to filing the Petition, and thus made no mention of the fact that the Commission can act on this Petition now and need not wait for the complete implementation of SB 32. Sustainable Conservation completely disagrees and asks that the Commission direct staff not to approve ant matters related to Rule 21 until further notice given by the Commission.

---

[34] FERC Docket QM11-2-000.

[35] Notice of Intervention and Comments, filed April 15, 2011: "While the CPUC is aware of FERC precedent and other case law touching on the issue of distribution system interconnection, the CPUC's view is that Congress expressly preserved the States' existing regulatory authority over local distribution in the Federal Power Act's clear proclamation that the federal government "shall not have jurisdiction . . . over facilities used in local distribution." (Federal Power Act § 201(b)(1), 16 U.S.C. § 1824(b)(1) (2006); see also *Connecticut Light & Power Co. v. FPC*, 324 U.S. 515, 528-531 (1945) (Justice Jackson reasoning that the language of the Federal Power Act dictates that federal jurisdiction ends at local distribution facilities).)

[36] Protest Disposition Letter, dated June 23, 2011.

g. Rule 21 Working Group

On April 29, 2011, the CPUC reconvened a discontinued stakeholder process known as the "Rule 21 Working Group" by holding an initial workshop. The CPUC's website explains that, following three years of extensive change in the statutory, technological, and generator context, Rule 21 is widely agreed to be in need of reconsideration.[37] It states that the purpose of the group is to initiate discussion of the issues emerging under Rule 21 that may be hindering the achievement of California's distributed generation goals, such as utility tariff consistency with each other and with state law. No follow up meeting or schedule of future activity for the Rule 21 Working Group has been announced since then.

h. SCE's CREST Program

On May 19, 2011, SCE announced that it is beginning the process of reforming the standard power purchase agreement it uses for its California Renewable Energy Small Tariff ("CREST") program that was approved in 2008 in its advice letter required by D.07-07-027. CREST is SCE's feed-in tariff program for eligible renewable energy projects less than 1.5 MW. SCE's announcement states that its CREST PPA is based on SCE's pro forma Solar Photovoltaic Program PPA for projects less than 5 MWs, and is being modified to make it applicable to all technology types and to be in compliance with the requirements of the CREST Tariff and CPUC Decision D.07-07-27." As of this date, SCE says on its CREST web site that it plans to submit an advice letter asking the CPUC to approve its program on August 5, 2011[38]. As it has done since 2008, and still does as of this date, SCE's CREST program calls for interconnection using Rule 21.[39]

i. Net Surplus Compensation

On June 9, 2011, in another RPS-related rulemaking,[40] the CPUC issued a ruling requiring the utilities to implement AB 920, which requires a net surplus compensation ("NSC") rate to compensate net energy metering customers for electricity they produce in excess of their on-site load at the end of a 12-month true-up period.[41] In response to the CPUC's ruling, each of

---

[37] http://www.cpuc.ca.gov/PUC/energy/DistGen/rule21.htm
[38] http://www.sce.com/EnergyProcurement/renewables/crest.htm
[39] But see, discussion of SCE's Advice Letter 2593-E, infra p.10, footnote 19.
[40] *Order Instituting Rulemaking Regarding Policies, Procedures and Rules for the California Solar Initiative, the Self-Generation Incentive Program and Other Distributed Generation Issues*, R.08-03-008, issued March 13, 2008.
[41] *Assigned Commissioner's Ruling Directing Electric Utilities to File Applications Proposing a Net Surplus Compensation Rate Pursuant To Assembly Bill 920*, January 15, 2010.

the utilities filed separate applications for approval of NSC programs.[42] Net energy metering customers who produce excess power over a 12-month period are known as "net surplus generators ("NEMs"). Regarding interconnection, the CPUC stated,

> "In addition to concerns over Commission authority to set the NSC rate, PG&E raises jurisdictional concerns regarding interconnection issues. PG&E is concerned that because FERC will consider payment for net surplus a wholesale sale, FERC will assert jurisdiction over the interconnection between an NEM customer and PG&E. PG&E is concerned that application of FERC interconnection rules to NEM projects could result in customers paying higher interconnection application fees ($500 to $1000), and subject them to costs for interconnection studies and distribution system modifications. . . . *We share PG&E's preference for Rule 21 to govern interconnections of customers who receive NSC." (p. 10). "Tariff Rule 21 should continue to govern interconnection between utilities and NEM customers who self-certify to the utility as QFs* [Emphasis added]." (p. 52).

IV. REQUEST FOR EXPEDITED TREATMENT

Sustainable Conservation respectfully requests expedited treatment of this Petition. It is in the public interest to keep distribution level interconnection within CPUC jurisdiction and update Rule 21 as necessary. Accordingly, Sustainable Conservation respectfully requests a shortened response period of fifteen (15) days for filing of responses to this Petition.

V. CONCLUSION.

For the reasons stated herein, Sustainable Conservation respectfully requests that the Commission modify D.07-07-027 as set forth in Attachment A to this Petition as expeditiously as possible.

Respectfully submitted,

Donald C. Liddell
DOUGLASS & LIDDELL
Email: liddell@energyattorney.com

Counsel for
SUSTAINABLE CONSERVATION

June 27, 2011

[42] *In the matter of the Application of PacifiCorp for approval to implement a Net Surplus Compensation Rate*, consolidated as A.10-03-001, *et al.*

ATTACHMENT A

I. AMENDMENTS TO THE TEXT OF THE DECISION:

Following the second full paragraph on page 4, insert the following new paragraph:

> "*The Legislature res*ponded further to these concerns and opportunities by amending § 399.20 to the Public Utilities Code (SB 32). Under this amended statute, each electrical corporation must establish a tariff for the purchase of RPS-generated electricity from certain water and wastewater customers, and purchase that electricity at a market price determined by the Commission. The electricity applies toward the electrical corporation's RPS Program annual targets. The tariff must be made available until the combined statewide cumulative rated capacity of eligible sellers reaches 750 megawatts (MW), with each buyer required to offer service until it meets its proportionate share of the 750 MW based on the ratio of its peak demand to total statewide peak demand." (Insert at p. 4).

Amendment to the following sentence at page 37:

> "We do this ~~without~~ *[by]* requiring that they file ~~either~~ their own version of Rule 21~~, amend then current rules, or file another interconnection protocol~~." (Amend at page 37).

II. AMENDMENT TO THE FINDINGS FACT:

> "22. Timely response to an interconnection request is important to prevent interconnection becoming a barrier to project completion, and ~~FERC-approved SGIP and~~ Commission-approved Rule 21 provide[*s]* orderly and timely interconnection procedures and processes." (p. 50).

III. AMENDMENT TO THE CONCLUSIONS OF LAW:

> "23. The principles of orderly and timely interconnection procedures and processes in Rule 21 ~~(for SCE, PG&E, SDG&E and BVES)~~ should be required of ~~(~~for SCE, PG&E, SDG&E BVES~~)~~ PacifiCorp, Sierra, and MU ~~(even if they are not required to file their own version of Rule 21, amend their current rules or file another interconnection protocol)~~ and the Commission should enforce the requirement of timely review and disposition of an interconnection request if a complaint is brought to the Commission's attention." (p. 54).

IV. AMENDMENTS TO THE ORDERING PARAGRAPHS:

> "1. The tariff and standard contract shall be consistent with the proposal each electrical corporation filed in this proceeding, but shall be revised and amended consistent with the discussion in the body of this order,

findings of fact and conclusions of law, *including the requirement to update Rule 21*." (page 54).

"2. The tariff and standard contract shall be consistent with the proposal each electrical corporation filed in this proceeding, but shall be revised and amended consistent with the discussion in the body of this order, findings of fact and conclusions of law, *including the requirement to file versions of Rule 21."* (p. 54)

ATTACHMENT B

DECLARATION OF ALLEN DUSAULT

1. I am Program Director of Sustainable Conservation and have been working on promoting farm scale renewable energy systems in California for the last nine years, specifically promoting biomass projects on farms. My focus has been dairy manure biogas digesters and agricultural waste gasification facilities. Over the last four years, I have help facilitate the implementation of these projects in California, particularly spending time on overcoming institutional barriers. These barriers include environmental related regulatory and policy issues, California Public Utilities Commission ("CPUC") oversight issues including tariff implementation, and financial obstacles such as identifying sources of financing and grant funding. Much of my time spent on CPUC related issues has centered on overcoming obstacles to interconnection. I am not an electrical engineer but I am trained as an environmental scientist and program manager and have consulted with knowledgeable engineers where appropriate.

2. It has been as part of the process to facilitate interconnection of farm scale renewable energy systems that I have discovered many barriers endemic to how the Investor Owned Utilities administer the interconnection process, particularly in PG&E's service territory where most facilities have been built or are planned. It is based on this experience that I make this declaration.

3. There have been half dozen or more farm interconnection that I have been involved in over the last several years. In most of these cases, the time for interconnection stretched to a year or more and involved often expensive and time consuming studies, equipment upgrades and/or modifications to earlier direction given by PG&E. As a general observation, there seem to be at least three contributing factors to what farmers describe as a dysfunctional interconnection process. They include the interconnection application review process used by PG&E, internal coordination and communication between and within PG&E's organizational structure and the interconnection site hardware installations requirements and how PG&E evaluates, responds and approves them. The administration of all three aspects of the interconnection appears to be badly broken. The reports we are hearing from "the field" are universally negative and in some cases involve real "horror stories." They coincide with the PG&E's adoption of the FERC governed SGIP and WDAT process that have been used by

PG&E over the last couple of years. Rather than improve a dysfunctional system, federalization seems to have made it worse.

4. For these facility developers perhaps the most problematic aspect to these failures was the lack of recourse. Whatever the specific cause of the utilities' failures, there was little ability to have the issues addressed by a California agency and in a timely way. I am personally familiar with the following two examples of small biomass facilities that have had a particularly tough time with PG&E's interconnection process.

5. The first facility is a half-megawatt biomass plant located in the Central Valley. The facility developer first sent an interconnection application to PG&E in 2009. The developer also hired a former PG&E engineer who had worked on interconnection at PG&E to ensure he had knowledgeable person to facilitate compliance with PG&E requirements for interconnection. One of the most disconcerting problems encountered by the developer was the cost estimate for complying with PG&E interconnection requirements. The number was a moving target and varied from about $100k to over $1 million. For a small facility, that cost variability puts in jeopardy the project financing, aside from the difficulty of planning for how to cover that cost and which of three separate and widely differing estimates is in fact justified. PG&E also ignored the contract. The contract called for installing a "WiFi" system so PG&E could remotely monitor the electric meter. And that is what the developer installed. However, when the site was inspected by PG&E, they told the developer to rip out the WiFi and instead install a phone line. However, there wasn't a phone line into the location. And installing it was going to cost tens of thousands of dollars. PG&E's response was "tough luck – do it." And so that is what the developer did, even as it contravened what was called for in the contract. And that is just the "tip of the iceberg" of things that PG&E mishandled at this one facility.

6. A second example involves a dairy biogas facility located on the North Coast. This particularly facility was already interconnected with PG&E and needed to replace his existing 75KW engine with an 85KW engine generator. Because he was switching to a synchronous generator, the interconnection was going to be a little more involved than usual. However, what the dairyman didn't count on is it taking two years before he could start his engine up and generate power. This despite the fact that no major studies were needed and an interconnection engineer was hired to make sure that everything was done according to "the book." Even allowing for mistakes by the engineer it should not have taken so long. It didn't

help that there were different PG&E engineers assigned to the interconnection over the course of the process, and that they sometimes gave inconsistent or contradictory information. But it ended up costing the dairymen over $100,000 and he was not able to generate power over that time period to offset his own load. Most disconcerting was the dairymen's inability to find recourse for what often appeared to be PG&E's unreasonable demands or failure to follow through on commitments, delaying the project further. This particular dairyman was once a big fan of biogas digesters and a model facility that has been visited by Congressman, State legislators, visiting foreign dignitaries, prominent businessman and investors, environmentalist, etc. But based on this experience he has soured on promoting biogas digesters on dairies. And that is a sad outcome that reflects poorly on this State's commitment to renewable energy.

7. It is important to note that other States, such as New York, Pennsylvania and Wisconsin who have embarked on aggressive dairy biogas development efforts, face some of the same interconnection issues we face in California and yet they do not have the horror stories we have seen in PG&E territory. And in fact, the Sacramento Municipal Utility District has interconnected dairy digester in their service territory, using the Rule 21 process, without anything resembling the lengthy delays and conflicting requirements that seem endemic to PG&E's process. There are some lessons to learn from their experience and that of other States. But PG&E seems unwilling to learn.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief. Executed on June 27, 2011, at San Francisco, California.

Respectfully submitted,

/s/
Allen Dusault

ATTACHMENT C

DECLARATION OF JODY LONDON

1. I am the Regulatory Consultant to Sustainable Conservation and have been working on issues related to renewable generation in California since 1993, when I served as the lead staff person at the California Public Utilities Commission ("CPUC") on implementation of the Final Standard Offer 4 contract, a standard offer agreement between independent power producers and investor-owned utilities. I have been working with Sustainable Conservation since 2003, when the organization first engaged me to advocate before the CPUC for tariffs that would better allow renewable distributed generation to interconnect with the utilities. In 2007, I successfully led Sustainable Conservation's advocacy for the current feed-in tariffs, as embodied in CPUC Decision 07-07-027. One of the issues of concern for us with D.07-07-027 was the open-ended nature of interconnection for PG&E, with the ability to use either federal or state interconnection tariffs. We have consistently advocated for an interconnection process that is easy to access and understand. Of particular importance, we have objected to moving the regulatory framework for projects that interconnect at the distribution level to the jurisdiction of a federal agency.

2. Since D.07-07-027 was adopted, one would expect to see numerous biogas digesters, along with other types of farm scale biomass projects come online, particularly because this technology was one of the intended beneficiaries of the CPUC's expansion of the legislative direction provided in Assembly Bill 1969. Unfortunately, this is not the case. Data submitted by the utilities in their RPS compliance reports on March 1, 2011 should be a wake-up call for policy makers concerned about diversity in the State's renewable resource portfolio.[43] For SCE, from 2004-2006, bioenergy comprised about 8.7% of SCE's renewable portfolio. That percentage has fallen since 2006, such that bioenergy was only 6.5% of SCE's renewable portfolio in 2010. SDG&E reports bioenergy providing 81% of its renewable generation in 2004 (the majority of that from biomass, which is a larger category that includes biogas). By 2010, the percentage of SDG&E's renewable portfolio provided through bioenergy had fallen to 28.4%. It is worth noting that biodigester gas, one of the technologies for which Sustainable Conservation

[43] See utility RPS compliance reports submitted in R.08-08-009.

advocates, comprised just under 3% of SDG&E's renewable portfolio, and fell during the reporting period. Bioenergy in PG&E's renewable portfolio generation has fallen from 39% in 2004 to 24.6% in 2010, with the majority of that being biomass-fueled power plants (only a very small percentage of generation was from farm digesters or gasification of crop waste).

3. Since 2007, I have monitored the regulatory filings submitted by utilities to the CPUC. Very few of the advice letter requests for contract approval have been for contracts with small biogas facilities. However, the number of advice letter requests to modify interconnection procedures has increased, particularly since January 2011. The recent advice letters encourage the CPUC to cede its jurisdiction over interconnection to FERC. During this period I have had opportunity to meet individuals interested in installing biogas and other small, renewable, distributed generation technologies. A uniform complaint from potential small renewable generators is the challenging interconnection process. At numerous meetings convened by the CPUC staff this sentiment has been expressed, as well. Because the universe of potential biogas generators includes customers whose primary business is not power plant operation, and because the size of a typical project is relatively small (often under 1 MW), there is not an organized industry that appears regularly before the CPUC, as we see with other technologies.

4. In my more than 20 years experience in the energy industry, the interconnection challenge for biogas and other farm scale biomass generators is one of the most persistent. Given the ability of biomass projects to operate as baseload technology, reduce peak demand, and contribute to reducing greenhouse gas emissions, it is disappointing that regulators do not afford greater priority to the challenges of interconnection. Recent developments in California, including the 33% Renewable Portfolio Standard requirement and the Governor's call for 12,000 of those 20,000 MW to be provided by distributed generation, make this issue urgent.

5. I have review the attached Petition for Modification and Declaration of Allen Desalt, to the best of my information and belief I believe each and every statement of fact included therein is true and correct.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 27, 2011, at Oakland, California.

Respectfully submitted,

/s/
Jody London