ALCANTAR & KAHL, LLP

*Via E-mail*

July 26, 2011

Mr. Honesto Gatchalian
California Public Utilities Commission
Energy Division
Tariff Unit, Room 4005
505 Van Ness Avenue
San Francisco, CA 94102

Re: Protest of the Energy Producers and Users Coalition to Pacific Gas and Electric Company Advice Letter No. 3864-E, San Diego Gas and Electric Advice Letter No. 2262-E, and Southern California Edison Advice Letter No. 2593-E

Dear Mr. Gatchalian,

EPUC opposes the proposal of Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE) and San Diego Gas & Electric Company (SDG&E) to bridge the Rule 21 interconnection gap for small combined heat and power (CHP) programs with a federal-jurisdictional interconnection agreement. The approach will cause project delay and should be rejected in favor of the proposal advanced by the Vote Solar Initiative and Interstate Renewable Energy Council (VSI/IREC).

The current Rule 21 structure is unable to accommodate the influx of new generators that will provide Resource Adequacy (RA) capacity within the state's renewable and CHP programs. The Rule 21 queues are congested, the utilities' supplemental review processes are unpublished and opaque, and there is no state-jurisdictional mechanism to assess RA deliverability. PG&E's Advice Letter No. 3864-E, SDG&E's Advice letter No. 2262-E, and SCE's Advice Letter No. 2593-E (Advice Letters) fail to adequately address these issues. The utilities' proposal to temporarily cause state-jurisdictional qualifying facilities (QFs) to participate in federal interconnection procedures is harmful to the state's CHP procurement goals. The Advice Letters will:

- Deny the interconnection of new CHP facilities with RA-quality capacity until at least August 2013. This denial will further inhibit the implementation of the state's already delayed CHP programs.[1] Specifically, the Advice Letters

[1] EPUC protested PG&E's Advice Letter No. 3696-E-C and SCE's Advice Letter No. 2485-E-B on June 6, 2011. The advice letters were intended to be the final step *in implementing* the Commission's AB 1613 CHP program, which was created by statute *nearly 4 years ago*. Rather than achieving full implementation, however, the advice letters *create* a new hurdle that will result in further delay. The Commission has yet to resolve this issue. Further, the CPUC recently adopted D.11-07-010. An unintended consequence of that decision is that it further delays the settlement effective date of D.10-12-035, which created the California QF/CHP Program.

endanger an efficient, bottoming cycle demonstration facility that will interconnect to an existing distribution line and, if the pilot proves successful, could be replicated many times throughout the state.

- Lock state-jurisdictional facilities into federal interconnection agreements, making the Federal Energy Regulatory Commission (FERC) the arbiter of state-jurisdictional interconnections.

- Cloud the jurisdiction of non-exporting Rule 21 interconnections.

The VSI/IREC proposal for QFs addresses Rule 21 issues in a manner that will allow RA-quality CHP capacity to be procured before 2013. VSI/IREC proposes that the Commission adopt interim interconnection procedures using PG&E's Wholesale Distribution Tariff (WDT) as a template. QFs would use the California Independent System Operator's (CAISO's) generator interconnection procedures (GIP) to connect to transmission facilities. For interconnections to the distribution system, the proposal allows QFs to take advantage of a Fast Track and Independent Study Process (ISP) when the aggregate capacity of proposed projects falls below the minimum-load thresholds of a facility or line. It also designates capacity as RA if it qualifies for the Fast Track or ISP interconnections. Importantly, the VSI/IREC proposal adopts the PG&E and CAISO federal interconnection agreements, with some modification, as interim state-jurisdictional agreements. This provision will maintain the Commission's control over interconnections that affect California's procurement goals.

For these reasons, EPUC recommends the following:

1. The Commission should adopt the VSI/IREC proposal as an interim solution for interconnecting state-jurisdictional CHP projects; and

2. If the CPUC accepts the utilities' interim proposal, it should expressly preserve the current Rule 21 interconnection procedures for non-exporting projects.

## I. THE VSI/IREC PROPSAL

Under the VSI/IREC approach, the Commission would adopt an interim interconnection process based on the PG&E WDT for QF interconnections in all three utility service territories. QF interconnections to high-voltage transmission facilities will proceed under the CAISO GIP. The process used for interconnecting QFs to the distribution system will depend upon the aggregate capacity of projects on specific distribution facilities, as follows:

- *Fast Track procedures* will apply to all interconnections where proposed generation would contribute to aggregate capacity **less than 50 percent of**

**minimum load** (as measured on the distribution facilities where generation is expected to be on line).

- *An ISP* will apply to all interconnections where proposed generation would contribute to aggregate capacity **less than 100 percent of minimum load** (as measured on the distribution facilities where generation is expected to be on line).

- *A cluster process* will apply to all interconnections where proposed generation would contribute to aggregate capacity **greater than 100 percent of minimum load** (as measured on the distribution facilities where generation is expected to be on line).

VSI/IREC also proposes that distributed generation resources that qualify for the Fast Track and ISP processes be deemed deliverable for RA processes. Further, the Commission would adopt the language of the CAISO and PG&E federal interconnection agreements, with minimal revisions, as interim state-jurisdictional agreements.

## II. THE COMMISSION SHOULD ADOPT THE VSI/IREC PROPOSAL AND REJECT THE UTILITIES' ADVICE LETTERS

### A. The VSI/IREC Proposal Allows the Interconnection of New CHP RA Capacity Before August 2013.

The lack of an availability assessment in the Rule 21 process is an important flaw that prevents the interconnection of RA resources through state jurisdictional procedures. The utilities' proposal fails to solve this problem in the near term. August 2013 is the earliest date that any new RA-eligible CHP generator may be interconnected under the utilities' proposal.[2] Generators looking to participate in the state's AB 1613 program or the California QF/CHP Program will not be able to interconnect until that date, an unreasonable and unnecessary delay in the implementation of these programs.[3]

The CPUC and stakeholders have stated that the guiding principles of the AB 1613 program include the encouragement of efficient CHP projects *"that efficiently utilize the existing distribution system."*[4] One endangered EPUC project is an efficient, bottoming cycle demonstration facility that will interconnect to an existing distribution line. If this pilot project proves successful, it could be replicated many times throughout the state. Given the facility's October 2012 commercial operation date (COD), the utilities' proposal will delay the project by 10 months.

---

[2] PG&E has communicated to EPUC that the earliest date it will be able to complete a deliverability assessment is August 2013 for projects that apply during the March 2012 application window.

[3] *Id.*

[4] D.09-12-042 (as modified by D.11-04-033) at 5.

VSI/IREC proposes that the Commission deem deliverable the capacity from QFs that qualify for the Fast Track or ISP. Aggregated generation capacity that interconnects to a distribution circuit less than 100 percent of minimum load should be deemed to have *"full capacity deliverability status," i.e.*, be deliverable.[5] Distributed generation that meets these requirements is capable of delivering 100 percent of its output to nearby load and should not require a deliverability study to demonstrate that capability. This proposal comports with EPUC's protest to the utilities' most recent AB 1613 advice letters, in which EPUC proposed that the CPUC create a rebuttable presumption of deliverability for distributed generation projects under 20MW. Both the VSI/IREC and EPUC proposals provide an avenue through which the endangered project can meet its COD.

### B. The Ability to Approve and Terminate State-Jurisdictional Interconnections and Resolve Disputes Should Rest with the CPUC.

It is important that the Commission maintain control over interconnection procedures that will affect procurement within California's renewable and CHP programs. Under the utilities' proposals, QFs interconnecting under FERC-jurisdictional interconnection processes would be required to sign federal generator interconnection agreements with a minimum duration of 10 years.[6] *State*-jurisdictional entities seeking to participate in *state* programs will therefore be locked into *federal* interconnection agreements. FERC would hold the power to approve or terminate any interconnection agreement for these facilities and resolve any disputes arising under the agreements.

VSI/IREC proposes that the Commission adopt the language of the federal interconnection agreements for use as interim state-jurisdictional interconnection agreements. With a minimal amount of re-drafting, the authority to approve or terminate each interconnection agreement or resolve any disputes arising from an interconnection would rest with the Commission. This process would ensure that the CPUC retains oversight of the interconnection procedures that affect achievement of the state's procurement goals.

---

[5] *"Full capacity deliverability status"* is defined in the CAISO Tariff, Appendix A, as *"The condition whereby a Large Generating Facility interconnected with the CAISO Controlled Grid, under coincident CAISO Balancing Authority Area peak Demand and a variety of severely stressed system conditions, can deliver the Large Generating Facility's full output to the aggregate of Load on the CAISO Controlled Grid, consistent with the CAISO's Reliability Criteria and procedures and the CAISO On-Peak Deliverability Assessment."*

[6] *See, e.g.,* Section 2.2 of the PG&E Large Generator Interconnection Agreement, Attachment H of the PG&E WDT (available here: http://www.pge.com/includes/docs/pdfs/shared/customerservice/nonpgeutility/electrictransmission/tariffs/PGE%20Wholesale%20Distribution%20Tariff%20-%20Eff%2020100813.pdf); Section 2.2 of the CAISO Large Generator Interconnection Agreement, Appendix Z of the CAISO Tariff (available here: http://www.caiso.com/Documents/AppendixZ-FifthReplacementCAISOTariff.pdf).

## II. THE COMMISSION SHOULD EXPRESSLY MAINTAIN THE CURRENT RULE 21 INTERCONNECTION PROCESSES FOR NON-EXPORTING GENERATORS.

The language suggested in the Advice Letters fails to ensure that the temporary suspension of Rule 21 will not affect behind-the-meter, non-exporting interconnections. If the Commission adopts the Advice Letters' proposal, it should make clear that the current Rule 21 procedures still apply to such interconnections. The last sentence of each utility's proposed tariff language should be revised as follows:

> *A net energy metering (NEM) customer's generating facility and a non-exporting customer's generating facility are~~is~~ exempt from this provision and may be interconnected pursuant to the other provisions of this Rule.*

## III. CONCLUSION

The VSI/IREC solution will allow CHP generators to take advantage of the state's CHP programs in a timely manner and aide in achieving the procurement goals of those programs. The Commission should issue a resolution rejecting the Advice Letters and adopting the VSI/IREC proposal.

Sincerely,

Evelyn Kahl
Tim Lindl
Alcantar & Kahl LLP
33 New Montgomery Street, Suite 1850
San Francisco, CA 94105
Phone: (415) 421-4143
ek@a-klaw.com
tjl@a-klaw.com

Cc: Julie Fitch, Director, Energy Division
Honesto Gatchalian, CPUC
Maria Salinas, CPUC
Brian K. Cherry, PG&E
Akbar Jazayeri, SCE
Bruce Foster, SCE
Megan Caulson, SDG&E
R.08-06-024, R.11-05-005 and A.08-11-001 Service Lists