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Edward Randolph, Director
Energy Division
California Public Utilities Commission
505 Van Ness Avenue, Room 4004
San Francisco, CA 94102

**Re: Pacific Gas and Electric Company Advice 4305-E: Revise Electric Rate Schedule NEM and Establish a New Electric Sample Form for NEM for Load Aggregation Pursuant to Senate Bill 594 and Resolution E-4610; San Diego Gas & Electric Company Advice 2529-E: Modification of SDG&E's Net Energy Metering Tariffs and Related Forms Pursuant to Senate Bill 594 and Resolution E-4610; Southern California Edison Company Advice 2952: Modifications to SCE's Net Energy Metering Tariffs to Enable Multiple Meter Aggregation Pursuant to Senate Bill 594 (Wolk, 2012) and Resolution E-4610**

Dear Mr. Randolph:

By way of this letter, the Solar Energy Industries Association (SEIA)[1] responds to the above referenced advice letter filings of Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E) and Southern California Edison Company (SCE) seeking modification to their respective Net Energy Metering (NEM) tariffs to enable meter aggregation consistent with Senate Bill (SB) 594 and Commission Resolution E-4610.

A primary driver of SB 594 was the desire to remove certain impediments to NEM participation such that the program would be economically viable to new customers who previously have found the program not to be cost effective. As recognized in the Senate Bill Analysis:

> NEM is an important tool for reaching our renewable energy goals; however, significant obstacles continue to block some customers from efficiently and economically participating in the program. Specifically, customers with multiple meters, for example, farmers with separate meters for each of their irrigation

[1] The comments contained in this response represent the position of the Solar Energy Industries Association as an organization, but not necessarily the views of any particular member.

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pumps and other functions, are currently required to have separate renewable facilities for each meter to utilize NEM. This is incredibly costly and inefficient. [2]

It is with the legislation's objective of making NEM participation more cost effective for customers with multiple meters in mind that SEIA offers the following comments.

**1. The Terminology "Adjacent or Contiguous to" Should be Applied Consistent with Plain Meaning**

As recognized by the legislature, the aggregation of the electrical load of more than one meter with a single electrical generation facility is a key attribute to making NEM cost effective for certain types of customers. In order to allow for such aggregation, while also maintaining effective parameters on the universe of meters which an eligible customer generator can aggregate with its renewable electrical generation facility, the legislation provides:

> An eligible customer-generator with multiple meters may elect to aggregate the electrical load of the meters located on the property where the renewable electrical generation facility is located and on all property ***adjacent or contiguous to*** the property on which the renewable electrical generation facility is located, if those properties are solely owned, leased, or rented by the eligible customer-generator.[3]

Each of the IOUs' proposed implementing tariffs mirror the language of the statute making load aggregation available to:

> an eligible customer-generator that has load served by multiple meters ("Aggregated Accounts") located on the property where the Renewable Electrical Generation Facility ("Generating Account") is located and on property ***adjacent or contiguous to*** the property on which the Renewable Electrical Generation Facility is located, only if those properties are solely owned, leased, or rented by the eligible customer-generator.[4]

In order to ensure uniformity in the application of these provisions across IOU service territories as well as to verify the application of these provisions consistent with the statute, SEIA seeks Commission confirmation that the language "adjacent or contiguous to" will be interpreted and applied consistent with its plain meaning, as regularly acknowledged in Commission decisions.

The plain meaning of the term "adjacent" is "near or close to, but not necessarily touching," while the plain meaning of the term "contiguous" is "touching at a point or sharing a

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2 *See* http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0551-0600/sb_594_cfa_20120831_222756_sen_floor.html

3 California Public Utilities Code Section 2827 (h)(4)(a).

4 *See* PG&E Advice 4305, Electric Schedule NEM, Sheet 2, SCE Advice 2952, Schedule NEM, Sheet, Sheet 11; SDG&E Advice 2529 , Schedule NEM, Sheet11.

boundary."[5] When the words of a statute are unambiguous, then the courts "presume the lawmakers meant what they said . . . The courts may not, under guise of statutory construction, rewrite the law or give the words an effect different from the plain and direct import of the terms used."[6] The Commission has followed this axiom of statutory construction while interpreting the provisions of the Public Utilities Code, and, in this context, has repeatedly recognized the difference between the terms contiguous and adjacent, applying their plain meaning to the interpretation of the statute.[7]

Accordingly, consistent with the Commission's previous interpretation of the terminology, SEIA requests that the Commission, in ruling on the IOUs' advice letters, specify that for the purpose of the application of the NEM Aggregation tariff language, the term "adjacent" will be applied consistent with its plain meaning -- *i.e.*, near or close, such that in a configuration of parcels in which parcel A is contiguous to parcel B and parcel B is contiguous to parcel C, parcel A would be consider adjacent to parcel C under the statutory language.

### 2. The True up of Aggregated Accounts should Assure the Customer is Fully Credited for its Excess Generation

SB 594 provides that "if an eligible customer-generator chooses to aggregate .... the eligible customer-generator shall be permanently ineligible to receive net surplus electricity compensation, and the electric utility shall retain any kilowatt hours in excess of the eligible customer generator's aggregated electrical load generated during the 12-month period." Given that NEM customers who choose to aggregate will not be monetarily compensated for the amount of generation they produce in excess of load as would otherwise be their right, it is critical for these NEM customers that they been given full credit for the amount of generation production allocated to each individual meter. Review of PG&E's advice letter reveals that its proposed manner of truing up the energy supplied to the customer and the energy produced by that customer over the "Relevant Period" (i.e., 12 month cycle) may result in that customer not being fully credited for the amount of energy they produce and, as a result, PG&E being unjustly compensated. This results from the interaction of two proposed tariff provisions:

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5 Black's Law Dictionary (7th ed.)

6 *City of Pasadena v. AT&T Communications of California, Inc.* (2002) 103 Cal.App.4th 981, 984; Code Civ. Proc. section 1858.

7 D.93-06-078, 49 CPUC2d 669, *Application of Del Oro Water Company for a CPCN, etc.*, provides: "Whether two areas are contiguous is always to be determined by the physical facts of contiguity. . . The two systems, while adjacent as to service areas, are distinctly and physically separated by Little Butte Creek which is situated in the quarter-mile wide canyon-like ravine [separating the systems]." (pp. *12-13.) Finding of Fact No. 3 further provides: "[The service areas] are adjacent, but sufficiently separate physically as not to be 'contiguous' within the concept of contiguity embraced under PU Code section1001. . .". See also D.00-10-029, 2000 Cal. PUC LEXIS 826, *Application of Southern California Water Company for a CPCN, etc.*, found that the project SCWC sought to provide water to was not contiguous to SCWC's local district, but was adjacent. (See Finding of Fact No. 10).

First, for a customer-generator electing Load Aggregation, PG&E's proposed billing provisions provide that:

> For each *monthly billing period*, the energy (kWh) exported to the grid (in kilowatt-hours or kWh) by the Renewable Electrical Generation Facility shall be allocated to each of the Aggregated Account meters (kWh reading), as well as the Generating Account if it has load, in proportion to the electrical load (kilowatt-hours) served by those meters over that month.

For the purposes of calculating the true up for an aggregated account (done on an annual basis), however, PG&E defines "Net Energy" as "measuring the difference between the energy (kWh) supplied by PG&E, ESP or CCA, as applicable, through the electric grid to the eligible customer-generator and the *total energy (kWh) allocated to that Aggregated Account over a Relevant Period*"[8]

The result of such a definition of Net Energy is that if the NEM Aggregation customer has consumed more than its system has generated over the course of the year, but there is sufficient generation allocated to one meter such that it exceeds the load on that meter, the customer is precluded from use those excess credits to reduce charges on a separate meter(s) and the IOU is the beneficiary of free energy. This inequity is illustrated through the following example:

Annual Consumption for the three meters:

1) 500,000 kWh
2) 500,000 kWh
3) 500,000 kWh

Production from the solar array: 1,500,000 kWh (sized to the total annual load)

Production credited to each meter for the year based on *monthly* allocations that fluctuate based on production in the month and usage in the month:

1) 400,000 kWh
2) 400,000 kWh
3) 700,000 kWh

End of year true up net energy:

1) None (100,000 kWhs paid by customer)
2) None (100,000 kWhs paid by customer)
3) 200,000 kWhs (the value of which gets zeroed out with the excess kWh retained by PG&E)

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[8] PG&E Advice 4305, Electric Schedule NEM, Sheet 9.

In order to correct this inequity, SEIA proposes that if at the end of a Relevant Period, a NEM Aggregation customer has credits remaining on *any* of its aggregated accounts, then such credits should be applied to other accounts in the load aggregation arrangement.

### 3. The IOUs Should be Required to Justify their Billing Charges

SB 594 provides that "an eligible customer-generator electing to aggregate the electrical load of multiple meters pursuant to this subdivision shall remit service charges for the cost of providing billing services to the electric utility that provides service to the meters." Each of the IOUs have implemented this provision differently, offering widely variant billing charges.

Thus, PG&E proposes a one-time set up charge of $4 per Aggregated Account and for the Generating Account, plus a monthly charge of $15 per Aggregated Account and for the Generating Account.[9] Accordingly, in a situation in which a customer had one Generating Account, and three additional accounts aggregated with the Generation Account, the customer would pay a one-time $16 set up charge and a $60 monthly charge. In contrast, SCE proposes an account set-up fee of $25 per account in the NEM Aggregation arrangement, plus a monthly billing fee of $20 per month per account.[10] Under the example used above (one generating account and 3 aggregated accounts), the customer would pay a one-time set up fee of $100 and a monthly fee of $80. Finally, SDG&E proposes a one-time service establishment fee of $156 per meter. Accordingly, under the example we have been utilizing the customer would pay a one-time charge of $624 and no monthly charges.

None of the IOUs provide any support for their proposed charges, and the disparate nature of these charges undermines their credibility. For example, while SDG&E would have the hypothetical customer addressed above pay $624 over the life of the NEM Aggregation arrangement, SCE would have the same customer pay $1,060 the first year, and $960 every year thereafter.

SEIA recommends that, prior to approving any billing services charges, the Commission require each IOU to submit a detailed accounting underlying their proposed charges. Consistent with SB 594, the IOUs must demonstrate that the charges they propose reflect their actual "cost of providing billing services." In reviewing such cost information, and how it translates into billing service charges, SEIA would have the Commission keep in mind that residential customers could be disproportionately burdened by the imposition of such charges. SEIA asks that the Commission set such charges at a level that does not unduly impede residential NEM aggregation. Finally, SEIA submits that such required demonstration should not impede the implementation of NEM Aggregation. The IOUs should be directed to commence providing the service, subject to the appropriate billing costs being assessed at a later date.

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9 PG&E Advice 4305-E, Electric Schedule NEM, Sheet 20.

10 SCE Advice 2952-E, Schedule NEM, Sheet 12.

Moreover, it appears that the billing service charges proposed by the IOUs in their Advice Letters are initial charges which the IOUs contemplate increasing at a later date. Thus, for example, PG&E notes that at some point it will upgrade its NEM billing system to establish automated billing for NEM Aggregation customers and, in this context, "reserves the right to modify the service charges for these customers."[11] Similarly, SCE states that "[a]ssuming the decision is made to automate NEM Aggregation, SCE may also propose modifications to the billing services charges proposed herein,[12] while SDG&E references the fact that it "anticipates it will automate this [billing] process in the future."[13] SEIA submits that prior to any increase in billing charges assessed to NEM Aggregation customers, the IOUs should be required to file a Tier 2 Advice Filing setting forth the proposed charges and providing detailed cost information which illustrates that the charges they propose reflect the actual cost of providing automated billing.

### 4. The IOUs Tariffs Should be Clarified with Respect to the Treatment of CSI Incentives

A case may arise in which a prospective NEM Aggregation customer has received a CSI incentive reservation for more than one renewable electrical generating facility (*i.e.*, generating account) on a single property. SEIA requests clarification that the two separate generating facilities can be streamlined into one larger generating facility (consistent with the statutory size limit for a single NEM system) and the two CSI incentives combined into one larger incentive equal to the cumulative value of the separate incentives.

### 5. The IOUs Tariffs Should be Clarified with Respect to the Prohibition on NSC for Aggregated Facilities

As part of SB 594, Section 2827 of the PU Code was modified to provide that:

> If an eligible customer-generator chooses to aggregate pursuant to subparagraph (A), the eligible customer-generator shall be permanently ineligible to receive net surplus electricity compensation, and the electric utility shall retain any kilowatt hours in excess of the eligible customer generator's aggregated electrical load generated during the 12-month period.

The IOUs have each incorporated this statutory provision into their respective NEM tariffs.[14] In this context, SEIA seeks clarification regarding the permanent ineligibility of an eligible customer generator to receive net surplus compensation (NSC). Specifically, SEIA understands that if an eligible customer generator with, *e.g.*, a generation system and associated meter on Parcel A, aggregates that meter with a meter on Parcel B, then that eligible customer

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11 PG&E Advice 4305-E, p.7.

12 SCE Advice 2952-E, p.5.

13 SDG&E Advice 2529-E, p. 4.

14 PG&E, Advice 4305-E, Schedule NEM, Sheet 17; SCE Advice 2952-E, Schedule NEM, Sheet 11; SDG&E Advice 2529-E, Schedule NEM, Sheet 12.

generator is permanently barred from receiving any NSC associated with that generation system. However, if that same customer was to install a second generation system on parcel B, no longer aggregating the two meters, it is SEIA's position that pursuant to the applicable statutory language, the customer would be permitted to receive NSC with respect to the generation system on Parcel B, but would remain ineligible to receive such compensation with respect to the system on Parcel A. SEIA seeks confirmation of this interpretation.

The interpretation is consistent with the statutory language which imposes the permanent ineligibility on the eligible customer generator who "chooses to aggregate pursuant to subparagraph (A)." The referenced subparagraph addresses a customer generator with one renewable electrical generation facility but with multiple meters on contiguous or adjacent property. Thus it is the renewable electric generation facility that is aggregated with more than one meter that is permanently barred from receiving net surplus compensation, not the new renewable generation facility on a parcel which meter had previously been aggregated.

### 6. The Prohibited Combination of a Non-NEM Eligible Generator with a NEM Aggregation Arrangement Should be Eliminated

SCE's proposed tariff provides that "aggregated accounts may not have any other generating facilities directly interconnected to them"[15] This provision prohibits the combination of a Non-NEM Eligible Generator with a NEM Aggregation arrangement, even if the Non-NEM Eligible Generator has a non-export relay. SCE provides no explanation for this prohibition. Moreover, SCE allows such a combination for Multi-Tariff Generating Facilities under Schedule NEM. Absent a reasoned showing by SCE as to its necessity for such a prohibition, it should be directed to remove the prohibition from its tariff.

### 7. The Changes to the IOUs' NEM Tariffs to Implement Meter Aggregation Should be Effectuated Consistent with Resolution E-4610

Resolution E-4610 provided that "[w]ithin 30 days of the issuance of this resolution, Pacific Gas & Electric Company, Southern California Edison Company, and San Diego Gas & Electric shall each file a Tier 2 Advice Letter revising their Net Energy Metering (NEM) tariffs to enable meter aggregation pursuant to Senate Bill 594."[16] Both SCE and SDG&E appropriately interpreted this Commission directive to mean that, consistent with the use of Tier 2 Advice Letters, the changes to the NEM tariffs to enable meter aggregation would become effective 30 days after the submission of their advice filings. In order to effect such implementation, both SDG&E and SCE contemplate the use of manual billing, with the potential for future modification to their respective billing system to incorporate NEM Aggregation.

In contrast, PG&E requests that its Tier 2 advice filing become effective 120 calendar days after the date of approval in order to prepare manual billing once the final load aggregation program requirements are established, and to allow for time to roll the program out internally and to PG&E's customers. This request is contrary to the directive of Resolution E-4610 that the

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[15] SCE Advice 2592_E, p. and Schedule NEM, Sheet 11.

[16] SDG&E Advice 2529-E, Schedule NEM , Sheet 14.

changes to the NEM tariffs to effect NEM Aggregation become effective 30 days after the submission of the compliance Advice letters. Moreover, PG&E does not explain why it would take 120 days to prepare manual billing while the other two utilities are prepared to start such billing 30 days after the submission of their respective Advice Letters.

Consistent with Resolution E-4610, the Commission should reject PG&E's request and direct PG&E to implement changes to the NEM tariffs to enable meter aggregation to become effective upon approval of its advice filing.

SEIA appreciates the opportunity to provide comments on these advice letter filings and requests that they be expeditiously approved with the changes set for the above.

Very truly yours,

*/s/ Jeanne B. Armstrong*

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