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November 12, 2013

ED Tariff Unit Energy Division California Public Utilities Commission 505 Van Ness Avenue, Room 4004 San Francisco, CA 94102

Re: SolarCity Corporation's Protest to: 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 Energy Division Tariff Unit,

SolarCity Corporation (SolarCity)¹ respectfully submits this Protest to Advice Letters 4305-E (PG&E), 2952-E (SCE), and 2529-E (SDG&E), filed on October 21, 2013, pursuant to Resolution E-4610. The Advice Letters propose modifications to the Investor Owned Utilities' (IOUs) Net Energy Metering (NEM) tariffs in order to implement Senate Bill (SB) 594.

Background

Senate Bill 594 (Wolk, 2012) provides a means for customers with multiple meters located on one or more parcels of neighboring lands to aggregate loads for purposes of sizing customer-side renewable generation to serve the aggregate load served by those meters. This meter aggregation

program holds great promise to enable more cost-effective deployment of customer side renewable energy systems. It will eliminate constraints that many customers may face in deploying renewable facilities. Prior to enactment most facilities were required to be paired on a one-for-one basis with meters through which a customer receives utility service. By allowing aggregation of load across multiple meters SB 594 allows customers to deploy customer-side renewable generation in a more optimal and cost-effective manner. SolarCity is concerned, however, that the promise of SB 594 in achieving its intended aims will be significantly reduced if the IOUs' Advice Letters implementing this program are not modified in several substantive ways. We enumerate our concerns below.

The Proposed Billing Costs are Unsupported and Excessive

Each of the IOUs plans to impose specified charges on customers participating in the meter aggregation program. While SolarCity acknowledges that SB 594 allows the IOUs to impose charges to recover incremental billing costs that may be incurred to implement the meter aggregation program, it does not give the IOUs carte blanche in establishing these charges. There is strong evidence that the IOUs' proposed charges are arbitrary, unreasonable and are severely inconsistent with the purpose of the statute.

First, each of the IOUs propose a combination of set-up fees and monthly charges that will likely exceed \$1000 (for five or more accounts) in just the first two years of participation in the account aggregated load program, and hundreds of dollars annually thereafter. This will significantly erode the customer incentives to install on-site renewable generation and will deter customer participation in the program. For a detailed analysis of the impact of the fee structure, see the Protest of the Interstate Renewable Energy Council (IREC) at pages 4-5.

Second, the IOUs offer no evidence to justify the level of the charges they propose beyond general statements.

Third, the fees vary significantly from utility to utility, both in terms of the amount charged and the manner in which they are to be collected. This suggests that the charges are arbitrarily derived and lack a solid foundation in cost causation.

SolarCity requests that that the Commission reject these charges and require the IOUs to provide evidence for the Commission to evaluate before the CPUC approves fees for meter aggregation. To avoid delaying implementation of the meter aggregation program, the Commission should allow the program to go into effect while the fee issue is being resolved.

Additionally, the manner in which any legitimate, incremental billing costs are recovered from customers should be informed by the policy objectives of the program, namely to facilitate

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deployment of NEM systems designed to serve aggregated loads. Unduly high up-front costs, even where grounded in reasonable cost estimates, will limit participation in the program. The Commission should consider, spreading cost recovery of any fees over a reasonable period of time to ensure that customers do not face an up-front cost hurdle that prevents them from pursuing otherwise economically advantageous deployment of customer-side distributed generation.

We also note with some concern SDG&E's proposal to include a monthly charge, with the level of the charge to be determined based on the costs it faces as a result of investments to automate the NEM aggregation billing process. This introduces substantial uncertainty and, at a minimum, should be bounded to allow the associated cost risk to be factored into customer decisions to pursue aggregation.

The Definition of the terms "Adjacent" and "Contiguous" Must be Clarified in a Manner Consistent with the Legislative Intent

In their Advice Letter Filings, the IOUs do not expressly describe how they interpret the "adjacent or contiguous" language in the statute. The statute states the following:

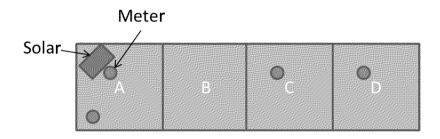
"An eligible customer-generator with multiple meters may elect to aggregate the electrical load of the meters located on the property where the renewable electrical generation facility is located and on all property *adjacent or contiguous [emphasis added]* to the property on which the renewable electrical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

How this is interpreted has profound implications for the ability of the meter aggregation program to achieve its intended aims. Ultimately, any interpretation should enable customers that own multiple properties to aggregate load across those properties provided the properties are contiguous or adjacent to one another. Interpretations that limit aggregation based on where within the group of properties a renewable facility is located, or where the meters are located, will greatly limit the applicability of the meter aggregation program and adversely impact the ability of customers to cost-effectively deploy distributed generation.

Consider the following example:

³ SDG&E Advice Letter 2529-E, pg. 3; Sheet 14.

⁴ See PU Code Section 2827(h)(4)(A).



In this scenario, a farmer owns four parcels of land, three of which have meters and local loads (A, C, and D), and one that does not (B). Furthermore, only one of the parcels, parcel A, is suitable for a renewable generation facility. SolarCity believes that a reasonable interpretation of the statute would allow the farmer to aggregate loads from the four meters shown across the three parcels for purposes of sizing the renewable facility, subject to the 1 MW limit. However, absent further direction, it is unclear if this would be allowed. SolarCity is concerned that absent express direction, the IOUs will unreasonably limit the ability to aggregate to, for example, only loads and meters located on parcel A.

Such an outcome would dramatically reduce the applicability and effectiveness of the program and be inconsistent with the plain meaning of the statute. The Merriam Webster defines "adjacent' as "nearby." "Contiguous" is defined to mean: "...connected throughout in an unbroken sequence...contiguous row houses." By using both words the legislature expressed its intent to be inclusive in the types of property combinations that would qualify for aggregation.

In addressing the IOUs' Advice Letters, the Commission should affirm an interpretation that supports aggregation across meters within a group of neighboring parcels without regard to where the meters are located relative to the renewable facility, provided all are located somewhere within the boundaries of the overall group of parcels. Alternatively the Commission should require utilities to modify special conditions (Special Condition 8 in the PSE&G and SDG&E tariffs and Special Condition 6 in the SCE tariff) in the proposed tariffs to include a definition of the term "contiguous," to mean: "an unbroken sequence of properties owned by the same person or entity."

The Proposed Allocation Process Will Result in Potential Forfeiture of Significant Amounts of Renewable Generation

The allocation process proposed by the utilities fails to meet the requirements of the statute in several ways. First, the IOUs' proposed allocation process should not be applied to aggregated meters within the same rate class. The statute restricts this type of monthly allocation only to the aggregation of meters with <u>differing</u> rate schedules.

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⁵ htt**ő**://www.merriam-webster.com/dictionary/adjacent

⁶ htt**o**://www.merriam-webster.com/dictionary/contiguous □o

Customers seeking to aggregate accounts, each having the same rate class, should be treated just like any other net metered customer: annual purchases from the grid for the aggregated accounts should be compared with annual exports from the on-site renewable generation to determine the net balance of money owed to the electric company. To determine the bill for aggregated meters in a given month the utility should credit exports in excess of consumption at one meter either to another aggregated meter or to future months within the annual 12-month period. We note that comments by the Solar Energy Industry Association (SEIA) and IREC propose alternative ways to solve monthly billing for aggregated accounts in the same rate class. The Commission should reject the IOUs' proposals and instead choose one of these solutions with an eye toward minimizing cost of billing changes.

Second, even for customers aggregating meters subject to different rate schedules, the IOUs' proposed allocation method proposed will, as pointed out in Récolte Energy's Protest, create substantial risk of lost value in certain circumstances. Under the IOUs' allocation methodology, it is possible for a given meter within an aggregation group to be allocated output in excess of the load at that meter. Over the course of a 12-month period, this can result in substantial lost kWh where the energy allocated to a given meter exceeds the cumulative load at that meter. This is driven by the fact that the consumption across the meters, relative to the total production of a renewable energy system are not necessarily, or even likely to be, correlated. This is particularly true with agricultural customers whose consumption through the year is highly variable due to seasonal harvest, processing and irrigation schedules.

For example, during a given month where a renewable facility is producing maximum output, it may be that a meter that represents relatively little of the cumulative annual load within in an aggregation group happens to represent 100% of the load during that month and is thus allocated kWh in excess of consumption at that meter. Such a circumstance could easily result in a situation where a given meter is allocated kWh far in excess of any load against which those kWh could be applied and result in significant stranded value. This outcome is inconsistent with the intent of the statute that, though contemplating customers forfeiting kWh in excess of their aggregate load over a 12-month period, does not envision customers going uncompensated for kWh in instances where the kWh production is less than their aggregate consumption over a 12-month period. Such an outcome will significantly diminish the value of aggregation, to the detriment of the policy objectives of SB 594.

To address this, we believe the Commission should direct the IOUs to apportion kWh to meters in a given month based on their relative share of the cumulative load served through those meters

⁸ See PU Code Section 2827(h)(4)(B); "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 kilowatthours in excess of the eligible customer-generator's aggregated electrical load generated during the 12-month period." $\Box \delta$

to that point within a given Relevant Period (e.g., for a twelve month period beginning in January, the allocation in June will be based each meter's share of the cumulative load served at that location from January through June). We believe this is permissible within the strictures of the language of the statute, which in relevant part states:

"If an eligible customer-generator with multiple meters elects to aggregate the electrical load of those meters pursuant to subparagraph (A), and different rate schedules are applicable to service at any of those meters, the electricity generated by the renewable electrical generation facility shall be allocated to each of the meters in proportion to the electrical load served by those meters. For example, if the eligible customer-generator receives electric service through three meters, two meters being at an agricultural rate that each provide service to 25 percent of the customer's total load, and a third meter, at a commercial rate, that provides service to 50 percent of the customer's total load, then 50 percent of the electrical generation of the eligible renewable generation facility shall be allocated to the third meter that provides service at the commercial rate and 25 percent of the generation shall be allocated to each of the two meters providing service at the agricultural rate. This proportionate allocation shall be computed each billing period." ⁹

Nothing in the language suggests that the proportional share of load used to allocate kWh from the renewable generation facility in a given month cannot be based on the cumulative load served through those meters. The language only indicates that the "proportionate allocation" shall be computed each billing period, but does not say that the proportional shares themselves need to be based exclusively on the loads served through those meters in a given month. Had the legislature intended this outcome, they could have appended the phrase "in a given month" such that the statute would read, "...the electricity generated by the renewable electrical generation facility shall be allocated to each of the meters in proportion to the electrical load served by those meters **in a given month.**" As the language stands, we believe it is at best ambiguous on this point and, thus, the intent of the statute should determine the interpretation, particularly here, where the statute leaves the Commission broad authority to determine how to allocate kWh.

For these reasons SolarCity requests the Commission to order revisions to the Advice Letters that minimize the risk that mismatches between monthly generation and consumption at individual meters will, when aggregated, cause the customer generator to forfeit large amounts of energy production to the utility, even where total generation is less than total consumption over a 12-month period.

The Utilities' Advice Letter Filings Should Become Effective on the Date of Advice Letter Approval

Given the substantial costs involved in developing projects, prospective program participants are unlikely to initiate project development activities until the tariff implementing the program is made available. For this reason, and to ensure more timely participation in the meter aggregation

program, SolarCity agrees with Récolte's suggestion that PG&E's Advice Letter should become effective upon approval rather than PG&E's proposed 120 days after the date of approval. We believe this should also apply to the Advice Letter filings of the other utilities. As Récolte notes, because of the project development timelines, an earlier effective date will provide the regulatory certainty needed for entities to initiate project development activities, but provide ample time for the utilities to get the necessary billing and other programmatic infrastructure in place.

Conclusion

SolarCity appreciates the opportunity to provide feedback on the IOUs' Advice Letters implementing SB 594.

Respectfully submitted this 12th day of November, 2013,

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