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Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, California 94102

Re: Reply of San Diego Gas & Electric to the Protest of Advice Letter 2561-E, Modifications to Applicable Net Energy Metering Electric Schedules Pursuant to Assembly Bill 327

Energy Division:

In accordance with Section 7.4.3 of General Order (“GO”) 96-B, San Diego Gas & Electric Company (“SDG&E”) hereby replies to the joint protest of the Solar Energy Industries Association (“SEIA”), The Alliance for Solar Choice (“TASC”), the California Solar Energy Industries Association (“CALSEIA”), the Vote Solar Initiative (“Vote Solar”), as well as the California Center for Sustainable Energy (“CCSE”), and Everyday Energy filed on January 21, 2014.

On December 31, 2013, SDG&E filed AL 2561-E to modify applicable Net Energy Metering (“NEM”) Electric Tariff Schedules pursuant to Assembly Bill (“AB”) 327. More specifically, SDG&E proposed to revise Schedules NEM, Virtual Net Metering for Multi-Tenant and Multi-Meter Properties (“NEM-V”), and Virtual Net Metering for Multifamily Affordable Housing (“VNM-A”) to reflect that they will be closed to new customers once SDG&E reaches its NEM program limit of 607 megawatts (“MW”) of nameplate generating capacity available to eligible customer-generators or July 1, 2017, whichever is earlier. SDG&E also proposed to revise Schedule Net Energy Metering for Fuel Cell Customer-Generators (“NEM-FC”) to specify that the Eligible Fuel Cell Electrical Generating Facility must have commenced operation on or before January 1, 2017.

Protest

On January 21, 2014, protests were filed on behalf of the Joint Solar Parties (i.e. SEIA, TASC, CALSEIA, and Vote Solar), CCSE, and Everyday Energy. The Joint Solar Parties contend that SDG&E erred in proposing to set forth the MW cap specified in AB 327, arguing that the NEM cap as defined in AB 327 is 5 percent of SDG&E’s aggregate customer peak demand, that AB 327 defines how the program limit for each utility should be calculated, and that AB 327 establishes a floor, not a ceiling, below which the program limit could not drop. CCSE contends that the Commission should reject language that would subject Virtual Net Energy Metering (“VNM”) to the cap provided for in AB 327 because VNM is a vital component of the Multifamily Affordable Solar Housing (“MASH”) program. Everyday Energy also argues that VNM should not be subject to the NEM cap provided for in AB 327 and that placing a sunset date on VNM is in direct conflict with the MASH program extension through 2021 mandated by AB 217.

SDG&E's Response

AB 327 adopts a cap on participation in California's NEM program under existing NEM rules as the earlier of July 1, 2017 or when the combined total peak demand of all electricity used by eligible customer-generators exceeds 5 percent of aggregate customer peak demand, defined as 607 MW for SDG&E, as follows:¹

(B) The commission shall require every large electrical corporation to make the standard contract or tariff available to eligible customer-generators, continuously and without interruption, until such times as the large electrical corporation reaches its net energy metering program limit or July 1, 2017, whichever is earlier. A large electrical corporation reaches its program limit when the combined total peak demand of all electricity used by eligible customer-generators served by all the electric utilities in the large electrical corporation's service area furnishing net energy metering to eligible customer-generators exceeds 5 percent of the aggregate customer peak demand of those electric utilities. For purposes of calculating a large electrical corporation's program limit, "aggregate customer peak demand" means the highest sum of the noncoincident peak demands of all of the large electrical corporation's customers that occurs in any calendar year. To determine the aggregate customer peak demand, every large electrical corporation shall use a uniform method approved by the commission. The program limit calculated pursuant to this paragraph shall not be less than the following:

(i) For San Diego Gas and Electric Company, when it has made 607 megawatts of nameplate generating capacity available to eligible customer-generators.

While the Joint Solar Parties argue that the cap adopted under AB 327 is a floor and not a ceiling, this simplified interpretation ignores the plain meaning of the words "whichever is earlier" as used in AB 327. If the cap established under AB 327 was merely intended as a floor, NEM participation under the existing rules would not sunset on July 1, 2017 or when the program limit has been reached, "whichever is earlier." While AB 327 does use the words "shall not be less than the following," in adopting a 607 MW cap for SDG&E, these words must be read in the context of history underlying this legislation, which includes debates over how, exactly, "aggregate customer peak demand" should be defined in the context of determining a NEM cap. In this regard, prior to the issuance of AB 327, the Commission had issued a decision defining this term for the purposes of establishing a NEM cap, but this decision was challenged by the state's utilities as contrary to the manner in which this term has historically been defined by the Commission and statute. The words "shall not be less" were intended to prevent further debates over this issue, not to create a floor rather than ceiling on NEM participation.

¹ Public Utilities Code Section 2827(c)(4)(B)(i).

The cap on participation in California's existing NEM program adopted under AB 327 is intended to facilitate the transition of the NEM program to a newly adopted NEM tariff that is designed to accomplish several specifically identified objectives:²

"In developing the standard contract or tariff, the commission shall do all of the following:

- (1) Ensure that the standard contract or tariff made available to eligible customer-generators ensures that customer-sited renewable distributed generation continues to grow sustainably and include specific alternatives designed for growth among residential customers in disadvantaged communities.
- (2) Establish terms of service and billing rules for eligible customer-generators.
- (3) Ensure that the standard contract or tariff made available to eligible customer-generators is based on the costs and benefits of the renewable electrical generation facility.
- (4) Ensure that the total benefits of the standard contract or tariff to all customers and the electrical system are approximately equal to the total costs."

SDG&E's proposal to sunset the existing VNM Rate Schedule and replace it with a VNM rate schedule that incorporates the new NEM rules provided for under AB 327 is necessary to accomplish the forgoing Commission objectives. AB 327 requires, "every large electrical corporation to make the standard contract or tariff available to eligible customer-generators³, continuously and without interruption, until such times as the large electrical corporation reaches its net energy metering program limit or July 1, 2017, whichever is earlier."⁴ AB 327 makes no exceptions for VNM, and there is no basis for concluding that the sunset date that applies to the existing NEM program to ensure a transition to a new NEM tariff that accomplishes the forgoing objectives does not apply to VNM. While Everyday Energy contends that placing a sunset date on VNM is in direct conflict with the MASH program extension through 2021 that is mandated under AB 217, this argument must be rejected; AB 217 only extended the operation of the Single-family Affordable Solar Homes ("SASH") and MASH programs to December 31, 2021, or until authorized funding has been exhausted, but it does not state or imply that VNM customers should continue to take service under existing NEM rules despite the explicit language of AB 327.

Everyday Energy also claims that "AB 327 cannot impact low income programs."⁵ Because customers who take service under an existing NEM tariff before the earlier of July 1, 2017 or when SDG&E reaches its program limit of 607 MW will be grandfathered for a period of time to be determined by the Commission, the Commission will decide how NEM-related low income programs will be impacted by the new NEM tariff. Low-income NEM programs will not be impacted at this time. Customers are protected for a transition period. On the conclusion of the NEM transition period or for low income customers requesting NEM treatment after VNM-A is closed to new customers, new tariffs will be developed to offer those customers interconnection under new NEM-related rules. Such rules will be properly vetted in a statewide

² Public Utilities Code Section 2827.1(b).

³ Public Utilities Code Section 2827(b)(4) defines "Eligible customer-generator" as "a residential customer, small commercial customer as defined in subdivision (h) of Section 331, or commercial, industrial, or agricultural customer of an electric utility, who uses a renewable electrical generation facility, or a combination of those facilities, with a total capacity of not more than one megawatt, that is located on the customer's owned, leased, or rented premises, and is interconnected and operates in parallel with the electrical grid, and is intended primarily to offset part of all of the customer's own electrical requirements."

⁴ Public Utilities Code Section 2827(c)(4)(B).

⁵ Protest of Everyday Energy, at p. 3.

proceeding consisting of vast participation and proposals, most likely including low income advocating groups. SDG&E's proposed tariff modifications are consistent with AB 327, which protects low income NEM programs and customers, and initiates a new NEM tariff for the development of future low income NEM programs.

Conclusion

For the reasons set forth above, SDG&E requests that the Commission approve its request to revise Schedules NEM, NEM-V, and VNM-A to reflect that they will be closed to new customers once SDG&E reaches its NEM program limit of 607 MW of nameplate generating capacity available to eligible customer-generators or July 1, 2017, whichever is earlier, in accordance with AB 327.

Sincerely,

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cc: Energy Division Director Edward Randolph
ALJ Katherine Kwan MacDonald
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Service List for R.12-11-005 and R.12-06-013