

DRAFT

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

I.D. # 9883

ENERGY DIVISION

RESOLUTION E-4367

December 2, 2010

**R E S O L U T I O N**

Resolution E-4367. Southern California Edison (SCE)

PROPOSED OUTCOME: This Resolution 1) approves SCE's request for modifications to Form 16-344, Net Energy Metering and Generating Facility Interconnection Agreement, as modified in response to the protest and in the Energy Division staff analysis and to submit the approved modifications in a Supplemental Advice Letter, and 2) requires SCE to coordinate clarification of access to customer premises requirements in Rule 16 and 21 with the other utilities and submittals of ALs proposing language to this effect.

ESTIMATED COST: None.

By Advice Letter 2495-E Filed on August 6, 2010.

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**SUMMARY**

**SCE's proposes to modify Form 16-344, Net Energy Metering and Generating Facility Interconnection Agreement to delete requirements for provision of estimated readiness date of NEM generator to operate in parallel with SCE's electric system and Customer's prior notification of the final governmental inspection of the generating facility. The proposal also modifies the access requirements to NEM Customers' premises and assignment requirements of the Agreement to new Customers of Record or New Party In, that owns, rents or leases a premises with an existing NEM generator.**

## **BACKGROUND**

### **Current Tariff**

SCE's filed Form 16-344, Net Energy Metering and Generating Facility Interconnection Agreement (Agreement), stipulates terms and conditions to ensure safety and power quality for all customers and utility personnel when operating a customer generator in parallel with the utility distribution system.

The current form requires in parts the following in Sections:

- 2.9 The Customer to provide the Estimated date when the Generating Facility will be ready to commence parallel operation with SCE's electric system.
- 3.4 SCE shall have the right to have its representatives present at the final inspection made by the governmental authority having jurisdiction to inspect and approve the installation of the Generating Facility. Customer shall notify SCE in accordance with the terms of Section 11, herein, at least five (5) days prior to such inspection.
6. SCE may enter Customer's premises at all reasonable hours without notice to Customer for the following purposes:
  - (a) To inspect Customer's protective devices and read or test meter(s); and
  - (b) To disconnect the Generating Facility and/or service to Customer, whenever in SCE's sole opinion, a hazardous condition exists and such immediate action is necessary to protect persons, SCE's facilities, or property of others from damage or interference caused by the Generating Facility, or the absence of failure of properly operating protective devices.
- 10.5 Neither party shall voluntarily assign this Agreement or any of its rights or duties hereunder without the written consent of the other Party, which consent shall not be unreasonably withheld. Any such assignment or delegation made without such written consent shall be null and void."
11. This section contains SCE's mailing address for notices.

13. "SIGNATURES: IN WITNESS WHEREOF, the Parties hereto have caused two originals of this Agreement to be executed by their duly authorized representatives. This Agreement is effective as of the latter of the two dates set forth below. ...."

## **NOTICE**

Notice of AL 2495-E was made by publication in the Commission's Daily Calendar. SCE states that a copy of the Advice Letter was mailed and distributed in accordance with Section 4 of General Order 96-B.

## **PROTESTS**

AL-2495-E was timely protested by Solutions for Utilities, Inc. (SFUI).

SCE was granted an extension and responded to the protest in time.

## **DISCUSSION**

Energy Division has reviewed AL 2495-E, the protest and SCE's response to the protest.

### **Proposed Tariff Changes**

SCE proposes to change the following Sections of Form 16-344 as follows:

**Section 2.9** Remove this section in its entirety because the customer estimated date was for internal use only but proved to be unreliable. SCE uses the final inspection by the local building and safety department to serve as notice to issue the Permission to Turn on (PTO) letter to the customer instead.

**Section 3.4** Remove this section because SCE does not require advance notice of inspection by the governmental authority having jurisdiction to inspect and approve the installation. Furthermore, coordinating inspections and notifications between various parties creates delay. This requirement is not critical to the overall approval of the Agreement.

**Section 6.** Change section to " SCE may enter Customer's premises at all times without notice to Customer for the following purposes:" SCE states that this

change is supported by language in Rule 21, Section D.1.d.3 and Rule 16, Section A.11.

**Section 10.5** Remove this section because the original occupant of the premises usually moves away before signing an assignment agreement with the new occupant and thus operational control, data integrity and customer liability is not ensured. To facilitate the continued use of the generating facility commensurate with billing under the NEM tariff, SCE would require the new customer to sign a new interconnection agreement.

**Section 11.** SCE's mailing address for NEM program is updated.

**Section 13.** To allow the use of an electronic signature on the part of SCE and a signed signature of the customer that can be faxed or transmitted electronically, as an option to the "wet" or "original" signature requirement the following language is added to the "Signature" section:

"This Agreement may be executed in counterpart, and by electronic signature on the part of SCE, and copies of a Party's signed page may be transmitted to the other Party by facsimile or other electronic means. Copies of the signature page so transmitted may be used for the purpose of enforcing the terms of this Agreement as though they were originals and will not be made inadmissible in any legal or regulatory proceeding concerning this Agreement on the basis of the Best Evidence Rule or similar rule of admissibility."

## **Protest**

The following issues were protested by SFUI:

**Notification.** SFUI suggested that SCE serve all current NEM customers in a mailing with this AL because of the severity of the proposed changes and the effect on those customers who should have an opportunity to voice their opinion.

**Section 6.** Entry by SCE to Customers' premises "at all times, pursuant to Rule 21 and Rule 16, without notice to Customer" has nothing to do with improving the approval process, as SCE purports.

SFUI states that Rule 21, Section D.1.d.3 only pertains to access to the isolating device for the Generating Facility, not to inspecting protective devices and meter

reading and testing as the Agreement proposal reads. The last three activities are not emergencies. Rule 21 also lists construction, maintenance, testing or reading meters as activities requiring 24/7 access to the isolating device. These activities are also not emergencies.

Therefore, subject Rule 21 Section should be clarified because it requires access at all times "...without obstacles or requiring those seeking access to obtain keys, special permission or security clearances ...". In context with the Agreement this would require NEM customers to leave their residences and businesses unlocked with security measures turned off. Municipalities or counties restrict non-emergency work to certain hours anyway.

SCE's reference to Rule 16 for access implies even further reaching impositions on NEM customers. Therefore this AL provides an opportunity for the Commission to clarify the semantic discrepancy brought out between the three documents, Form 16-344, Rule 21, Section D1.d.3 and Rule 16, Section A.11.

The Commission should deny SCE's requested revision and instead Rules 16 and 21 and the Agreement should be revised to state that any operations other than verifiable emergencies shall be performed during normal business hours Monday through Friday.

**Section 10.5.** SCE's statement that the previous owners generally cannot be located should be verified by evidence over the last two years, submitted to the Commission and stakeholders. There are other opportunities available to SCE to locate a previous owner, e.g. deeds, post office, internet searches, etc. Reason for changes in customer may be renting out by the owner, foreclosure, etc.

The Agreement should state "This Agreement is transferable upon request by any subsequent owner/tenant of the property without the requirement for the original owners' consent." A new agreement may impose requirements which were not disclosed pursuant to property sales disclosure laws.

### **SCE's Response to Protest**

**Notification.** SCE refers to General Order (G.O.) 96-B, Rule 4.2 which only requires notification of affected customers if the AL requests higher rates or charges or more restrictive terms and conditions than currently in effect, which SCE claims this AL does not. The AL only clarifies what is already required by

current customers per Rules 16 and 21. Besides proper notice per G.O. 96-B, Rule 4.3, all pending and approved ALs are publicized on SCE's website. Notifying even only the approximately 20,000 NEM customers would be costly and borne by the ratepayers.

**Section 6.** SCE agrees to accommodate SFUI's protest and modify the requested change to Form 16-344, Section 6 as follows:

"SCE may enter Customer's premises at all times, pursuant to Rule 21, without notice to Customer for emergency purposes as indicated below:

- (a) To inspect Customer's protective devices or test meter(s) under emergency situations only; or
- (b) To disconnect the Generating Facility and/or service to Customer, whenever in SCE's sole discretion, a hazardous condition exists and such immediate action is necessary to protect persons, SCE's facilities, or property of others from damage, or interference caused by the Generating Facility, or the absence or failure of properly operating protective devices."

SCE agrees to make arrangements with the Customer for gaining emergency access to his/her premises by key to lock box, padlock or as mutually agreed upon. SCE will also work collaboratively with the other utilities to maintain appropriate emergency and non-emergency access provisions in Rules 16 and 21.

**Section 10.5.** SCE reconsidered its original request for a new agreement and now proposes that new Customers or New Party In (NPI) NEM customers with previously approved wind or solar Generating Facility interconnections under 30 kW be provided by SCE (i) a copy of the prior customer's unchanged interconnection agreement with the name redacted, (ii) a copy of applicable NEM related Fact Sheets, and (iii) SCE's website information on the NEM program. SCE proposes the following language in Form 16-344, Section 10:

A new Customer of Record or New Party In (NPI), who owns, leases, or rents a premises with an operating generating facility, previously approved by SCE for interconnection, may take Net

Metering Service at the generating facility site, on the condition that the NPI takes service under the Net Energy Metering Tariff and meets the requirements of this section. To be eligible, the NPI must: (1) ensure that the generating facility is compliant with all applicable safety and performance standards as delineated in SCE's Electric Rule 21 and other applicable tariffs; and (2) understand that SCE may from time to time release to the California Energy Commission and/or the California Public Utilities Commission, information regarding the NPI's facility, including NPI's name and Generating Facility location, capacity and operational characteristics. SCE will notify the NPI, by providing (1) a copy of the NEM Interconnection Agreement and its terms, (2) a copy of applicable NEM related Fact Sheets and (3) the SCE website location of the current NEM Rate Tariff.

### **Staff analysis**

**Notification.** Subject to the responses by SCE to the protest and the Energy Division modifications to the language proposed in Form 16-344 below, we agree with SCE that notification of the AL is not required to all Customers or NEM Customers, because there is no increase in rates or charges and any more restrictive terms or conditions proposed than already in the tariffs.

**Section 6.** While SCE's response to SFUI's concerns about SCE's access requirements to NEM customers' premises and inconsistencies with Rules 16 and 21 have been somewhat clarified, there are still uncertainties as to what is considered an emergency and how Rule 21 applies. SCE agreed to delete reference to Rule 16 and it therefore does not require modification at this time. Access "at all times, without notice to Customer for emergency purposes ... to test meters" goes beyond Rule 21.D.1.d.3), which only requires access to the disconnect device. Testing a meter (for accuracy) is clearly not an emergency, but reading a meter to verify absence of power flow from a generator or to remove the meter as a disconnect means could be construed as emergency measures.

In response to a data request SCE later agreed to revise its response to the protest to clarify that SCE may enter Customer's premises at all time, pursuant to Rule 21, without notice to Customer for emergency purposes as indicated below:

a) To inspect Customer's protective devices or check meter(s) to ascertain there is no power flow.

In its response SCE promises to make mutually agreed upon arrangements with the Customer to allow access to the premises for emergencies. This provision should be stated in Form 16-344.

At this time reference to Rule 21 should not be included in Section 10 of Form 16-344; SCE should collaborate with the other utilities to develop revisions to clarify emergencies and non-emergencies and their access requirements to customer premises in Rules 16 and 21, consistent with the Form 16-344 provisions approved herein.

Based on the above, Section 6 of Form 16-344 should read:

“SCE may enter Customer’s premises at all times, without notice to Customer for emergency purposes only;

- (a) To inspect Customer’s protective devices or check meter(s) to ascertain there is no power flow; or
- (b) To disconnect the Generating Facility and/or Service to Customer, whenever in SCE’s discretion, a hazardous condition exists and such immediate action is necessary to protect persons, SCE’s facilities, or property of others from damage or interference caused by the Generating Facility, or the failure of properly operating protective devices.

SCE will make prior arrangements with the Customer for gaining emergency access to Customer’s premises by obtaining keys, lock box key, or padlock, or make other mutually agreed upon arrangements.”

**Section 10.5.** SCE’s modified requirements in response to the protest mostly satisfy SFUI’s concerns regarding imposition of new requirements if a new agreement has to be signed by a future owner/tenant. SCE no longer requires any action by the new Customer of Record or New Party In (NPI). However SCE limited their reply to 30 kW and lower capacity NEM generators only. In response to a later data request SCE responded that the process for a new Customer of Record or NPI for a NEM generator over 30 kW would be the same, but the new Customer of Record or NPI would have to sign the existing Agreement again.



The modified requirements seem reasonable because most residential NEM generators are smaller than 30 kW. Larger generators have more impact on SCE's electric system and there are fewer assignments with generally more sophisticated Customers warranting new signatures.

We therefore agree with SCE's amended response with modifications to read:

A new Customer of Record or New Party In (NPI), who owns, leases, or rents a premises with an operating generating facility, previously approved by SCE for interconnection, may take Net Metering Service at the generating facility site, on the condition that the NPI takes service under the Net Energy Metering Tariff and meets the requirements of this section. To be eligible, the NPI must: (1) ensure that the generating facility is compliant with all applicable safety and performance standards as delineated in SCE's Electric Rule 21 and other applicable tariffs in effect at the time the Generating Facility was first approved for parallel operation; and (2) understand that SCE may from time to time release to the California Energy Commission and/or the California Public Utilities Commission, information regarding the NPI's facility, including NPI's name and Generating Facility location, capacity and operational characteristics. SCE will notify the NPI, by providing (1) a copy of the NEM Interconnection Agreement and its terms; (2) a copy of applicable NEM related Fact Sheets and (3) the SCE website location of the current NEM Rate Tariff.

Additionally, a new Customer of Record or NPI who owns, leases, or rents a premise with an operating generating facility over 30 kW must sign the unchanged NEM and Interconnection Agreement.

All other proposed modifications to Form 16-344 were uncontested and should be approved as requested.

## **COMMENTS**

Public Utilities Code section 311(g) (1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g) (2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments on October 25, 2010 and will be placed on the Commission's agenda no earlier than 30 days from that date.

## **FINDINGS AND CONCLUSIONS**

1. G.O. 96-B, Section 4.2 requires notification of affected customers if an AL requests higher rates or charges or more restrictive terms and conditions than currently in effect.
2. AL 2495-E does not request higher rates or charges or more restrictive terms and conditions, particularly when considering the changes proposed in the reply to the protest. Specific notification to affected NEM customers of the proposed changes is therefore not required.
3. The requirement on filed Form 16-344, Section 2.9 for the NEM customer to provide the estimated date when the Generating Facility will be ready to commence parallel operation with SCE's electric system is for SCE's internal use only. Deleting this requirement therefore has no effect on the customer.
4. The requirement on Form 16-344, Section 3.4 for the NEM customer to notify SCE at least five days in advance of the final inspection of a Generating Facility installation by the governmental authority having jurisdiction, to allow for SCE's presence, is for SCE's internal use only. Deleting this notification requirement therefore has no effect on the customer.
5. Form 16-344, Section 6 provides for SCE's entry to Customer's premises at all reasonable hours without notice to Customer for primarily safety and reliability purposes.

6. SCE's original proposal to require access to Customer's premises at all times without notice referred to Rule 16 and Rule 21, which require that no keys, special permission or security clearances were to be obtained and included as purposes for entry construction, operation, maintenance, meter reading and inspection.
7. The access requirements in Rule 21, D.1.3.d only relate to the generator disconnect switch. Rule 16 relates to establishing service extensions and is not a relevant reference regarding access for emergencies at NEM generators.
8. SCE amended the proposal to delete reference to Rule 16 and defined that access at all times is only required for specific emergency actions. It also clarified that keys need to be obtained for access.
9. It is reasonable to also allow for any mutual agreement between NEM Customers and SCE to gain emergency access to premises at all times.
10. The access requirements and definitions of emergencies in Rules 16, 21 and associated agreements of the utilities are inconsistent or unclear.
11. SCE proposed to delete the provision of the Agreement which allowed for assignment to a New Customer of Record or NPI. Those parties would have to sign a new Agreement.
12. Signing of a new agreement is impractical for most residential assignments and may impose new requirements on previously approved NEM generating facility interconnections, raising legal issues.
13. SCE later modified the assignment provisions to only require the unchanged Agreements for NEM generators over 30 kW to be signed by the New Customer of Record or NPI. All New Customers of Record or NPIs would receive copies of the existing Agreement and other information.
14. NEM Customers with generators over 30 kW are generally not residential customers. Requiring them to sign the unchanged Agreement provides added assurance of compliance for these larger generators who have a larger impact on SCE's electric system.

**THEREFORE IT IS ORDERED THAT:**

1. SCE's request for modifications to filed Form 16-344, Net Energy Metering and Generating Facility Interconnection Agreement, is approved as modified in SCE's response to the protest, and with the modifications to Sections 6 and 10.5 as shown in the Staff Analysis of the Discussion section.
2. SCE shall submit a Supplemental AL, incorporating the modifications approved in OP 1 within 30 days.
3. SCE shall coordinate with the other utilities to develop revisions to clarify emergencies and non-emergencies and their access requirements to customer premises in Rules 16 and 21 and associated agreements, consistent with the Form 16-344 provisions approved herein. ALs proposing appropriate language changes to Rules 16 and 21 and associated agreements for this purpose shall be submitted within 90 days by all electric utilities.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on December 2, 2010; the following Commissioners voting favorably thereon:

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Paul Clanon  
Executive Director

**PUBLIC UTILITIES COMMISSION**

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



October 25, 2010

E-4367  
I.D. # 9883

TO: PARTIES TO SCE'S ADVICE LETTER 2495-E

Enclosed is draft Resolution E-4367 of the Energy Division. It will be on the agenda at the December 2, 2010 Commission meeting. The Commission may then vote on this Resolution or it may postpone a vote until later.

When the Commission votes on a draft Resolution, it may adopt all or part of it as written, amend, modify or set it aside and prepare a different Resolution. Only when the Commission acts does the Resolution become binding on the parties.

Parties may submit comments on the draft Resolution.

An original and two copies of the comments, with a certificate of service, should be submitted to:

Honesto Gatchalian/Maria Salinas  
Energy Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

A copy of the comments should be submitted to:

Werner Blumer  
Energy Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
Fax: 415-703-2200  
Email: [wmb@cpuc.ca.gov](mailto:wmb@cpuc.ca.gov)

Any comments on the draft Resolution must be received by the Energy Division by November 15, 2010. Those submitting comments must serve a copy of their comments on 1) the entire service list attached to the draft Resolution, 2) all Commissioners, and 3) the Director of the Energy Division, on the same date that the comments are submitted to the Energy Division.

Comments shall be limited to five pages in length plus a subject index listing the recommended changes to the draft Resolution, a table of authorities and an appendix setting forth the proposed findings and ordering paragraphs.

Comments shall focus on factual, legal or technical errors in the proposed draft Resolution. Comments that merely reargue positions taken in the advice letter or protests will be accorded no weight and are not to be submitted.

Replies to comments on the draft resolution may be filed (i.e., received by the Energy Division) on November 23, 2010, 8 days after comments are filed, and shall be limited to identifying misrepresentations of law or fact in the comments

of other parties. Replies shall not exceed five pages in length, and shall be filed and served as set forth above for comments.

Late submitted comments or replies will not be considered.

/s/ Julie Fitch  
Julie Fitch  
Director  
Energy Division

Enclosure: Certificate of Service  
Service List

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of Draft Resolution E-4367 on all parties in these filings or their attorneys as shown on the attached list.

Dated October 25, 2010 at San Francisco, California.

/s/ Honesto Gatchalian

*Honesto Gatchalian*

**NOTICE**

Parties should notify the Energy Division, Public Utilities Commission, 505 Van Ness Avenue, Room 4002 San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the Resolution number on the service list on which your name appears.



**Service List for Draft Resolution E-4367**

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