

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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 and Schedule NEM, as modified in the Energy Division staff analysis, 2) to submit the approved modifications in a Supplemental Advice Letter, 3) requires SCE to consult with the other utilities on emergency access requirements to Customers' premises, and 4) submit an Advice Letter proposing clarifying language in Rules 16 and 21 and associated forms consistent with the changes approved herein.

ESTIMATED COST: None.

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

SUMMARY

SCE proposes to modify Form 16-344, Net Energy Metering and Generating Facility Interconnection Agreement to delete 1) the estimated readiness date of NEM generator to operate in parallel with SCE's electric system, and 2) Customer's prior notification of the final governmental inspection of the generating facility. The proposal also modifies 1) the access requirements to NEM Customers' premises, and 2) 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 a customer generator operates in parallel with the utility distribution system.

Form 16-344 contains the following in Sections:

- 2.9 The Customer shall provide the Estimated date when the Generating Facility will be ready to commence parallel operation with SCE's electric system.
- 3.4 The 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 or 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 and SCE’s comments to the draft resolution and SFUI’s replies.

Proposed Tariff Changes

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

Section 2.9 Remove this section in its entirety because the customer estimated date was requested for internal use only but proofed to be unreliable. SCE uses the final inspection date 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. The requirement for the customer to notify SCE 5 days in advance of the inspection is not critical to the overall approval of the Agreement.

Section 6. Change 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 Part 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 affect 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 and 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

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

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 neither an increase in rates or charges nor proposed terms or conditions that are more restrictive than those already in effect.

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 times, 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 pending SCE's collaboration with the other utilities to arrive at consensus about what constitutes 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 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."

In its comments SCE proposed to slightly change the wording of the last sentence to read: **"...by obtaining keys to a lock box, or a padlock or by making other mutually agreeable arrangements."**

This change is acceptable and Section 6 should be changed as shown in bold letters above.

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 its reply to 30 kW and lower capacity NEM generators only. In response to a 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. Obtaining signatures from new Customers of Record or NPIs with a generating facility larger than 30 kW is warranted because these facilities have more impact on SCE's electric system.

We therefore agree with SCE's amended response to the protest 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 premises with an operating generating facility over 30 kW must sign the unchanged NEM and Interconnection Agreement."

SCE commented with further modification to Section 10.5 of Form 16-344 to read:

“A customer with solar generators of 30 Kilowatts (KW) or less who takes service on an existing NEM account (“New Party In” customer) does not have to submit a new interconnection agreement as long as the customer meets the new Customer of Record or New Party In (NPI) requirements of Schedule NEM. This will also apply to homes in solar subdivisions, where the developer/contractor establishes the interconnection, so that the customer who buys the home will not have to re-submit and sign a new interconnection agreement.”

We agree with the above modifications, edited as follows for consistency and clarity:

“A new Customer of Record or New Party In (NPI), who owns, leases, or rents a premises with an operating NEM eligible generating facility, previously approved by SCE for Parallel Operation does not have to submit a new interconnection agreement as long as the Customer meets the requirements of Schedule NEM . This will also apply to premises where the developer/contractor establishes the interconnection, so that the Customer who buys/rents/leases the premises will not have to re-submit and sign a new interconnection agreement.”

We agree with SCE’s comments to include the remainder of the Form 16-344, Section 10.5 changes in SCE’s Schedule NEM, edited for consistency, as follows:

“A new Customer of Record or new Party In (NPI), who owns, rents or leases a premises that includes NEM eligible electrical generating facilities with a capacity of 30kW or less, that were approved by SCE for Parallel Operation prior to the new Customer or NPI moving in and/or taking electric service with SCE will take service on this tariff as long as the requirements of this section are met. To be eligible, the new Customer or 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 of initial approval for Parallel Operation; 2) keep in force the amount of property, commercial general liability and/or personal liability insurance the New Party In or new Customer has in place at the time it initiates service on this tariff; 3) understand that SCE may from time to time release to the California Energy Commission and/or the California Public

Utilities Commission, information regarding the new Customer or NPI's facility, including New Party In or new Customer's name and Generating Facility location, capacity and operational characteristics. SCE will provide the New Party In or new Customer with (i) a copy of the interconnection agreement in effect and as signed by the previous customer, which will remain unchanged, (ii) a copy of the NEM Fact Sheet of operation and billing, and (iii) SCE's website information on the NEM tariff."

We agree with SCE's comment to add a Section 10.6 to Form 16-344, edited for consistency, as follows:

"A new Customer or NPI who owns rents or leases a premises that includes a NEM eligible electrical generating facility above 30 kW will need to sign a new interconnection agreement. If no changes are made to the interconnection facilities the agreement will have identical terms and conditions as the ones approved for the previous Customer."

We also note that the reference to California Public Utilities Code Section 2827(b)(2), defining eligible generators, on Form 16-344, Applicability, should be corrected to **Section 2827(b)(4)**.

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

SCE objected to Ordering Paragraph 3, which required coordination with the other utilities to develop revisions to clarify emergencies and non-emergencies in Rules 16 and 21 and submit Advice Letters accordingly within 90 days. SCE commented that ordering other utilities to submit ALs in this case violates Federal and State Constitutional due process because the other utilities were not party to this AL.

We agree and therefore revised Ordering Paragraph 3 (now Ordering Paragraph 4) to require only SCE to file an AL within 90 days and after consultation with the other utilities to revise Rules 16 and 21 and associated agreements consistent with the approved changes to Form 16-344, Section 6 in this resolution.

In its replies to SCE's comments SFUI objected to including insurance provisions in Schedule NEM and indemnification provisions in Form 16-344.

While SFUI is correct that SCE's comments introduce additional language regarding insurance provisions in Schedule NEM (not Form 16-344 as SFUI misstates), the Applicability section of Schedule NEM already includes the provisions by reference to PUC 2827(j). Spelling out these provisions does not change the requirements for NEM eligibility and we therefore agree with SCE's inclusion for the Customer's better understanding.

The indemnification provisions of Form 16-344 are not changed by SCE's proposal and the Form was approved by the CPUC.

SFUI replied to SCE's objection to the ordering paragraph in the draft resolution that required SCE to coordinate with the other utilities and required all of the electric utilities to submit ALs clarifying the emergency access requirements in Rules 16 and 21 and associated Forms.

We agree with SFUI that consultation with the other utilities for revision of the emergency access requirements in Rules 16 and 21 and associated Forms and submittal of an AL by SCE should be ordered. But for the reasons expressed by SCE, this order should not be extended to the other utilities in this resolution.

SFUI further replied that SCE's comments to the draft resolution contains factual and legal misrepresentations with regards to Rule 21 applicability in Application A.10-03-001, this draft resolution and Feed In Tariff contracts of SCE, PG&E and SDG&E.

These issues are outside the scope of this resolution and we refer to the appropriate proceedings for further discussions on them.

SFUI then reargues the notification issue and adds invasion of privacy and violation of civil rights concerns as reason for the need to notify all customers, or at least all NEM customers, of the proposed changes to Form 16-344.

This resolution restricts SCE's currently unlimited access to Customers' premises to emergencies only, and therefore no added invasion of privacy exists, which would warrant notification.

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, the draft resolution was mailed to parties for comments on October 25, 2010.

Timely comments were received from SCE on November 15, 2010.

Replies to the comments were received from SFUI on November 21, 2010. The comments and replies are considered in the Staff Analysis above and the draft resolution was modified as described above.

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 those currently in effect.
2. AL 2495-E requests neither higher rates or charges nor terms and conditions that are more restrictive than those currently in effect. Specific notification to affected NEM customers of the proposed changes is therefore not required.
3. The requirement on 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 adverse 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 adverse effect on

the customer.

5. Current 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 which include construction, operation, maintenance, meter reading and inspection as purposes for entry.
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 eligible 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 with a higher impact on SCE's electric system.

THEREFORE IT IS ORDERED THAT:

1. Southern California Edison (SCE) does not have to notify all customers or all NEM customers of the proposed changes.
2. SCE's request for modifications to Form 16-344, Net Energy Metering and Generating Facility Interconnection Agreement and Schedule NEM, is approved, including the modifications to Sections 6 and 10.5, as shown in bold letters in the Staff Analysis of the Discussion section.
3. SCE shall submit a Supplemental advice letter, incorporating the modifications approved in Ordering Paragraph 2 within 30 days.
4. SCE shall consult with the other utilities to draft revisions to clarify the definition of emergency and non-emergency events and the appropriate access requirements for each type of event to customers' premises in Rules 16 and 21 and associated agreements, consistent with the Form 16-344 and Schedule NEM revisions approved herein. SCE shall submit an AL proposing appropriate revision to Rules 16 and 21 and associated agreements consistent with the changes approved in Ordering Paragraph 2 to clarify emergencies and non-emergencies and their access requirements within 90 days.

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:

/s/ Paul Clanon
Paul Clanon
Executive Director

MICHAEL R. PEEVEY
PRESIDENT
DIAN M. GRUENEICH
JOHN A. BOHN
TIMOTHY ALAN SIMON
NANCY E. RYAN
Commissioners