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January 26, 2012

Mr. Honesto Gatchalian
Ms. Maria Salinas
CPUC Energy Division
Tariff Files, Room 4005
DMS Branch
505 Van Ness Avenue
San Francisco, California 94102

RE: Protest to Southern California Edison Advice Letter 2687-E

Dear Mr. Gatchalian and Ms. Salinas:

On January 3, 2012, Southern California Edison Company (“SCE”) filed its advice letter 2687-E in compliance with Ordering Paragraphs 14, 15, 16 and 32 of California Public Utilities Commission’s (“Commission”) Decision (“D.”) 11-12-018 with regard to the ESP Financial Security Requirement (“FSR”).¹ SCE states that, “This advice filing revises SCE’s Rule 22, Direct Access, and sets forth financial security.”

The following limited protest to the SCE advice letter is offered by the Alliance for Retail Energy Markets,² the Direct Access Customer Coalition,³ the Energy Users Forum⁴ the Retail Energy Supply Association,⁵ and the School Project for Utility Rate Reduction⁶ (“Joint

¹ SCE Advice 2687-E is entitled “Tariff Changes to Implement Financial Security Requirements for Energy Service Providers Pursuant to Decision 11-12-018.”

² AReM is a California non-profit mutual benefit corporation formed by electric service providers that are active in the California’s direct access market. This filing represents the position of AReM, but not necessarily that of a particular member or any affiliates of its members with respect to the issues addressed herein.

³ DACC is a regulatory alliance of commercial, industrial and governmental customers who have opted for direct access for some or all of their loads.

⁴ EUF is an ad hoc group that represents the interests of medium and large bundled service and direct access customers in California, with locations in either investor-owned utility and/or municipal utility service areas, primarily taking service on rate schedules for accounts with demand above 100 kW.

⁵ RESA’s members include: Champion Energy Services, LLC; ConEdison *Solutions*; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; Energetix, Inc.; Energy Plus Holdings, LLC; Exelon Energy Company; GDF SUEZ Energy Resources NA, Inc.; Green Mountain Energy Company; Hess Corporation; Integrys Energy Services,

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Protestors”). The advice letter contains multiple revisions to SCE’s Rule 22 to implement the new requirements pertaining to the FSR. In general, the revisions proposed by SCE are appropriate. However, the advice letter contains two issues for which correction is required.

1. First, the utility’s proposed tariff revisions do not adequately address a distinction made by the Commission with regard to small commercial customers.

Specifically, D.11-12-018 postponed a decision on the FSR that would be applicable to ESPs serving residential and small commercial customers and said that the reentry fee for ESPs serving these customers should include a provision to cover incremental procurement costs. At the same time, the decision clearly drew a distinction by excluding small commercial load that was affiliated with the load of large commercial or industrial customers:

However, we also determine that the re-entry fee and ESP financial security requirements for involuntarily returned small commercial and residential DA customers should include a provision to cover their incremental procurement costs. For this purpose, we intend to limit this latter requirement to exclude small commercial DA customers that are affiliated with a large DA customer. We defer to the next phase of this proceeding the specific process by which to define small commercial customers for purposes of calculating the ESP financial security requirement.⁷

SCE’s advice letter cites this distinction with regard to small commercial customers affiliated with large DA customers in the main text of its advice letter, noting solely that, “For large commercial and industrial DA customers (and small customers affiliated with those customers),

Inc.; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC; PPL EnergyPlus, LLC; Reliant and TriEagle Energy, L.P.. The comments expressed in this filing represent the position of RESA as an organization but may not represent the views of any particular member of RESA.

⁶ SPURR is a joint powers authority, a membership organization that aggregates utilities services purchasing power and expertise for over 200 California public K-12 school districts, county offices of education, and community college districts.

⁷ D.11-12-018, at pp. 3-4 (emphasis added). See also pp. 69-70, Findings of Fact 27, 47 and 48 and Conclusion of Law 11.

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involuntarily returned DA customers will be placed on the Transitional Bundled Service...”⁸ However, the proposed tariff changes neglect to add this distinction. In order to make this specifically clear, the Joint Protestors therefore recommend that the following modification be made to SCE’s proposed new language in Section Q of Rule 22:

Q. ESP Financial Security Requirements

The calculated financial security amount will include the incremental administrative costs related to switching a customer back to bundled service, and, subject to subsequent CPUC approval of a calculation methodology, the incremental procurement costs for involuntarily returned residential and small commercial customers accounts that are not affiliated with a large DA customer for a safe harbor period and then for an additional six-month period for those customers remaining on bundled service.

It should also be noted that the Joint Protestors raised the same issue and made precisely the same recommendation in their January 18, 2012 joint protest of Pacific Gas and Electric Company (“PG&E”) Advice Letter 3983. In a response dated January 25, 2012, PG&E stated, “PG&E agrees with the Joint Protestors’ recommendation and will file a Supplemental Advice Letter adopting the modified language proposed by the Joint Protestors.” The Joint Protestors are appreciative of PG&E’s cooperation and anticipate that SCE will be similarly amenable to this recommendation.

2. Second, the advice letter cites an amount for the calculation of the FSR that is different from, and higher than, that specified in D.11-12-018.

The decision specified the administrative fee to be used by each utility to calculate the return fee for involuntarily returned customers. Specifically, D.11-12-018 provides that:

We therefore authorize that administrative fees to cover involuntarily returned DA customers be set using the IOU’s authorized service fee rate for voluntarily returning CCA accounts. The per-customer fee would be multiplied by the relevant number of ESP customers. The currently applicable administrative fees per customer account would be for PG&E, \$3.94; **for SCE, \$1.49**; and for SDG&E, \$1.12.⁹

⁸ SCE Advice Letter, at p. 2 (emphasis added).

⁹ D.11-12-018, at p. 71 (emphasis added).

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However, SCE provides that, “For SCE, this will be the approved Schedule CCA-SF fee of **\$1.54 per account** multiplied by the number of accounts for each ESP, as set forth in Attachment B hereto.”¹⁰ As no explanation is provided for this disparity SCE should be directed to utilize the lower number specified in the decision unless it can provide a persuasive rationale for its diversion from the Commission’s direction.

In the Draft Resolution to be issued in response to this advice letter, SCE should be directed to make the changes recommended above. Such changes would reflect the clear direction in D.11-12-018 and avoid any possible confusion that might be caused in the future for parties unfamiliar with the full regulatory history attendant to this issue. Furthermore, the recommended changes would not in any way predispose of issues that are to be considered in the next phase of R.07-05-025, as directed in D.11-12-018. The Joint Protestors thank the Energy Division for its attention to these requests.

Respectfully submitted,



Daniel W. Douglass
DOUGLASS & LIDDELL

Counsel for the
ALLIANCE FOR RETAIL ENERGY MARKETS
DIRECT ACCESS CUSTOMER COALITION
AND ON BEHALF OF THE JOINT PROTESTORS

cc: Edward Randolph, Director, Energy Division, Room 4004
Akbar Jazayeri, Vice President of Regulatory Operations - SCE
Leslie E. Starck, Senior Vice President, c/o Karyn Gansecki - SCE

¹⁰ SCE Advice letter, at p. 3 (emphasis added).