BEFORE THE PUBLIC UTILITIES COMMISSION OF THE

STATE OF CALIFORNIA

Order Instituting Rulemaking to Develop a Successor to Existing Net Energy Metering Tariffs Pursuant to Public Utilities Code Section 2827.1, and to Address Other Issues Related to Net Energy Metering.	Rulemaking 14-07-002
And Related Matter.	Application 16-07-015

RESPONSE OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) TO ABC SOLAR INCORPORATED'S MOTION TO RESTRICT THE NET-METERING YEAR TO 12 MONTHS AND ALLOW SOLAR PROVIDER COMMUNICATION WITH IOU UNTIL SUCCESSFUL BILLING SETUP UNDER NEM, AKA THE ONE YEAR IS 12 MONTHS MOTION

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Pursuant to Rule 11.1(e) of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission), Southern California Edison Company ("SCE") respectfully submits *this Response to ABC Solar Incorporated's Motion to Restrict the Net-Metering Year to 12 Months and Allow Solar Provider Communication with IOU Until Successful Billing Setup under NEM, AKA the One Year is 12 Months Motion* ("motion").

I.

INTRODUCTION

On February 17, 2021, Mr. Bradley Bartz, a.k.a. ABC Solar Incorporated, (hereinafter "Bartz"), filed what he styles as a motion but is in actuality an adjudicatory complaint seeking

injunctive relief, a procedure and remedy he has no standing to pursue, is not justified by evidence, and if granted, would, at least in part, violate the due process and privacy rights of absent but indispensable parties.[1] For the reasons discussed in greater detail below, the Commission should summarily deny the "motion" because motions are not the proper procedural vehicle for asserting adjudicatory complaints, the facts do not justify any tariff modifications or enforcement activity, Bartz lacks standing to bring a complaint based upon damage to individual customers, and the relief requested, access to private and confidential customer information without prior, written authorization from the customer is unlawful.

I.

RELEVANT BACKGROUND

As SCE explained in its December 28, 2020 response to the Administrative Law Judge's Ruling directing SCE to provide information regarding its Net Energy Metering (NEM) billing delays, in 2019 a billing system upgrade, faulty programming for Virtual NEM, and system miscommunications regarding "New Party In" billing resulted in system failures that created an unusual delay in billing new NEM customers as NEM accounts. All the affected NEM customers continued to enjoy the benefits of their systems. Despite the billing delays, affected customers continue to experience reduced energy bills by serving their own onsite load. During the billing delay, affected customers also accrued credits associated with generating and exporting excess energy. The only impact associated with the billing issues is a delay in those credits appearing on the customers' bills.

To help SCE's customers understand this issue, SCE sent letters and emails to customers affected by the billing system issue in November and December of 2019 notifying them that their account was affected, and that SCE was working diligently to correct the issue. Specifically, SCE sent emails and hard copy letters to residential NEM customers on November 21 and 25,

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[1] The "motion" is, in many respects, unintelligible. SCE's response is therefore based upon its understanding of what Bartz is trying to achieve based on the problem about which he complains.

2019, respectively, and to business NEM customers on December 6, 2019. SCE also provided a NEM Billing Issue Frequently Asked Questions document on its NEM page on SCE.com.[2]

In its online FAQs, SCE informed affected customers that SCE was working through a backlog of affected accounts and that because SCE did not have an estimate for when affected customers would receive their corrected bill, affected customers would continue to receive bills that did not reflect NEM credits. SCE assured those affected customers that when they received their corrected bill, that corrected bill would reflect their accrued credits. SCE also explained that customers billed on NEM have bills that look different from non-NEM customer bills. SCE's communications therefore told affected customers that they would know when they were being properly billed and outstanding credits, if any, were applied by the new appearance of their bill.

In addition to communicating with its customers, SCE also sends Energy Division a monthly report apprising the Commission of the progress SCE has made to rectify the system problem and deliver credits to customers.

SCE's December 28, 2020 response to the Ruling explained that SCE has, for the most part, rectified the problem and SCE expects to have remaining issues associated with non-routine backlogs resolved in 2021.

II.

THE BILLING DELAY DOES NOT WARRANT TARIFF CHANGES BECAUSE SCE'S TARIFFS AND INTERNAL POLICIES ADDRESS THE PROBLEM

Bartz's motion seems to demand a change to the Rule 21 tariff or some sort of enforcement action by the Commission. The billing delay at issue does not justify any changes to Rule 21, any other tariff, or any enforcement action by the Commission because SCE's tariffs and internal policies already address the issue and the Commission has consistently been performing its regulatory oversight duties with respect to these issues.

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[2] *See* https://www.sce.com/residential/generating-your-own-power/net-energy-metering#nem_faq

First, with respect to Rule 21, it governs interconnections, including those conducted for NEM customers' systems. Rule 21 does not apply post-Permission to Operate (PTO) and thus does not apply to retail electric service billing issues. Rule 21 already has strict timing requirements that govern the period between the customer's submission of its interconnection application and SCE's issuance of PTO. Specifically, under Rule 21, SCE has 30 working days from receiving the completed NEM package from the customer to complete interconnection and issue PTO. The Commission oversees SCE's compliance by requiring SCE to submit a quarterly report to the Energy Division on its compliance.[3]

As noted above, Rule 21 does not address billing. The billing matter at issue here is governed and fully addressed by SCE's internal policy. The policy to which SCE adheres is that if SCE does not immediately begin billing the customer upon PTO, regardless of how long it takes to start billing the customer, SCE retroactively rebills the customer starting no later than 45 days from receipt of the customer's completed Rule 21 package. The purpose of the policy is to prevent customers from experiencing actual financial harm arising out of a billing delay.

Bartz's motion asserts that "SCE needs to immediately inform every failed NEM billing account that is over 30 days past PTO." Setting aside that Bartz misrepresents the standard – which is not 30 days from PTO – SCE has already notified all affected customers that they will receive a corrected bill that reflects their accrued credits. SCE is unaware of any customers filing formal adjudicatory complaints with the Commission from the delay. That is likely the case because SCE is remedying the harm by repairing the billing system and making customers whole as of 45 days from receipt of the customers' completed Rule 21 packages, which must occur before SCE even issues PTO.

Bartz points to no evidence, such as letters or affidavits, that any of his clients have been damaged or have blamed him for the delay in receiving their credits or sought any redress from

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[3] The report is keyed to the date SCE issued PTO, not the date SCE received the completed package from the customer, but the report is designed to monitor SCE's compliance with the 30-working day Rule 21 requirement.

him. Instead, he speaks of such matters in generalities, such as "A POINT OF ORDER NEEDS TO BE EXPRESSED in regard to the zealous pursuit of fraud complaints from consumers against solar contractors. If SCE does not set up NEM billing correctly who do you think the consumer blames? The answer is ABC Solar in our case."[4] SCE is also unaware of any consumer complaints to the Contractor State Licensing Board relating to the billing delay. If Bartz is the subject of such a complaint, he should produce it. In the meantime, he has failed to prove a cognizable harm that warrants any tariff changes or enforcement activity.

In fact, the relief requested would not have prevented the billing delay about which Bartz complains. Even if there was a statute, regulation, or tariff that controlled the billing issue here, computer programs are indifferent to the presence of regulations governing the timing of events, and of course, despite best efforts, there is always the potential for human error. What Bartz's "motion" seems to demand is administrative and operational perfection, which is not reasonable or possible.[5]

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[4] Motion, p. 5.

[5] Bartz's history of unreasonable and histrionic conduct before the Commission and with SCE demonstrate that the assertions in his pleading lack credibility.

Bartz's pattern of unreasonably reactionary behavior is demonstrated by his persistent and vexatious filings in the above captioned matter that largely consist of unsupported *ad hominem* attacks against SCE, violations the *ex parte* rules, out of proportion responses to docket office filing requirements to which all parties are subject, and repeated attempts to obtain discovery about customers to which he is not entitled and for which he has no customer consent or authorization.

In addition to his conduct before the Commission, his behavior toward SCE employees has been so inappropriate that SCE notified its corporate security officers that Bartz may be a safety and security risk and requires employees to be accompanied by corporate security for any in-person interactions with Bartz.

Bartz's "motion's" emphasis on a two-minute filing delay in responding to the December 16, 2020 Ruling is a perfect example of his obsessive preoccupation with all matters involving SCE. Motion, p. 5. The Ruling reprimanded Bartz for his most recent attempt to communicate with a Commission decisionmaker in violation of the ex parte rules and directed SCE to address the content of his communication regarding a NEM billing delay by December 28, 2020, a date that fell in the middle of the winter holiday period when many employees were out of the office. SCE endeavored in good faith to provide the Commission with a timely response to its Ruling but found itself slightly delayed because it allowed a previously absent subject matter expert a last-minute opportunity to review the

Continued on the next page

He also may be seeking some form of enforcement action, but as noted above, the Commission has been regularly monitoring the issue. Specifically, SCE submits monthly reports to the Energy Division so Commission staff can assist the Commission in performing its oversight duties. As noted above, SCE has made considerable progress toward rectifying the problem and resolving the backlog, which is not routine, but rather an anomaly.[6]

III.

BARTZ IS NOT A REAL PARTY IN INTEREST WITH STANDING TO PURSUE THE REQUESTED RELIEF, WHICH IF GRANTED, WOULD VIOLATE THE DUE PROCESS RIGHTS OF ABSENT BUT INDISPENSIBLE PARTIES

As noted above, Bartz alleges no specific actual cognizable harm to him or a specific customer with whom he works. The harm, if any, caused by the billing delay is individualized and experienced by affected customers, not Bartz. Individualized discrete harms are properly the subject of formal complaint cases, not motions in rulemakings, which exist to develop rules widely affecting diverse interests and parties. Mr. Bartz is neither an aggrieved party nor a party authorized by customers to represent their interests. He therefore lacks standing to bring such a complaint, lawsuit, or this motion.

Moreover, one of the remedies Bartz seeks is access to customer information by requesting that the Commission "Grant this motion to allow Solar Providers to communicate with IOUs on behalf of our solar customers up and until NEM billing is set up properly."[7] SCE's

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filing for accuracy. The Commission reasonably agreed to accept the late filing, presumably because such a *de minimis* delay was not only understandable, but also caused no prejudice to parties or the Commission. No reasonable person would complain about a two-minute filing delay. A reasonable person would appreciate that SCE could have sought and likely obtained a short extension until after the New Year when subject matter experts were more available to participate in responding to the Ruling. Rather than afford itself of the opportunity to request an extension, SCE endeavored to timely comply – an act that does not deserve ire or criticism.

6 The Motion at page 3 asserts that a SCE employee told Bartz that a 14-month delay is "normal" but Bartz's assertions lack credibility for the reasons discussed in footnote 5, *supra*, and because, as the Commission likely knows, it is simply not the case that billing delays of this length are standard.

7 Motion, p. 7.

Commission-approved tariffs, including Rule 26, prevent SCE from communicating with third parties about customers without the customers' prior written authorization. It is very simple for third parties to obtain such consent. All they must do is ask for the customer's consent and obtain written authorization from the customer.[8] Bartz's request is therefore a solution in search of a problem. Indeed, Bartz has never provided SCE with any authorization from any customer to communicate about that customer after SCE has issued PTO.

Giving contractors the right to discuss specific customers with a utility without authorization from the customer not only violates numerous statutes, numerous Commission decisions, and tariffs,[9] but is also contrary to public policy because it does not resolve, but rather, as the Commission knows, creates consumer protection risks.

Perhaps most importantly, however, the Commission should deny this aspect of the motion because no individual SCE customer is a party to this "motion", much less to this proceeding. As a result, customers that could be affected by Bartz's request do not have notice or an opportunity to be heard on a matter affecting their privacy rights. Arguably, Bartz lacks standing to pursue any Complaint action or access to customer information without joining the customers about whom he wants information as a necessary party. This deprivation of due process alone should be fatal to the Motion.[10]

IV.

CONCLUSION

For the foregoing reasons, the Commission should summarily deny the "motion."

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[8] *See, e.g.*, https://www1.sce.com/nrc/tm2/PDF/14-929.pdf

[9] *See, e.g.*, Cal. Const., Art. I, Section 1 ("Each citizen has the right to privacy"); California Public Utilities Code §§ 8380, 394.4, 1798.81, 1798.81.5, 1798.82, 1798.83, 1798.84 and 1798.85; CPUC GO-66; D. 90-12-121, D.97-05-040, D.97-10-031, D.11-07-056; D.14-06-016; SCE Tariff Rules 9, 22, Schedule CCA-INFO, 25 (governing the protection of the privacy and security of customer information), and 26 (governing the release of customer data to third parties).

[10] Cal. Const. Art. XII, § 2 (providing the Commission can establish its own procedures subject to statute and due process).

Respectfully submitted,

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