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July 11, 2008

California Energy Commission
Docket Office
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512

Re: **Dockets 08-IEP-1/03-RPS-1078 - 2009 IEPR Feed-In Tariffs**

Dear Docket Office:

Southern California Edison Company appreciates the opportunity to submit **COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) FOR STAFF WORKSHOP ON RENEWABLE ENERGY "FEED-IN" TARIFFS** to the Renewable Energy "Feed-In" Tariffs Workshop held June 30, 2008.

Should you have any questions, please do not hesitate to contact me at (626) 302-6210.

Very truly yours,

/s/ Joni Templeton

Joni Templeton

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BEFORE THE CALIFORNIA ENERGY COMMISSION

Preparation of the *2008 Integrated Energy Policy Report Update* and the *2009 Integrated Energy Policy Report*	)	Docket 08-IEP-1
And	)	
Implementation of Renewables Portfolio Standard Legislation	)	Docket No. 03-RPS-1078 RPS Proceeding

COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) FOR STAFF WORKSHOP ON RENEWABLE ENERGY "FEED-IN" TARIFFS

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COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) FOR STAFF WORKSHOP ON RENEWABLE ENERGY "FEED-IN" TARIFFS

Pursuant to the Notice of Staff Workshop: Renewable Energy "Feed-In" Tariffs ("Notice") issued June 20, 2008 in this proceeding, Southern California Edison Company ("SCE") respectfully submits these comments for **2009 IEPR – Feed-In Tariffs** responding to the questions set forth in Attachment A to the Notice.

I.

OVERVIEW

The 2007 Integrated Energy Policy Report ("IEPR") recommended both near-term and long-term strategies to reach the state's renewable energy goals. The purpose of the initial staff workshop is to gather stakeholder feedback regarding the possible expanded implementation of feed-in tariffs based on policy recommendations from the 2007 IEPR, which stated that the California Energy Commission ("Energy Commission") should begin a collaborative process with the California Public Utilities Commission ("CPUC") to develop feed-in tariffs for larger projects. SCE appreciates the opportunity to express its views in response to the questions outlined in Attachment A to the Notice.

II.

INTRODUCTION

The key policy objectives for creating an expanded feed-in tariff in California have yet to be clearly defined. While these objectives remain uncertain, it is premature to expand the scope of California's current tariff/standard contract program. The existing tariff has not been available long enough to collect relevant information regarding participation levels, market impacts, or program effectiveness. In addition, an expansion of the tariff/standard contract opportunity would directly conflict with the successful and robust Renewables Portfolio Standard ("RPS") solicitation process which has yielded successful, long-term contracts that are beneficial to the buyer, seller, and SCE's customers, and have minimal impact to retail energy rates.

A tariff/standard contract program will not bring renewables on-line more quickly or address the major barriers and risk factors to delivering renewable energy. SCE recommends that the Energy Commission assist and encourage electrical corporations to develop voluntary programs that meet their business objectives and specific market needs, rather than enforcing a "must-take" purchase obligation that may or may not be in the best interest of SCE's portfolio or customers, or California as a whole.

III.

COMMENTS IN RESPONSE TO QUESTIONS FOR STAFF WORKSHOP ON RENEWABLE ENERGY "FEED-IN" TARIFFS

Listed below are the questions set forth in the Notice followed by SCE's responses.

A. What Are The Key Policy Objectives For A Feed-In-Tariff In California?

The key policy objectives for creating an expanded feed-in tariff in California have yet to be clearly defined. While these objectives remain uncertain, it is premature to expand the scope of California's current tariff/standard contract program. One of the objectives of an expanded

feed-in tariff program is undoubtedly to encourage greater use of renewable resources and help California meets its RPS goals. It is uncertain whether an expanded feed-in tariff is the best method to meet this objective. For example, an increase in the size of eligible projects will not address the significant problems regarding grid infrastructure or existing transmission constraints within the state that hamper access to and integration of renewable generation resources. An expanded program will not accelerate the interconnection process or reduce the lengthy procedures for siting, permitting and building new transmission. Resolution of such issues is critical to the success of the RPS program.

Another objective in creating an expanded feed-in tariff must be to provide renewable energy to California efficiently with the least cost to ratepayers. It is not in California's best interests to seek renewable energy at all costs. An expansion of the current tariff/standard contract opportunity would directly conflict with the successful and robust RPS solicitation process, which has yielded successful, long-term contracts that are beneficial to the buyer, seller, and SCE's customers, and have minimal impact to retail energy rates.

An expansion of the feed-in tariff should not occur until clear objectives for the program are established and considered.

1. **Should Feed-In-Tariffs Be Expanded Or Limited To Projects 20 MW Or Less?**

As set forth above, the maximum size for eligible projects under the feed-in tariff should remain at the 1.5 megawatts ("MW") provided in Assembly Bill ("AB") 1969, codified at California Public Utilities Code Section 399.20. The tariff's current limitation on project size is appropriate because it provides small generators with an opportunity to contribute to RPS goals but does not interfere or compete with the RPS solicitation process (which requires bids of no less than 1.5 MW). Because 1.5 MW projects are able to interconnect at a distribution level, this size limitation also avoids the costs, processes, and barriers associated with interconnection at the transmission level.

It is premature to consider increasing the eligibility size given that the existing tariff has not been available long enough to collect relevant information regarding participation levels, market impacts, or program effectiveness. Electrical corporations with current tariffs/standard contract programs should be allowed to first gain experience with actual projects before any increase to the size limitation. Accordingly, the tariff/standard contract program should continue to focus on smaller renewable projects of 1.5 MW or less.

2. **What Are The Barriers To Renewable Resource Development That Have Led To Delay Or Project Failure Of RPS Contracts That Feed-In Tariffs May Overcome?**

An expansion of the tariff/standard contract program will not bring renewables on-line more quickly or address the major barriers and risk factors to delivering renewable energy. As identified in the Commission's quarterly report to the state legislature regarding progress toward RPS goals,[1] the problems facing development of RPS projects are related to investment tax credit and production tax credit uncertainty, lack of transmission, and the lengthy process of siting, permitting and building new transmission. A feed-in tariff does not address these major issues.

3. **What Are The Costs And Benefits Associated With Feed-In Tariffs For Larger Projects From The Administrator, Ratepayer, And Societal Perspective?**

As defined, a feed-in tariff would explicitly fix the rate at which a utility would be required to purchase wholesale power. In general, regulation of wholesale power purchases falls within the exclusive jurisdiction of the Federal Energy Regulatory Commission ("FERC"). The Public Utilities Regulatory Policies Act ("PURPA") amended the Federal Power Act by requiring electric utilities to purchase wholesale power from Qualifying Facilities ("QF") and by

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[1] Renewables Portfolio Standard Quarterly Report, April 2008, at p. 5.

delegating to the states limited jurisdiction to implement PURPA in accordance with FERC regulations adopted pursuant to PURPA.

PURPA and FERC's regulations implementing PURPA provide that utilities can only be compelled to purchase power from QFs at the utility's avoided cost or be approved by FERC as a market-based rate for generators with market-based rate authority. Therefore, a feed-in tariff offered in California must either be offered at the utility's avoided cost or at a FERC-approved market-based rate. It is unclear how any expanded feed-in tariff program would plan to address this issue.

As discussed above, an expansion of the current tariff/standard contract opportunity would directly conflict with the successful and robust RPS solicitation process, which has yielded successful, long-term contracts that are beneficial to the buyer, seller, and SCE's customers, and have minimal impact to retail energy rates. In addition, by increasing the size of eligible projects, the number of contracts could significantly increase without the benefit of a commensurate amount of increased energy. By keeping projects over 1.5 MW in the RPS process, this additional administrative burden is eliminated. It will be detrimental to both ratepayers and California as a whole to hamper the success of the RPS solicitation process.

4. Could Feed-In-Tariffs Help Increase The Mix Of Renewable Energy Resources In California And Thereby Have A Dampening Effect On Electricity Price Fluctuations?

It is doubtful whether feed-in tariffs will help increase the mix of renewable resources in California in a way that would reduce electricity price fluctuations at this time. As discussed above, the feed-in tariff program will not bring renewables on-line more quickly or address the major barriers and risk factors to delivering renewable energy. Without a resolution to those urgent issues, any significant reduction in renewable energy cost is unlikely. In any event, it is premature to attempt to predict what effect, if any, a feed-in tariff program will have on the cost of renewable energy. After electrical corporations with current tariffs/standard contract

programs are allowed to gain experience with actual projects, it will be appropriate to reconsider this issue.

5. **Are Feed-In-Tariffs Supported By The Same Guiding Principles Used To Develop the Same RPS Procurement Process?**

A feed-in tariff does not operate under the same principle used to develop the RPS procurement process. A feed-in tariff does not allow for the market to compete in terms of pricing, technology, and development. The RPS procurement process requires the utilities to conduct annual competitive solicitations and to select renewables resources based on criteria for the rank ordering and selection of least-cost, best-fit resources.[2] Each year the investor-owned utilities ("IOU") submit a procurement plan and detailed description of the methodology to evaluate project proposals. Public comments are made on this methodology and following approval by the CPUC, the IOUs initiate the RPS solicitation. Development of any feed-in tariff eliminates the competitive procurement process entirely and instead imposes a mandatory purchase obligation for the IOUs to take any and all types of renewable generation regardless of the least-cost, best-fit analysis.

6. **Can Feed-In Tariffs Be Designed To Bring Down Costs Over Time And Limit Ratepayer Exposure?**

It is premature to attempt to predict what effect, if any, a feed-in tariff program will have on the cost of renewable energy. After electrical corporations with current tariffs/standard contract programs are allowed to gain experience with actual projects, it will be appropriate to reconsider this issue.

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[2] Least-cost best-fit criteria are developed in D.04-07-029.

B. What Are The Key Feed-In-Tariff Design Issues?

Before considering a feed-in tariff for larger generators, the goals and objectives should be clearly defined. An increase in the size of eligible projects will not address the significant problems regarding grid infrastructure or existing transmission constraints within the state that hamper access to renewable generation resources. An expanded program will not accelerate the interconnection process or reduce the lengthy procedures for siting, permitting and building new transmission. Resolution of such issues is critical to the success of the RPS program.

1. How Should Feed-In Tariffs Be Designed To Effectively Support California's RPS Programs And RETI?

SCE urges the Energy Commission to assist and encourage electrical corporations to develop voluntary programs that both meet their business objectives and address particular market needs. For example, as set forth in the Notice, SCE voluntarily created its Standard Biomass Program to help smaller biomass facilities contribute to California's renewable energy program in the absence of a program to meet that market need. Through this program, biomass generating facilities of 20 MW or less can already apply for contract terms of up to 20 years. Encouraging electrical corporations to continue developing this type of voluntary program would allow the Energy Commission and the CPUC to expend its efforts on larger, more urgent issues associated with transmission development in California.

2. Should Feed-In Tariffs Be Differentiated By Selected Technologies Or Size?

Feed-in tariffs can be differentiated to meet the stated objectives once they are clearly defined. Feed-in tariffs in Spain and Germany are designed with several goals in mind, including development of specific technologies, emerging technologies and to encourage growth and construction in specific geographic locations. In California, should any tariffs be developed, they must be differentiated based on size with different performance standards. If a feed-in tariff is designed for a specific technology, the grid impacts should be considered. For example,

targeting a feed-in tariff to intermittent technologies like wind or solar may pose serious threats to grid reliability if the system is not prepared to handle a high level of intermittent deliveries from a specific technology.

3. What Levels Of Resource Potential, And/Or Operational Characteristics Should Be Considered In Determining Feed-In Tariffs?

Performance standards, efficiencies, and delivery caps should be considered in the design of any feed-in tariff. Sustainability is an issue, and with any generation it is important to consider designs that will prevent investment from being made and abandoned, or not properly maintained. In India, for example, many wind plants were not maintained or repaired resulting in minimal production of electricity as compared to capacity.[3] Similar situations have occurred because wind locations in California that were developed as a result of the Standard Offer program in the 1980s have not been adequately maintained. Accordingly, it is clear that sustainability is a key factor to ensure success of a feed-in tariff, regardless of the objective. Performance standards and contractual obligations to maintain equipment and systems help to assure such sustainability.

Preventing oversubscription also needs to be considered. While the early implementation of PURPA generated a large volume of projects in a short period of time, the result was oversubscription of projects through Standard Offer contracts at above market prices, some of which SCE is still paying for today.

4. Should Feed-In Tariffs Be Differentiated By Geographical Location, Or Just By An In-State Or Out-Of-State Designation?

Feed-in tariffs can be flexible and focused on meeting specific objectives. The key is to clearly define those objectives. Differentiating a tariff by geographic location, however, runs the

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[3] *See Review of International Experience Integrating Variable Renewable Energy Generation*, Appendix C: India, April 2007 CEC-500-2007-029-APC.

risk of oversubscription or oversaturation of that area. Limitations would need to be in place to prevent such a result.

5. How Should Costs Be Distributed?

To the extent costs are incurred to promote a state-wide policy for the benefit of all customers, costs should be borne by all ratepayers through charges at the distribution system. This is especially a concern under a feed-in tariff scheme where one utility might bear a disproportionate share of renewable costs due to the location of eligible renewable resources. A broader use of feed-in tariffs may necessitate the use of a cost allocation mechanism to ensure that all ratepayers share equally in the costs to achieve societal goals.

This equity component is a critical part of other systems which employ feed-in tariffs. For example, in Germany, costs for feed-in tariffs are not limited to a subsection of electricity customers. All electricity customers share in the costs of providing such service through the attachment of the costs to transmission service. Ensuring that all electricity consumers are responsible for the costs of an expanded tariff/standard contract program will protect customers (like SCE's ratepayers) who take electricity from an IOU located in an area with the largest technical potential for renewable generation. Forcing such ratepayers to alone bear the burden of subsidizing increased generation from larger facilities would be unfair. Costs should be equalized across all electric users who benefit; otherwise, the customers of IOUs in renewable rich areas will disproportionately bear the costs.

6. Should Feed-In Tariffs Replace The Current MPR Plus "Above Market Funds" (AMFs) To Support The RPS?

Feed-in tariffs should not replace AMFS. AMFs are designed to cover the costs of renewable contracts above the market price referent ("MPR"). AMFs are intended to continue meaningful ratepayer protections by limiting the total costs of meeting the renewable energy goals established pursuant to California Public Utilities Code Section 399.11. Creating a feed-in

tariff would inadvertently establish MPR as a price floor and eliminate the cost protections established through SB 1036.[4]

7. How Could AMFs And Feed-In Tariffs Work Together?

AMFs and feed-in tariffs cannot work together. For contracts to be eligible for AMFs, contracts must be selected through a competitive solicitation and approved by the CPUC.[5]

8. The RETI Is Working On Transmission Corridor Planning For Competitive Renewable Energy Zones. How Should Feed-In Tariffs Be Designed To Contain Costs And Encourage Renewable Energy Development In Competitive Renewable Energy Zones?

A feed-in tariff could be designed with specific objectives in mind (i.e., spur development in certain areas, stimulate growth and construction in untapped renewable rich areas, or encourage commercialization of emerging technologies). This design does not address the fact that transmission still needs to be built. The focus should remain on expediting the permitting, siting, and construction process before encouraging generators and developers to build renewable plants in the area.

C. What Are The Key Feed-In-Tariff Implementation Issues?

The key to implementation is to recognize that all situations and technologies are different. Offering standard terms and conditions under a feed-in tariff scheme does not recognize these individual differences. While implementation of a feed-in tariff would provide standard terms and pricing mechanisms that everyone understands, they are ultimately inflexible and do not allow for market fluctuations in price.

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[4] Senate Bill 1036 reforms elements of the RPS program relating to cost containment.
[5] California Public Utilities Code § 399.15(d)(2).

1. **What Is The Proper Implementation Structure for Feed-In Tariffs For Generators Larger Than 20 MW?**

The proper structure is to retain the competitive solicitation process and allow the market to bid projects competitively. Contracts negotiated out of the bid process are rarely "standard offer contracts" with terms and conditions applicable to all, especially those projects over 20 MW. Larger generators require very specific and customized contract language that meets the needs of their individual project, and typically go through significant negotiations before a contract is executed. These negotiations ensure the terms and conditions are beneficial for the buyer, seller, and IOU customers.

2. **How Should Feed-In Tariffs Be Administered?**

If an administratively priced "must-take" program is implemented on behalf of California, the costs of the program should be captured administratively through taxes or charges at the distribution system.

3. **How Should Feed-In Tariffs Be Adjusted To Match Supply And Demand?**

Any tariff designed for California should be based on the specific goals of the State (emissions reductions, growth of emerging technologies, opportunities for small power producers, etc.) and coupled, as necessary, with other incentives or appropriate mechanisms that provide benefits to both the buyer and the seller, and ensure the CAISO can maintain safe and reliable grid operations.

4. **How Should Feed-In Tariffs Be Linked To Statewide RPS Targets?**

To the extent feed-in tariffs are necessary, all resulting renewable credits and emission performance benefits should be held by the utility for the benefit of the customers paying for the power. The IOUs should be encouraged to develop programs that meet their specific business objectives and portfolio mix to best achieve the state's environmental and renewable targets.

5. What Current State And Federal Legislation May Affect Development Of A Feed-In Tariff For Generators Larger Than 20 MW?

It is unclear whether an expansion of the existing feed-in tariff program without FERC approval is consistent with federal law. As defined, a feed-in tariff would explicitly fix the rate at which a utility would be required to purchase wholesale power. In general, regulation of wholesale power purchases falls within the exclusive jurisdiction of FERC. PURPA amended the Federal Power Act by requiring electric utilities to purchase wholesale power from QFs and by delegating to the states limited jurisdiction to implement PURPA in accordance with FERC regulations adopted pursuant to PURPA.

PURPA and FERC's regulations implementing PURPA provide that utilities can only be compelled to purchase power from QFs at the utility's avoided cost or be approved by FERC as a market-based rate for generators with market-based rate authority. Therefore, a feed-in tariff offered in California must either be offered at the utility's avoided cost or at a FERC-approved market-based rate. It is unclear how any expanded feed-in tariff program would plan to address this issue.

Also, the RPS legislation requires IOUs to conduct competitive solicitations for renewable projects[6]. IOUs are required to follow a Commission defined least-cost-best-fit evaluation in selecting renewable projects. A feed-in tariff would directly compete with this requirement.

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[6] California Public Utilities Code § 399.14.

IV.

CONCLUSION

For the foregoing reasons, SCE respectfully requests that the Energy Commission incorporates the above recommendations into its final report.

Respectfully submitted,

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July 11, 2008

CERTIFICATE OF SERVICE

I hereby certify that, pursuant to the Commission's Rules of Practice and Procedure, I have this day served a true copy of COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) FOR STAFF WORKSHOP ON RENEWABLE ENERGY "FEED-IN" TARIFFS on all parties identified on the attached service list(s). Service was effected by one or more means indicated below:

Transmitting the copies via e-mail to all parties who have provided an e-mail address. First class mail will be used if electronic service cannot be effectuated.

Executed this **11th day of July, 2008**, at Rosemead, California.

Alejandra Arzola
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