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May 18, 2017

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City of Fresno
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CITY CLERK, FRESNO CA

Via electronic and U.S. Mail

Re: Resolution To Comply with Section 66015 of the California Government Code

Dear Members of the Fresno City Council:

I write on behalf of SolarCity Corporation (SolarCity) in opposition to the resolution making findings to allegedly comply with Section 66015 of the California Government Code relating to building permit fees for residential rooftop solar energy systems (Resolution). The Resolution does not bring the City's solar permitting fees into compliance with State law. SolarCity asks that the City Council reject the Resolution and instead adopt a resolution establishing the solar permitting fee caps set by Senate Bill (SB) 1222. Importantly, the Resolution sends the wrong message by discouraging residents, particularly lower income families, from adopting clean energy solutions and undermines the City's leadership on lowering greenhouse gas emissions while encouraging the growth of green jobs and economic development.

Solar adoption has seen significant growth in the City of Fresno over the past several years, and the City has set ambitious goals to ensure its residents have access to affordable solar power. For instance, the City's "Power the Tower" action plan aims to transform the Tower District into a 100% clean energy community. The City of Fresno has also recently been designated a Transformative Climate Community under Assembly Bill 2722, with the goals of reducing greenhouse gas emissions, improving public health, and expanding economic opportunities.¹ SolarCity and the solar industry stand at the ready as willing partners towards these ends, but the City must adopt consistent and complementary policies, including permit fees that comply with State standards, to encourage the innovation and job creation necessary to achieve these goals.

SB 1222 requires that residential solar permitting fees not exceed \$500 plus \$15 per kilowatt (kW) for each kW above 15 kW.² In order to charge fees that exceed these limits, a city is required to provide "substantial evidence of the reasonable cost to issue the permit,"³ and adopt the following specific written findings:

¹ See California Strategic Growth Council, Transformative Climate Communities Program, Revised Draft Scoping Guidelines, at p. 3, available at <http://sgc.ca.gov/resource%20files/20170209-RevisedDraftScopingGuidelines-TCC.pdf>.

² Cal. Gov. Code § 66015(a)(1).

³ Cal. Gov. Code § 66015(a)(2).

- A determination that the municipality has adopted appropriate ordinances, permit fees, and processes to streamline the submittal and approval of permits for solar energy systems pursuant to the practices and policies in state guidelines and model ordinances.
- A calculation related to the administrative cost of issuing a solar rooftop permit.
- A description of how the higher fee will result in a quick and streamlined approval process.⁴

While the Resolution makes these findings, the Master Fee Schedule on which the Resolution is based was adopted in 2011, nearly a year before the passage of SB 1222.⁵ As a result, it was not possible for the City to foresee SB 1222's requirements when it commissioned the study establishing the current Master Fee Schedule. It is therefore inaccurate to claim that the Fee Schedule, especially without any revision, complies with SB 1222.

Moreover, the cost estimations for the 2011 Fee Schedule were based on costs per solar installation during a time when a much lower volume of solar installations was occurring in the City of Fresno. Since then, City inspectors have had six years to gain experience with rooftop solar and familiarize themselves with the region's leading solar contractors, who have installed thousands of systems in the City over that period. Installers have also been able to use that time to familiarize themselves with the City's permitting requirements and become more efficient in their interactions with City officials.

Although the 2011 Fee Schedule was slated to be reevaluated after three years, no such reevaluation has occurred.⁶ As a result, the estimations of the administrative costs for permitting solar energy systems contained in the Master Fee Schedule are out of date and inaccurate. Rather than rectify these inaccuracies, the Resolution would legitimize the outdated Master Fee Schedule by inaccurately stating, without "substantial evidence," that the fees charged for solar permits reflect the administrative costs of permitting those systems and will result in a quick and streamlined approval process.

As SolarCity's experience has shown, the fees set by the 2011 Master Fee Schedule have not yielded a streamlined permitting process. The process suffers from a number of deficiencies in violation of City ordinances and State law. For instance, the City mandates that electronic submission of permit applications be available via FAX, email or internet in compliance with State law, yet no such option is given to applicants by the Development and Resource Management Department.⁷ State law also requires that a checklist be made available online for applicants to determine if they qualify for expedited permit review, and that this checklist guide the application review process.⁸ While the City does have such a checklist, it is not available

⁴ Cal. Gov. Code § 66015(c).

⁵ See Ordinance No. 2011-226 (adopted Nov. 3, 2011); SB 1222 (approved by the Governor Sep. 27, 2012).

⁶ See Ordinance No. 2011-226, at p. 3.

⁷ See Cal. Gov. Code § 65850.5(g)(2); Ordinance No. 2015-26 (as codified in Fresno Municipal Code § 11-111(a)(1), (b)(1)).

⁸ Cal. Gov. Code § 65850.5(g).

online and has not been used to streamline the permit review process. Additionally, the City requires that residential solar permit applications subject to expedited permitting be processed within three days.⁹ However, in SolarCity's experience, this timeline is frequently exceeded. As a result of these deficiencies, the Resolution is legally deficient when stating that "The City has adopted appropriate ordinances, permit fees, and processes to streamline the submittal and approval of permits for solar energy systems," or that the higher fees charged under the 2011 Master Fee Schedule have resulted in a quick and streamlined approval process.¹⁰

Excessive solar permit fees and an inefficient permit approval process can have a pronounced impact on the ability of residents to install solar, and on installers' ability to provide timely and affordable service to their customers. As a result, the present fees levied by the City are inconsistent with and do not promote the City's clean energy and climate goals. SolarCity therefore respectfully requests the City Council reject this Resolution and instead requests that the City adopt a resolution establishing the permit fee cap under SB 1222.

Respectfully submitted,

/s/ Sam Harvey

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⁹ Ordinance No. 2015-26 (as codified in Fresno Municipal Code § 11-111(a)(3)).

¹⁰ Resolution making findings to comply with Section 66015 of the California Government Code relating to permits for residential rooftop solar energy systems, at p. 1.