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11-09-10

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding Policies, Procedures and Rules for the California Solar Initiative, the Self-Generation Incentive Program and Other Distributed Generation Issues.

Rulemaking 10-05-004
(Filed May 6, 2010)

**SCOPING MEMO AND RULING OF ASSIGNED
COMMISSIONER AND ADMINISTRATIVE LAW JUDGES,
AND REQUEST FOR COMMENT ON PHASE I ISSUES**

Summary

This ruling defines the scope of the proceeding, sets forth the procedural schedule, assigns the principal hearing officers, and finalizes the categorization of this proceeding. This ruling is issued pursuant to Rule 7.3 of the Commission's Rules of Practice and Procedure (Rules) and follows a prehearing conference (PHC) held on August 12, 2010.

This ruling also requests parties file opening comments on Phase I issues by December 6, 2010 and reply comments by December 20, 2010.

Background

In Rulemaking (R.) 10-05-004, the Commission initiated a new rulemaking to continue the work from R.08-03-008 to develop and refine policies, rules and programs for the California Solar Initiative (CSI), the Self-Generation Incentive Program (SGIP), and distributed generation (DG) issues generally. We will refer to this rulemaking as the "CSI/DG OIR." It has evolved from and builds on the work in several prior Commission rulemakings dedicated to stimulating

development of DG projects and technologies by providing financial and other incentives to project developers.¹

Role of California Energy Commission

In the Commission's prior DG rulemakings, most recently R.08-03-008, the California Energy Commission (CEC) staff participated as collaborative State Agency staff. CEC staff will continue to act in a collaborative role in this proceeding. Part of this collaborative role may include the CEC staff providing written comments, proposals, or "white papers" to the assigned Commissioner or Administrative Law Judges (ALJs) in this proceeding.

Scope and Schedule of the Proceeding

The preliminary scoping memo contained in R.10-05-004 issued by the Commission on May 12, 2010, describes three broad categories of issues that will be addressed in this proceeding. These three categories are:

- Ongoing review, evaluation, and consideration of modification to policies and program rules for CSI and its many sub-programs including, but not limited to, the general market CSI program, the Single Family Affordable Solar Housing (SASH), the Multifamily Affordable Solar Housing (MASH) Program, the CSI Research, Development, and Demonstration (RD&D) Program, and the CSI Thermal Program that provides solar water heating incentives. As part of the CSI Thermal Program, the Commission will work towards development of a low-income solar water heating incentive program.
- Ongoing review, evaluation, and consideration of modification to the SGIP with emphasis on consideration of potential modification to SGIP to comply with Senate Bill (SB) 412.²

¹ See the text of R.10-05-004 for further background on the Commission's prior DG rulemakings.

- Ongoing review, evaluation and consideration of DG policy issues generally, with a particular emphasis on DG on the customer-side of the meter, including not but limited to net energy metering policies, DG interconnection issues, and Rule 21 utility interconnection tariffs.

This ruling affirms these three broad categories of issues as the scope of work in this proceeding, and further refines the process we will use to address these issues.

In a July 26, 2010 ruling, parties were asked to review a proposal by the Commission's Energy Division Staff containing suggested modifications to the CSI program (CSI Staff Proposal)³ and to recommend prioritization of the proposals contained in the CSI Staff Proposal in advance of a PHC on August 12, 2010. The ruling clarified that parties would receive a chance to file substantive comments on the recommendations in the CSI Staff Proposal at a later date. At the August 12, 2010 PHC, and in statements filed in advance of the PHC, parties discussed the relative priorities of CSI, SGIP and DG issues, as well as additional subjects the Commission might want to consider within the scope of this proceeding.

Subsequently, in a ruling issued on September 30, 2010, the Commission asked parties to comment on a separate staff proposal regarding proposed modifications to SGIP to comply with SB 412 (SGIP Staff Proposal).⁴ According

² Stats. 2009, Ch. 182.

³ The CSI Staff Proposal can be found at:
<http://docs.cpuc.ca.gov/efile/RULINGS/121093.pdf>.

⁴ The SGIP Staff Proposal can be found at:
<http://docs.cpuc.ca.gov/efile/RULINGS/124214.pdf>.

to that ruling, comments on the SGIP Staff Proposal are due no later than November 14, 2010⁵ and reply comments no later than December 1, 2010.

We now set forth our schedule for addressing these two staff proposals as well as other items contained within the three categories listed above. We will divide the work in this rulemaking into three phases as discussed below.

Phase I

Phase I issues will be taken up immediately with the goal of a decision on these issues in the first quarter of 2011. The issue areas in Phase 1 will be:

- SGIP Modifications

The Commission will consider modifications to SGIP to comply with SB 412, as identified in the SGIP Staff Proposal, per the comment dates already established in the September 30, 2010 ruling.

- CSI Modifications/High Priority issues

The Commission will consider recommendations in the CSI Staff Proposal that correspond to the sections identified below as high priority items. Parties' comments should refer to the section number in the Staff Proposal to facilitate review of the comments. Section numbers of the CSI Staff Proposal not listed below will be taken up in Phases II or III at a later date, and subsequent rulings will provide a schedule for filing comments on Phase II and III issues. Parties may file comments on the Phase I issues listed below no later than December 6, 2010, and reply comments no later than December 20, 2010.

⁵ As November 14 is a Sunday, comments may be filed no later than Monday, November 15, 2010.

CSI Modifications/Phase I Issues	Section in CSI Staff Proposal
Service Delivery Point as the Boundary of Eligibility for Virtual Net Metering (VNM) Service	2.2
Expansion of VNM to all Customers	2.3
Expansion of VNM to all Affordable Housing Customers	2.4
Create Bill Credit Transfer Tariff Option for All Multitenant buildings and Modify CSI Sized to Load Restrictions	2.5
Application Processing Timelines	3.1
Project Completion Time Requirements	3.2
Project Inspections Process	3.3
Performance Monitoring and Reporting Service (PMRS) Cost Cap Exemption for Expected Performance Based Buydown (EPBB) Systems	3.4
Administrative Budgets	3.6
EPBB Calculator Integration with Powerclerk	3.8
Payment Intervals for Performance Based Incentive Payments	3.9
Total Measurement and Evaluation (M&E) Budget	4.2
M&E Related Metering Expenses	4.6
Goal of Long-Term M&O Plan	5.2
Annual M&O Plans	5.3
Marketing and Outreach (M&O) Budgeting	5.4
Authorized M&O Activities	5.5
CSI Required Messaging and Branding	5.6

SASH Design Factor Requirement	6.3
SASH Inspections	6.4
Increasing Incentives Available for Sold Out MASH Track 1	6.6
Two year Occupancy Requirement for Eligibility for MASH	6.7
Electric Program Rate Collections	7.1

In addition, Pacific Gas and Electric Company (PG&E) suggests that Phase I should address the budget for incentives to electric displacing solar thermal technologies, because according to Decision (D.) 10-01-022, these funds will come from Step 10 of the General Market CSI program. We agree and will include review of the CSI Thermal Electric Displacing Program Budget to address concerns the budget may be insufficient to meet program goals. Parties may comment on this along with their comments on the Phase I CSI Staff Proposal comments on December 6 and December 20.

Phase II

Phase II will commence following resolution of Phase I issues, with the goal of a decision on Phase II issues in the second or third quarter of 2011. A future ALJ ruling will set deadlines for parties to comment on recommendations in the following sections of the CSI Staff Proposal:

CSI Modifications/Phase II Issue Areas	Section in CSI Staff Proposal
Net Energy Metering Billing Costs and Billing Simplification	2.6
Program Administrator Reporting Requirements	3.5
Design Factor for Calculating Payment to EPBB Projects	3.7
Coordination of CSI Program Application Process with Utility Interconnection Application	3.12
Public Reporting via California Solar Statistics	3.13
Tax Exempt Documentation for Non-Profit Agencies	3.14
M&E Plan Annual Review	4.3
M&E Expenditures and Reimbursement Requirement	4.4
Scope of CSI M&E Studies	4.5
SASH Program Manager Contract Administration	6.5
Megawatt Goals of MASH and SASH Solar Programs	6.8

Phase II will also address the following issues raised by PG&E and the Solar Alliance in their PHC statements:

- Consideration of incentives for non-solar water heating thermal technologies that displace gas usage and meet all other program requirements, as described in D.10-01-022.
- Designing a CSI Thermal Low Income Program, as described in D.10-01-022.
- Consideration of Rule 21 process improvements
- Assess whether to allow power purchase agreement (PPA) providers to receive SASH program incentives.

Phase III

Phase III will be taken up following Phase II, with the goal of a decision by the fourth quarter of 2011, or first quarter of 2012. A future ALJ ruling will set

deadlines for parties to comment on recommendations in the following sections of the CSI Staff Proposal:

CSI Modifications/Phase III Issue Areas	Section in CSI Staff Proposal
Eligibility of Multiple EPBB Projects	3.10
Revising the Application Processing Program Application Database and Confidentiality	3.11
Warranty Requirements	3.15
5 Percent Metering Accuracy Standards for PMRS Meters	3.16
SASH Workforce Development Benefit	6.2
Gas Program Rate Collections	7.2
Allocation of Solar Hot Water Pilot Program Budget	7.3
Rounding Error in Utility Share of CSI Costs Table	7.4

Issues not within scope

In addition to the items in the SGIP and CSI Staff Proposals, parties suggested the Commission consider a few additional issues in this rulemaking. Southern California Edison Company (SCE) suggests that we modify residential incentive levels in the CSI. Michael Kyes suggests the Commission consider the elimination of performance-based incentives. We decline to undertake review of these items at this time because, as stated in D.10-09-046, the CSI program has seen high levels of program participation and rapid reductions in incentive levels. (D.10-09-046 at 4.) Table 2 in D.10-09-046, as well as recent information from CSI program administrators,⁶ indicates the CSI program is in its latter steps.

⁶ See www.csi-trigger.com.

We will not revise residential incentives levels at this late stage of the CSI program. In addition, D.10-09-046 considered and rejected a proposal to reduce PBI payments. Therefore, we will not address that issue again here.

PG&E suggests we create a solar feed-in tariff and review utility solar tariffs. We decline PG&E’s suggestions because rate design for customers with solar facilities, such as customers on net energy metering tariffs, is best approached in each utility’s general rate case. Feed-in tariff issues are already under consideration by the Commission in separate rulemakings, such as R.08-08-009, and we will not address them here as well.

Summary of Proceeding Schedule

To summarize, the schedule of the proceeding will be as follows:

<p>Phase I: SGIP Modifications</p> <ul style="list-style-type: none"> • Comments Due • Reply Comments Due • Proposed Decision 	<ul style="list-style-type: none"> • November 15, 2010 • December 1, 2010 • Goal of first quarter 2011
<p>Phase I: CSI Modifications</p> <ul style="list-style-type: none"> • Comments Due • Reply Comments Due • Proposed Decision 	<ul style="list-style-type: none"> • December 6, 2010 • December 20, 2010 • Goal of first quarter 2011
<p>Phase II Issues</p> <ul style="list-style-type: none"> • Ruling requesting comments • Proposed Decision 	<ul style="list-style-type: none"> • To be determined upon conclusion of Phase I • Goal of second or third quarter of 2011
<p>Phase III Issues</p> <ul style="list-style-type: none"> • Ruling requesting comments • Proposed Decision 	<ul style="list-style-type: none"> • To be determined upon conclusion of Phase II • Goal of fourth quarter 2011 or first quarter 2012

As described in R.10-05-004, this proceeding will be resolved within 24 months of the date of this Scoping Memo. We use the authority granted in Pub. Util. Code § 1701.5(b) to set a time longer than 18 months based on the number and complexity of the issues in this case and the need to coordinate certain aspects of this proceeding with the CEC.

Category of Proceeding and Ex Parte Rules

This ruling confirms the Commission's preliminary determination in R.10-05-004 that the category of this proceeding is quasi-legislative and that hearings are not necessary. While we do not foresee the need for hearings at this time, we will allow parties the opportunity to request limited evidentiary hearings at a later date, should the need arise.

This ruling, only as to category, is appealable under the procedures in Rule 7.6. As set forth in Rule 8.2, *ex parte* communications are allowed without restriction or reporting obligation in this proceeding.

Presiding Officer

Pursuant to Pub. Util. Code § 1701.1, ALJs Duda and Ebke are designated as the presiding officers in this rulemaking.

Filing, Service and Service List Requirements

In this proceeding, there are several different types of documents participants may prepare. Each type of document carries with it different obligations with respect to filing and service.

Parties must file certain documents as required by the Rules or in response to rulings by either the Assigned Commissioner or the ALJs. All formally filed documents must be filed with the Commission's Docket Office *and* served on the service list for the proceeding. Article 1 of the Rules contains all of the Commission's filing and service requirements. Rule 1.13(b) sets forth the rules

for electronic filing. Parties are encouraged to file electronically whenever possible as it speeds processing of the filings and allows them to be posted on the Commission's website. More information about electronic filing is available at <http://www.cpuc.ca.gov/PUC/efiling>.

We will follow the electronic service protocols adopted by the Commission in Rule 1.10 for all documents, whether formally filed or just served. This Rule provides for electronic service of documents, in a searchable format, unless the appearance or state service list member did not provide an e-mail address. If no e-mail address was provided, service should be made by United States mail. In this proceeding, we require concurrent e-mail service to ALL persons on the service list for whom an e-mail address is available, including those listed under "Information Only" and "State Service." Parties are expected to provide paper copies of served documents upon request. In the event that hearings are held in this proceeding, prepared testimony should be served on the service list, but not filed with the Docket Office.

E-mail communication about this case should include, at a minimum, the following information on the subject line of the e-mail: *R.10-05-004 (CSI/DG)*. In addition, the party sending the e-mail should briefly describe the attached communication; for example, *Comments on Phase I Issues*. Paper format copies, in addition to electronic copies, shall be served on the assigned Commissioner and the ALJs.

The official service list for this proceeding is available on the Commission's web page. Parties should confirm that their information on the service list is correct, and serve notice of any errors on the Commission's Process Office, the service list, and the ALJs. Prior to serving any document, each party must ensure

that it is using the most up-to-date service list. The list on the Commission's web site meets that definition.

Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures or who has questions about the electronic filing procedures should contact the Commission's Public Advisor at (866) 849-8390 or (415) 703-2074, or (866) 836-7825 (TTY-toll free), or send an e-mail to public.advisor@cpuc.ca.gov.

Intervenor Compensation

The PHC in this matter was held on August 12, 2010. Pursuant to Pub. Util. Code § 1804(a)(1), a customer who intends to seek an award of compensation should have filed and served a notice of intent to claim compensation no later than September 13, 2010. As stated in R.10-05-004, parties who were previously found eligible to request compensation in R.08-03-008 shall remain eligible in this proceeding and do not need to file a notice of intent within 30 days, provided there are no material changes in their by-laws or financial status. All others must comply with the statute. When filing requests for compensation, parties should cite to this ruling and any earlier rulings granting them eligibility in prior CSI/DG rulemakings.

IT IS RULED that:

1. The scope of this rulemaking is set forth in this ruling.
2. The schedule of this proceeding is set forth in this ruling and shall be resolved within 24 months of the date of this Scoping Memo, pursuant to Pub. Util. Code § 1701.5(b).

3. Parties may file comments on the Phase I CSI issues listed in this ruling no later than December 6, 2010 and reply comments no later than December 20, 2010.

4. This ruling confirms the categorization of this proceeding as quasi-legislative and that hearings are not necessary. This ruling, only as to category, is appealable under the procedures in Rule 7.6.

5. Pursuant to Rule 8.2, *ex parte* communications are allowed in this proceeding without restriction or reporting requirement.

6. Administrative Law Judges Duda and Ebke are the presiding officers in this rulemaking.

7. The official service list is attached to this ruling. Parties should serve all filings on parties listed on the service list, including those identified as "Information Only" and "State Service." Parties should adhere to Commission Rules 1.9 and 1.10, which set forth rules for electronic service of documents in this proceeding, and use the most updated version of the service list on the Commission's website for service.

8. Pursuant to Pub. Util. Code § 1804(a)(1), a customer who intends to seek an award of compensation in this rulemaking shall have filed and served a notice of intent to claim compensation no later than September 13, 2010, unless they were

previously granted eligibility to request compensation in a prior CSI/DG rulemaking and there are no material changes to their by-laws or financial status.

Dated November 9, 2010, at San Francisco, California.

/s/ MICHAEL R. PEEVEY

Michael R. Peevey
Assigned Commissioner

/s/ DOROTHY J. DUDA

Dorothy J. Duda
Administrative Law Judge

/s/ MARYAM EBKE

Maryam Ebke
Administrative Law Judge

INFORMATION REGARDING SERVICE

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a Notice of Availability of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the Notice of Availability of the filed document is current as of today's date.

Dated November 9, 2010, at San Francisco, California.

/s/ TERESITA C. GALLARDO

Teresita C. Gallardo

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074 or TDD# (415) 703-2032 five working days in advance of the event.