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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)

Petition of the California Center for Sustainable Energy (CCSE) for Modification of Decisions D.10-09-046, D.08-10-036, D.11-07-031 and D.06-08-028 to Address California Solar Initiative General Market Program Administration Budget Issues within CCSE's Program Territory

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I. INTRODUCTION

In accordance with Rule 16.4 of the California Public Utilities Commission (CPUC or Commission) Rules of Practice and Procedure, the California Center for Sustainable Energy (CCSE) respectfully submits this Petition for Modification of Decisions (D.)10-09-046, D.08-10-036, D.11-07-031 and D.06-08-028 to address crucial California Solar Initiative (CSI) General Market (GM) program administration and incentive budget issues within CCSE's program territory. More specifically, and as discussed in greater detail below, CCSE seeks modification of the aforementioned Decisions to:

1) Ensure authorized CSI GM program administrative budget funds are appropriately distributed among the administrative budget subcategories;

2) Ensure expenses are charged to the appropriate CSI program account or non-program funding source to provide sufficient funding of the CSI GM program administration budget; and

3) Allow the residential customer sector in CCSE's program territory access to greater than one-third of CSI GM program megawatts (MW) by removing the specific allocation of two-thirds of CSI MW for the non-residential customer sector.

Collectively, the modifications requested herein will help CCSE to meet our predetermined overall CSI GM program MW goal, reduce any non-residential customer sector incentive budget shortfall, and alleviate CSI GM program administration budget issues in CCSE's program territory.

II. REQUEST FOR LEAVE UNDER RULE 16.4(D)

CCSE respectfully requests leave under Rule 16.4(d) of the CPUC Rules of Practice and Procedure to file this Petition for Modification more than one year following the effective dates of D.10-09-046, D.08-10-036, D.11-07-031 and D.06-08-028. During the first half of 2012, observing rapid changes in the distributed generation solar photovoltaic (PV) marketplace and entering Step 10 of the residential customer sector program, CCSE developed and refined a budget projection model to provide us the ability to better estimate our future CSI GM program administration budget needs and thus determine our remaining CSI GM program administration budget. As a result of this recent development, the issues giving rise to this Petition for Modification have only just presented themselves, and this Petition for Modification could not have been presented within one year of the effective dates of D.10-09-046, D.08-10-036, D.11-07-031 and D.06-08-028.

III. SUMMARY OF RELIEF REQUESTED

As discussed in greater detail below, CCSE's projections indicate that our remaining CSI GM program administration budget, as currently allocated, will be insufficient to allow us to meet our predetermined overall CSI GM program goal, and an incentive budget shortfall will continue to exist for CCSE's non-residential customer sector. To address these crucial issues, CCSE respectfully requests the following modifications to D.10-09-046, D.08-10-036, D.11-07-031 and D.06-08-028:

1. CCSE requests modification of D.10-09-046: (a) to obtain authorization from the Commission to combine the Marketing and Outreach (M&O) and program administration budget subcategories within the CSI GM administrative budget to allow these funds to be used at CCSE's discretion, while maintaining CCSE's individual Energy Division-approved M&O plan to ensure certain M&O activities continue as appropriate; and (b) to transfer $100,000 from CCSE's Measurement and Evaluation (M&E) budget subcategory to its program administration budget subcategory to ensure adequate program administration funds to carry out program completion.

2. CCSE requests modification of D.08-10-036 to authorize reimbursement from the Multifamily Affordable Solar Housing (MASH) general program administration and M&O budget, rather than the CSI GM program administration budget, for charges associated with the development and implementation of Virtual Net Metering (VNM) for MASH, as well as modification of D.11-07-031 to clearly specify that any VNM costs incurred subsequent to the effective date of D.11-07-031 should be recovered independently from the CSI program, in the Investor Owned Utilities' (IOUs') future general rate cases.

3. CCSE requests modification of D.06-08-028 to direct San Diego Gas and Electric (SDG&E) to allocate CCSE's past, present and future CSI labor fringe and legal fees

to SDG&E's general rate base, rather than to CCSE's CSI GM program administration budget, as consistent with the practices of the CSI IOU Program Administrators (PAs), which will enable SDG&E ratepayers to receive comparable CSI program benefits to those received by PG&E and SCE ratepayers.

4. Lastly, CCSE requests modification of D.06-08-028 to remove the specific allocation of two-thirds of CSI MW for the non-residential customer sector in CCSE's program territory to allow for a greater allocation of MW to the residential sector, which, in turn, should allow CCSE to achieve its predetermined overall CSI GM program MW goal, while minimizing the chance of any non-residential customer sector incentive budget shortfall and helping to alleviate CSI GM program administration budget issues in CCSE's program territory.

IV. BACKGROUND

Senate Bill (SB) 1 (Stats. 2006, Ch. 132) mandated that the total program cost for the Commission's portion of the CSI program was not to exceed $2.1668 billion. In light of SB 1, the Commission issued D.06-12-033, adopting an incentive budget of $1,707.41 million and an administrative budget of $189.71 million. The CSI GM administrative budget of $189.71 million represented 10% of the total program funds allocated to the GM CSI program and includes budget subcategories for: (1) program administration; (2) measurement and evaluation (M&E); and (3) marketing and outreach (M&O). In D.06-08-028, the Commission mandated that the CSI PAs spend only half of the 10% of the funds set aside for administrative expenses for program administration, in order to preserve funds for M&E and M&O, which at that time had not been fully allocated. Subsequently, in D.10-09-046, the Commission shifted $40 million from the administrative budget, specifically moving $20 million from the M&E budget and $20 million from the unallocated portion of the administrative budget into the incentive budget. The cap on spending, restricting the CSI GM PAs to spending only half of the administrative budget, was subsequently lifted in D.11-07-031.

Since the inception of the CSI GM program, the duties, activities and scope of the program have continued to increase while the predetermined administrative budget, and in particular, the program administration budget, has decreased. The structure and success of the CSI program has been predicated on the ability to disburse all incentive funding and meet predetermined overall program MW goals while maintaining sufficient program administration funds to carry out and complete the program. With the increased scope of the program, additional program activities, and added duties of the CSI GM PAs, the ability to perfectly intersect the disbursement of all CSI GM program incentive funds with the precise spending of a PA's total program administration budget, while meeting the predetermined overall MW goal for the program, has become more and more difficult to realize. Given that SB 1, codified in part as Public Utilities Code Section 2851(e)(1), mandates that the CSI program cannot exceed $2.1668 billion, thus prohibiting any additional infusion of funds, the CSI GM PAs are allowed to spend the entire authorized administrative budget amount but not exceed it.[1] The Commission has indicated that it will disallow cost overruns should they occur.[2] Nevertheless, the Commission has acknowledged that there is concern that as the volume of CSI applications increases in later years of the program, administrative expenses may also rise, and a budget shortfall could occur in later program years.[3] Energy Division's July 26, 2010 Staff Proposal noted that it was difficult to assess whether the CSI GM PAs' current spending patterns will leave them overspent because it will be several more years before they exceed their 10-year budget caps.

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[1] D.11-07-031, *California Solar Initiative Phase One Modifications*, July 14, 2011, Conclusion of Law 16.

[2] *Id.* at 42.

[3] *Id.* at 38-39, referring to findings in *Staff Proposal for Program Modifications to the CSI Program* (Staff Proposal), Attachment A to *Administrative Law Judge's Ruling Setting Prehearing Conference and Requesting Prehearing Conference Statements on Staff Proposal for California Solar Initiative Program Modifications*, July 26, 2010.

Observing rapid changes in the distributed generation solar PV marketplace due to rapidly increasing percentages of leases and Power Purchase Agreements (PPAs) and the effects of SDG&E's proposed General Rate Case (GRC)[4] within our program territory, as well as our having a strong desire to be able to better estimate future program administration budget needs as we approached Step 10 for residential incentives within our program territory, CCSE developed and refined a budget projection model during the first half of 2012. This budget projection model has enabled CCSE to estimate our remaining program administration budget over time. The model predicts that, as currently allocated, CCSE's remaining program administration budget is insufficient to cover the costs necessary to complete the program within CCSE's program territory. CCSE has subsequently examined potential reasons for this predicted shortfall and developed potential solutions that could allow for successful completion of the program in our territory. Below, we discuss the reasons for the shortfall and propose modifications to D.10-09-046, D.08-10-036, D.11-07-031, and D.06-08-028 to enable the solutions developed.

V. RATIONALE FOR RELIEF REQUESTED

In reviewing the findings of our budget projection model, CCSE examined potential reasons for the predicted shortfall in CCSE's CSI GM program administration budget, ultimately determining that the program administration budget shortfall can be attributed to three causes, all of which we seek to remedy via this Petition for Modification.

First, our budget projection model indicates that funds will remain in CCSE's CSI GM administrative budget at the conclusion of the program in our program territory; however, these funds remain inaccessible to CCSE for program administration expenses. Second, since the inception of the CSI program continuing through the present, expenses have been charged

[4] A.11-10-002, *Application of San Diego Gas & Electric Company (U902E) for Authority to Update Marginal Costs, Cost Allocation, and Electric Rate Design*, filed October 3, 2011.

to CCSE's program administration budget that should rightfully be allocated to other funding sources to ensure that the CSI GM program is not saddled with a disproportionate share of costs for initiatives benefitting a wider customer base, and furthermore, to ensure SDG&E ratepayers receive comparable CSI GM program benefits to those received by the ratepayers of the IOU CSI GM PAs. Third, the specific allocation of two-thirds of CSI MW for the non-residential customer sector and one-third for the residential customer sector will soon prematurely cap the vibrant residential customer sector while holding a MW target for the relatively dormant non-residential customer sector in CCSE's program territory. Removal of the specific allocation of two-thirds of CSI MW for the non-residential customer sector in CCSE's program territory should allow CCSE to reach our predetermined overall CSI GM program MW goal, reduce any non-residential customer sector incentive budget shortfall, and help alleviate the CSI GM program administration budget issues in CCSE's program territory.

Below, we discuss each of these three causes for CCSE's projected program administration budget shortfall in greater detail and explain our proposed modifications to D.10-09-046, D.08-10-036, D.11-07-031, and D.06-08-028 in effort to remedy these situations, enabling CCSE to carry out and complete the CSI GM program and meet the predetermined overall CSI GM program MW goal within our program territory.

A. Funds will remain in CCSE's CSI GM administrative budget at the conclusion of the program in CCSE's program territory; however, these funds remain inaccessible to CCSE for program administration expenses.

The CSI GM administrative budget includes budget subcategories for: (1) program administration; (2) M&E; and (3) M&O. The Commission has indicated that the CSI GM PAs are allowed to spend the entire authorized administrative budget amount but not exceed it.[5] According to CCSE's budget projection model, current projections indicate that funds will

[5] D.11-07-031, Conclusion of Law 16.

remain in our CSI GM administrative budget at the conclusion of the program in CCSE's territory; however, these funds will exist in the M&E and M&O subcategories, rather than in the program administration subcategory, remaining inaccessible to CCSE for program administration expenses.

Previously, CCSE, as well as other parties to the proceeding, have proposed that the Commission allow the CSI GM PAs the discretion to shift administrative funds within the three subcategories of the administrative budget. In D.10-09-046, the Commission declined to adopt the proposal by various parties, including CCSE, to allow the CSI GM PAs the discretion to shift administrative funds within the three subcategories.[6] As per Ordering Paragraph 9 of D.10-09-046, only the assigned Commissioner may, after appropriate notice to the parties and an opportunity for comment, shift administrative budget dollars between subcategories. D.11-07-031 subsequently reaffirmed that "the PAs may not shift administrative funds between administrative budget subcategories on their own. Rather, the assigned Commissioner may shift administrative budget dollars between administration subcategories after appropriate notice to the parties and an opportunity for them to comment…Alternatively, if the PAs want to shift funds between administrative subcategories, they may file a petition for modification of D.10-09-046."[7]

The dilemma lies in the fact that participation in the CSI GM program is very dynamic, affected by factors outside of CCSE's control. These factors affect application flow, which, in turn, affects CCSE's projected program end-date as well as the time period over which our program administration budget must stretch. Current projections indicate that CCSE will likely have funds to continue to market the CSI GM program yet have no funds to continue to process applications. It makes little sense to continue to market the program without funds to process the flow of applications resulting from that marketing. CCSE needs to give first and

[6] D.10-09-046, *Decision Modifying Decision 06-12-033 regarding California Solar Initiative Budget*, September 23, 2010, page 25.

[7] D.11-07-031 at 42.

highest priority to the processing of applications and requires the timely ability to adjust between actual administration of the program and M&O efforts as the market conditions and resultant application flow dictates. However, as D.11-07-031 reaffirmed, if CCSE wants to shift funds between administrative subcategories, we must file a petition for modification of D.10-09-046.[8] Thus, as presently required by these Decisions, CCSE must file a petition for modification of D.10-09-046 whenever a need exists to move funds from the M&O budget subcategory to the program administration subcategory. Regrettably, the time involved in the petition for modification process does not allow for CCSE to be responsive to changing market conditions and ensure we have sufficient funds in the respective categories to effectively administer the program. Accordingly, CCSE needs the flexibility to determine how much of the administrative budget to allocate among the subcategories at any given time as market conditions and other factors affecting application flow change. For this reason, CCSE seeks the authority to combine the M&O budget subcategory with the program administration budget subcategory.

Let it be clear, however, that CCSE is not proposing to do away with the M&O component of the CSI GM program. Rather, CCSE sees a need to maintain a level of M&O efforts that would still ensure sufficient funds to process the applications resulting from those M&O efforts. To maintain the M&O component of the CSI GM program, CCSE proposes to submit a revised 2012 M&O Plan and Budget that identifies alternative levels of M&O effort and corresponding budget levels for Energy Division approval. As such, CCSE would remain in compliance with the direction provided to the CSI GM PAs in D.11-07-031 "to file annual M&O plans and budgets via advice letter by December 1st of each year, following the same general approval guidelines currently established by the Energy Division."[9] This would allow CCSE, with Energy Division oversight, the timely flexibility necessary to adjust to changing market conditions and give priority to processing applications.

[8] *Id.* at 42.
[9] *Id.* at 57.

Moreover, precedent exists for a combined program administration and M&O budget in the Commission's distributed generation programs. In D.08-10-036, the Commission allowed some flexibility to the MASH PAs in how they were to spend their 12% administrative budgets. The MASH PAs were directed to spend 2% on evaluation but were granted the flexibility to choose how to split the remaining 10% between general program administration and M&O.[10] Similarly, with respect to the Self-Generation Incentive Program (SGIP), the Commission determined that "[t]he PAs, in consultation with the Energy Division, should continue to have flexibility to determine the best use of their administrative budgets" and accordingly rejected a proposed allocation of 3% of the SGIP's administrative budget for M&O purposes.[11] CCSE therefore requests modification of D.10-09-046 to obtain authorization from the Commission to combine the M&O and program administration budget subcategories within the CSI GM administrative budget to allow these funds to be used at CCSE's discretion, while maintaining CCSE's individual Energy Division-approved M&O plan to ensure certain M&O activities continue as appropriate.

In addition, and as briefly mentioned above, our budget projection model also indicates that CCSE will have remaining budget within the M&E subcategory of our CSI GM administrative budget at the conclusion of the CSI GM program in our program territory. Nevertheless, as is the case with the M&O budget funds, the M&E budget funds are presently inaccessible to CCSE for program administration expenses. The M&E budget is shared between CCSE and the Commission's Energy Division. The Energy Division has indicated that $100,000 of the M&E budget is available for transfer to CCSE's program administration budget. CCSE therefore requests modification of D.10-09-046 to authorize the transfer of $100,000 from CCSE's M&E budget subcategory to its program administration budget

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[10] D.08-10-036, *Decision Establishing Multifamily Affordable Solar Housing Program within the California Solar Initiative*, October 16, 2008, page 21.

[11] D.11-09-015, *Decision Modifying the Self-Generation Incentive Program and Implementing Senate Bill 412*, September 8, 2011, page 57.

subcategory to ensure adequate program administration funds to carry out program completion.

B. Since the inception of the CSI GM program continuing through the present, expenses have been charged to CCSE's program administration budget that should be rightfully allocated to other funding sources.

Since the inception of the CSI GM program continuing through the present, expenses have been charged to CCSE's program administration budget that should be rightfully allocated to other funding sources. These expenses include charges associated with SDG&E's development and implementation of VNM, as well as CCSE's CSI GM labor fringe benefit costs and legal expenses. Proper allocation of these expenses will ensure that the CSI GM program is not saddled with a disproportionate share of costs for initiatives benefitting a wider customer base, and additionally, that SDG&E ratepayers receive comparable CSI GM program benefits to those received by the ratepayers of the other IOU CSI GM PAs.

1. Charges associated with SDG&E's development and implementation of VNM for MASH, i.e., specifically those VNM charges incurred between the effective dates of D.08-10-036 and D.11-07-031, should be allocated to the MASH general program administration and M&O budget, rather than the CSI GM program administration budget.

In establishing the MASH program in D.08-10-036, the Commission directed the IOUs to develop tariffs for a VNM program in order to encourage solar installations on multitenant affordable housing properties. The Commission indicated at the time of the Decision that "[t]he VNM tariff concept could be expanded to apply to any multitenant property that installs a solar energy system".[12] In comments regarding the proposed decision leading to D.08-10-036, CCSE expressed its concern that "VNM would require substantial resources to implement,

[12] D.08-10-036 at 39.

and…that allocating these costs only to the MASH program would impinge considerably upon the already slim administrative funds of the MASH program."[13] CCSE recommended "the Commission investigate the necessary costs of implementation and look for other programs with which to share the cost of this infrastructure, in order to permit spreading the costs more broadly."[14] We further contended that "[i]f all multifamily properties were eligible for VNM, the costs of development and implementation could reasonably be allocated to a broader program pool within the rate base."[15] The Commission considered CCSE's concerns and revised the Decision "to allow the [IOUs] to recover their reasonable costs for implementation of VNM from the administrative budget for the [GM] CSI program."[16]

While this result was not exactly what CCSE had intended, in that we had envisioned the charges for VNM implementation being reasonably allocated to a broader program pool within the rate base, not solely to the GM CSI program let alone to its program administration budget, and furthermore, considering that the original proposal was to allow the IOUs to bill the MASH program administration budget directly, which in turn would have significantly depleted MASH program administration funds, CCSE believed this to be an appropriate compromise at the time. Nevertheless, from the effective date of D.08-10-036, which established the MASH program and directed the development and implementation of the VNM tariff program, until the effective date of D.11-07-031, which subsequently expanded the VNM tariff program to allow any residential, commercial or industrial multi-tenant or multi-meter property to take VNM service[17], VNM was solely utilized for MASH eligible projects. Given that CCSE's budget projection model forecasts that our current remaining CSI GM program administration budget is insufficient to cover completion of the program within

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[13] *Comments of the California Center for Sustainable Energy Regarding the Proposed Decision Establishing the Multifamily Affordable Solar Housing Program within the California Solar Initiative*, September 29, 2008, page 6.

[14] *Id.*

[15] *Id.*

[16] D.08-10-036, Conclusion of Law 22.

[17] D.11-07-031, Conclusion of Law 2.

CCSE's program territory, CCSE respectfully requests that the Commission reconsider allocating SDG&E's VNM development and implementation charges to the MASH program administration and M&O budget, rather than the CSI GM program administration budget. This solution is reasonable at this point in the MASH program because CCSE has met 600% of its MASH goals, is no longer accepting applications for MASH program incentives, and has sufficient remaining MASH general program administration and M&O funds to cover the SDG&E VNM development and implementation expenses. Accordingly, CCSE requests modification of D.08-10-036 to authorize reimbursement from the MASH general program administration and M&O budget, rather than the CSI GM program administration budget, for SDG&E's charges associated with the development and implementation of VNM for MASH, more specifically, those VNM charges incurred between October 20, 2008, the effective date of D.08-10-036, and July 20, 2011, the effective date of D.11-07-031.

2. All VNM development and implementation costs incurred subsequent to the effective date of D.11-07-031, which provided for VNM's wider applicability to all multi-tenant and multi-meter customers in the residential, commercial and industrial sectors, should be recovered independently from the CSI program, in the IOUs' future general rate cases.

In D.08-10-036, which established the MASH program and directed the development of a VNM tariff program limited to MASH customers only, the Commission authorized the IOUs to recover their reasonable costs for development and implementation of VNM from the CSI GM program administration budget.[18] CCSE believed this to be an appropriate compromise at the time, considering that the original proposal was to allow the IOUs to bill the MASH program administration budget directly, which we believed would have significantly depleted MASH program administration funds. However, CCSE now believes that with D.11-07-031 providing for VNM's wider applicability to all multi-tenant and multi-meter customers in the

[18] D.08-10-036, Conclusion of Law 22.

residential, commercial and industrial sectors, the effective date of D.11-07-031 should mark the transition from IOU VNM development and implementation being solely an expense borne by the CSI GM program administration budget, or as proposed above, an expense borne by the MASH general program administration and M&O budget, to one borne by each IOU's respective general rate base. The development of VNM for wider applicability to all multi-tenant and multi-meter customers is no different than the development of Net Energy Metering (NEM) or other IOU tariffs, such as SDG&E's DR, DR-SES, DR-TOU and AL-TOU tariffs, among others, all of which can be utilized by CSI participants but are not restricted to use solely by CSI participants. CCSE therefore respectfully requests modification of D.11-07-031 to clearly specify that any VNM costs incurred subsequent to the effective date of D.11-07-031 should be recovered independently from the CSI program, in the IOUs' future general rate cases. The effective date of D.11-07-031 is an appropriate transition date, since the Decision broadens the applicability of VNM and also states that "the utilities may seek recovery of implementation and setup costs for VNM in their future general rate cases."[19]

3. To be consistent with the practices of the CSI IOU PAs and enable SDG&E ratepayers to receive comparable CSI program benefits to those received by PG&E and SCE ratepayers, CCSE's CSI PA labor fringe charges and legal expenses should be allocated to SDG&E's general rate base, rather than CCSE's CSI GM program administration budget.

Through CCSE's examination of potential reasons for our predicted CSI GM program administration budget shortfall and development of potential solutions that would allow for completion of the program in our territory, we have discovered that there is significant inconsistency in the recovery of CSI GM program labor fringe charges and legal expenses between CCSE, a third-party PA, and the IOU PAs, PG&E and SCE. It is our understanding that PG&E and SCE recover all of their CSI GM PA fringe labor expenses as well as all legal

[19] D.11-07-031 at 18.

labor and expenses related to CSI GM program administration via their general rate bases, rather than via their CSI GM program administration budgets. Conversely, CCSE must recover all of its CSI GM PA fringe labor and legal labor and expenses via its CSI GM program administration budget. This results in an uneven playing field, with CCSE having a disproportionally smaller CSI GM program administration budget than the IOU PAs. In turn, SDG&E's ratepayers suffer because CCSE has significantly less program administration resources available to develop the CSI GM program in SDG&E's territory than PG&E and SCE have available to develop the program within their respective territories. To level the playing field and allow for SDG&E's ratepayers to receive comparable CSI program benefits to those received by PG&E and SCE ratepayers, CCSE respectfully requests modification of D.06-08-028 to direct SDG&E to allocate all of CCSE's past, present and future CSI GM PA fringe labor charges and all legal costs and expenses related to CSI GM program administration to SDG&E's general rate base, rather than to CCSE's CSI GM program administration budget. This would allow CCSE's cost recovery practices to be consistent with the practices of the CSI GM IOU PAs and enable SDG&E ratepayers to receive comparable CSI program benefits to those received by PG&E and SCE ratepayers.

C. The specific allocation of two-thirds of CSI MW for the non-residential customer sector presently inhibits a greater allocation of MW to the residential sector in CCSE's program territory, which instead should allow CCSE to reach its predetermined overall CSI GM program MW goal while helping to alleviate CCSE's predicted CSI GM program administration budget shortfall.

In D.06-08-028, the Commission elected to reserve a portion of CSI funds for residential customers in an effort to be "responsive to parties' concerns that [it] avoid residential ratepayers cross-subsidizing large commercial solar projects,"[20] as well as to prevent the CSI program from being heavily dominated by commercial, rather than residential, systems.[21] Being unable to predict the future level of demand for CSI GM program incentives for the residential customer sector, the Commission determined it was "prudent to reserve a portion of CSI funds specifically for the residential [customer sector]" and found that "the simplest and most reasonable method [was] to reserve one-third of total CSI funds for [the] residential [customer sector]".[22] The Commission went on to state that it would review the CSI program after more experience with the program, and at that time, "reassess whether to reconsider the allocation of MW goals between the residential and non-residential [customer] sectors."[23] CCSE contends that the allocation of MW goals between the two customer sectors should be reconsidered at this time because the specific allocation of two-thirds of CSI MW for the non-residential customer sector in actuality is doing a disservice to the residential customer sector in CCSE's program territory, and moreover to CCSE's CSI GM program as a whole, in that it in effect prohibits an allocation of CSI MW greater than one-third to the residential customer sector. Rather, we believe the Commission intended the allocation of one-third of CSI MW for the residential customer sector be a minimum allocation, rather than a maximum. Furthermore, and as described below, removal of the specific allocation of two-thirds of CSI MW for the non-residential customer sector in CCSE's program territory should, among other things, allow CCSE to reach its predetermined overall CSI GM program MW goal while helping to alleviate CCSE's predicted CSI GM program administration budget shortfall.

Despite the shift of program administration funds into the incentive budget as directed by D.10-09-046, as well as the infusion of additional incentive funds specifically for the non-residential customer sector authorized by Senate Bill (SB) 585 (Stats. 2011, Ch. 312) and

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[20] D.06-08-028, *Opinion Adopting Performance-Based Incentives, an Administrative Structure, and other Phase One Program Elements for the California Solar Initiative*, August 24, 2006, page 98.

[21] *Id.* at 98.

[22] *Id.* at 99.

[23] *Id.* at 99-100.

subsequently implemented as per D.11-12-019[24], CCSE continues to predict a shortfall in its non-residential sector incentive budget. Several factors appear to contribute to the shortfall, the most significant of which is that the majority of applications received from the non-residential customer sector in the San Diego region come from government/non-profit projects, rather than commercial projects, which are paid at a higher incentive rate. Thus far in 2012 alone, nearly 95% of all non-residential projects received by CCSE have been government/non-profit projects, which results in the CSI GM program paying on average 46%[25] more per government/non-profit MW installed as compared to commercial MW installed. This is then compounded by the fact that the San Diego region has a historical Performance Based Incentive (PBI) overproduction rate of 8%, as used by the Commission to forecast incentive spending and as presented in the CSI Budget Report.[26] As of July 4, 2012, CCSE's non-residential customer sector is the only CSI GM program sector currently facing an incentive budget shortfall, and we estimate the shortfall at over $6.7 million. Given CCSE's allocation of MW for the non-residential customer sector, at the current pace of non-residential applications submitted, CCSE will miss its installed capacity goal of 120 MW for the non-residential customer sector by just under 17 MW.

Removal of the specific allocation of two-thirds of CSI MW for the non-residential customer sector in CCSE's program territory would allow incentive funds allocated specifically for the non-residential customer sector to be opened up to both residential and non-residential projects. CCSE believes that this proposal meets the Commission's intent that the allocation of one-third of CSI MW for the residential customer sector be a minimum allocation, rather than a maximum, in order to prevent the CSI program from being heavily

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[24] D.11-12-019, *Decision Modifying California Solar Initiative Budget, Revenue Requirement and Performance Based Incentives as adopted in Decision (D.) 06-08-028, D.10-09-46 and D.11-07-031*, December 1, 2011.

[25] This is based on the difference between EPBB and PBI incentive rates for government/non-profit projects versus the commercial EPPB and PBI incentive rates. Please see www.csi-trigger.com for more information on incentive rates per step.

[26] This information can be found at www.californiasolarstatistics.ca.gov/reports/budget_forecast/

dominated by commercial, rather than residential, systems.[27] Moreover, this proposal would allow CCSE its best opportunity to meet its predetermined overall CSI GM MW goal of 180 MW installed in the San Diego region.

The mechanics of this proposal, as they pertain to the incentive steps and the CSI Trigger Tracker, are relatively simple. The non-residential customer sector would continue in the current incentive Step 8 and at the Step 8 incentive rate while progressively moving up through the Steps and corresponding incentive rates at their own pace. Concurrently, residential projects would continue to receive incentive reservations only at the Step 10 rate, as CCSE's residential portion of the program is currently in Step 10. Both customer sectors would progress in this fashion until the incentive budget is exhausted. Given the current lower residential incentive rate of $0.20/kW and current higher rate of participation by the residential customer sector, this proposal would enable CCSE to incentivize the installation of more MW for less incentive funds.

If the specific allocation of two-thirds of CSI MW for the non-residential customer sector in CCSE's program territory were removed, allowing both the residential and non-residential sectors to take advantage of the remaining incentive funds and corresponding MW, this, along with the other modifications requested in this Petition for Modification, would maximize CCSE's opportunity to not only meet its predetermined overall CSI GM program MW goal, but CCSE could ultimately come in under-budget for our program administration funds, while disbursing all of our allocated incentive funds. CCSE therefore requests modification of D.06-08-028 to remove the specific allocation of two-thirds of CSI MW for the non-residential customer sector in CCSE's program territory to allow for a greater allocation of MW to the residential sector, which, in turn, should allow CCSE to reach its predetermined overall CSI GM program MW goal, reduce any non-residential customer sector incentive budget shortfall, and help alleviate CSI GM program administration budget issues in CCSE's program territory.

[27] D.06-08-028 at 98.

VI. CONCLUSION

For the reasons stated herein, CCSE respectfully requests that the Commission grant this petition and modify D.10-09-046, D.08-10-036, D.11-07-031, and D.06-08-028, as set forth above, as expeditiously as possible. By granting the relief requested, the Commission will ensure authorized CSI GM administrative budget funds are appropriately distributed among the administrative budget subcategories, expenses are charged to the appropriate CSI program account or non-program funding source to provide sufficient funding of the CSI GM program administration budget, and the specific allocation of two-thirds of CSI MW for CCSE's non-residential customer sector in CCSE's program territory is removed to allow for a greater allocation of MW to the residential sector, which, in turn, should allow CCSE to meet its predetermined overall CSI GM program MW goal, reduce any non-residential customer sector incentive budget shortfall, and help alleviate CSI GM program administration budget issues in CCSE's program territory.

Respectfully Submitted,

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