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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 12-11-005 (Filed November 8, 2012)

REPLY COMMENTS OF THE MASH COALITION[1] ON THE STAFF PROPOSAL FOR IMPLEMENTATION OF AB 217

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[1] The MASH Coalition consists of the following companies: Affirmed Housing Group, Bayview Community Development Corporation, Chelsea Investment Corporation, Community Housing Works, Community Advancement Corporation, Core Builders, EAH Housing, Housing Authority of the County of Santa Barbara, Irvine Housing Opportunities, Levy Affiliated, LINC Housing, Many Mansions, San Diego Youth Services, Standard Property Company, The Reliant Group, Urban Housing Communities, and VITUS Group.

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The Multifamily Affordable Solar Homes Coalition ("MASH Coalition") hereby submits these reply comments in response to the July 2, 2014 ruling in the above captioned proceeding incorporating the AB 217 Implementation Staff Proposal into the record and requesting comments.[2]

1. INTRODUCTION: TWO OVERARCHING THEMES

These comments are framed by two interrelated themes of overarching concern to the Coalition. The first theme is simplicity and continuity. The second concern is project feasibility.

Simplicity and continuity are similarly emphasized in the opening comments of a number of parties as the essential starting points for the Commission's implementation of renewed funding through AB 217. "As a preliminary matter," stated SCE on page 2 of their opening comments, "it should be noted that the current success of the MASH program is likely due to the simplicity of the program design and the administrators' proven track record of success administering the program." CalSEIA wrote that, "In all areas of consideration, we must keep in mind that to get benefits to tenants and property owners, we must make solar projects attractive, keep administrative costs down, and make the process easy," before going on to note: "Robust community economic development will occur when solar installations reach a greater scale in low-income communities. A highly efficient incentive program is the best bridge toward that objective." [p. 2] Everyday Energy reminds us that the Legislature "voted to increase the available funds to an already successful program," not create a new one – and that this vote of legislative confidence is a unique distinction among CSI programs [p. 6]. REP urges the Commission to focus on implementing the refunded programs quickly, no later than 1/1/2015 "as AB 217 anticipates" [p. 1]. Success will be measured in quickly and efficiently meeting

[2] This reply responds to opening comments from PG&E, SCE, Center for Sustainable Energy, GRID Alternatives, SEIA, CalSEIA, The Greenlining Institute, Everyday Energy, Renewable Energy Partners (REP) and Shorebreak Energy, in addition to the Coalition's own opening comments.

the goals; as PG&E points out, "All the current stakeholders benefit from administration of AB 217 dollars occurring as quickly as possible" [p. 6] – which stakeholders, we may note, includes the entities that created and regulate the program.

Unfortunately, many of the other parties did not pay as much attention to the critical issue of whether the recommended changes on the whole will continue to make it feasible for low-income property operators to actually construct MASH-funded solar projects. There is welcome recognition of a number of the key drivers of feasibility, such as flexibility and avoiding unnecessary burdens. But does the total package of incentives, program requirements and solar benefits make the overall project economics compelling? The original MASH program grabbed our attention with meaningful incentives that made it worth learning the new program. Incentive levels were later reduced, but by then not only had PV prices dropped, but also the program had been clarified and distilled to a simple set of requirements, requiring less investment of staff and soft resources. As affordable housing sponsors, we must ultimately make individual decisions as to whether the renewed program as finally configured makes sense to engage in, or, alternatively, is just not worth it, and our scarce resources are better directed elsewhere in our continuing pursuit of providing the best quality housing we can to the low-income residents we serve.

The concept of "feasibility" informs a range of comment topics below. To achieve the main AB 217 goals of (a) doubling the megawatts incentivized with only half of the incentive funds, as SEIA put it in their introductory remarks, and (b) maximizing ratepayer benefits, as Everyday elucidated, the Commission and other stakeholders must <u>focus resources on getting the job done</u>. This means:

- Keeping MASH incentive levels in the range of $1.80 to $2.00
- Allowing affordable properties to access resident energy savings to finance PV investments
- Ending the improper diversion of MASH funds to enrich mobilehome park operators
- Reducing unnecessary procedural obstacles, regulatory burdens and administrative costs

Finally, to make feasible not just individual PV projects but also the overall low-income program goals, the Commission should:

- Weight new AB 217 funds more heavily toward MASH
- Adjust the incentive levels and capacity goals among programs accordingly

2. SIMPLICITY AND CONTINUITY

The Coalition supports the sentiments of most if not all parties to preserve the core of the successful existing program, implement the new mandates in as clean and streamlined a manner as possible, and promptly get back to creating more solar affordable homes. This thread runs through many parties' opening comments. Two major issues where it applies are the treatment of the existing waiting lists and the question of a single statewide Program Administrator (PA) for MASH.

A. Honor the Existing Waiting List

Staff Recommendation No. 10

The clear consensus among opening commentators was that currently waitlisted projects must meet the new program requirements. The MASH Coalition joins the clarification of SCE that there shall be no reapplication process, and new applicants will be added to the end of the waitlist. The Coalition shares Shorebreak's stated concern that uncertainty and delay could cause projects to lose financing. Several parties advocate a specific process and time-frame to verify compliance with the new rules. In general, we support Shorebreak's proposed process, starting with a 60-day amendment period, with the additional proviso that PA's be given discretion to allow modest extensions if warranted. PG&E's 30 days seems a bit short to us, since our organizations are typically thinly staffed. We would like to further clarify that the amended applications should only include affidavits that required elements will be included, followed by PA confirmation (for sponsor protection) that the reservation is still valid. Final verification occurs at incentive claim, under CSI's simple 2-step process (reserve, then claim).

The disagreement among parties is whether PV projects already completed while on the MASH waiting list should still be eligible to receive incentives. The Coalition strongly believes they should, within the 12-month window from PV completion per current MASH rules. Project sponsors could see that AB 217 had passed. As Everyday stated [p.14], "The legitimate affordable housing projects on the current MASH waitlist have relied on the current MASH process and have a reasonable expectation that the waitlist will be honored according to the established CSI rules." Some have argued that, since the solar projects were completed without receiving the incentives, the MASH funding is not needed. This argument betrays unfamiliarity with affordable housing. Formal sources and uses of project funds are put together on both a short-term and long-term (or "permanent") perspective, with temporary sources of construction financing eventually taken out (repaid and substituted by) permanent financing upon the satisfaction of certain conditions. A single property can involve as many as a dozen sources stacked in complex layers. Internally, project managers are managing cash flows and bridging sources, often

including internal borrowing of the sponsor's own funds as needed. Affordable housing sponsors approach solar projects in exactly the same way. In certain cases, various logistical or other project considerations made it logical to proceed with the PV, expecting that MASH funds would soon be available. Money was shuffled from one source to another to pay for installation when due; the MASH incentives are now expected and needed to repay the borrowed funds and ensure permanent sources and uses remain appropriately balanced. To do otherwise, based on an unnecessary change in program rules, would simply be unfair. MASH and SASH are existing programs with existing rules that should only be revised to the limited extent AB 217 compels them to be.

B. Stay with the Current Program Administrators

Staff Recommendations 8 & 12, Questions 3, 4 & 7

It is not worth the time and delay to change now to a new MASH program administrator. GRID Alternatives should remain as SASH PA with no further process.

A number of opening comments, such as those of CSE and GRID, lay out the advantages of a single statewide PA for MASH as well. CSE maintains that the transition could be swift and efficient; the Coalition is highly skeptical that would be the case. On the other side, PG&E points to the considerable existing "program-specific expertise" and other advantages of not changing PAs at this time. And it seems to the Coalition that the same "disruption to program continuity and program implementation" GRID fears for SASH would likely occur on the MASH side as well.

If the Commission were starting over with a new program, a single statewide PA might be the best way to go. But we are not starting over; rather, the Commission is trying to efficiently implement new funding plus 3 limited new mandates for a successful, existing program. Program administration to date has not been perfect (witness the errors with 2852 requirements that led to mobilehome park operators receiving affordable housing funds). But the Commission, PAs and all stakeholders have worked together since 2008 to gain (sometimes hard-earned) experience with the programs. Most importantly, a change in Program Administrator is simply not necessary or required. As such, the transition would be an "inefficient use of administrative dollars," as PG&E stated [p. 3]; "there is no justification provided in the Staff Proposal for incurring upfront costs and additional time that would be required to put in place a statewide MASH administrator."[3] The Commission should move on,

[3] If the Commission felt absolutely compelled to move to a single statewide PA for MASH, the Coalition joins Shorebreak in advocating for a solid transition plan to be approved in advance, and supports REP's suggestion that the transition should not occur prior to 2017.

concentrating scarce resources where they are needed most.

3. FOCUS ON FEASIBILITY

Staff Recommendation nos. 2, 3, 9, 11, 13 &14, Question 8

As stated in the introduction, the Coalition is concerned that trying to stretch funding too far by reducing the per-watt incentives, and stretch the program too far to cover well-intentioned but unnecessary policy goals, will result in making new PV projects unattractive if not outright infeasible in many cases, destroying the strong program participation rates built up to date. Focusing scarce resources, including both incentives and the private capital and organizational resources for solar leveraged by the programs, requires holistic consideration of a number of factors, including:

- Keeping MASH incentive levels in the range of $1.80 to $2.00
- Allowing affordable properties to access resident energy savings to finance PV investments
- Weighting new AB 217 funds more heavily toward MASH
- Encouraging responsible TPO arrangements for SASH
- Adjusting the incentive levels and capacity goals among programs accordingly

(It also includes ending the improper diversion of MASH funds to non-affordable housing properties, and reducing unnecessary procedural obstacles, regulatory burdens and administrative costs, each of which are discussed separately in later sections.)

A. Project economics must work, in order to drive achievement of program goals

Most importantly, PV projects must make economic sense to affordable housing organizations. The incentive levels must be high enough that, combined with the energy savings in the operating budget and the federal ITC available through third-party ownership financing arrangements (TPO), the project must "pencil out." As explained in the Coalition's opening comments, heavily regulated low-income housing properties typically do not fully control and benefit from surplus cash flow, because the terms of their subsidy financing give control to regulators, and do not benefit from an increase in property value because of the long-term deed restrictions on the properties. Therefore, in order to induce housing sponsors to participate in the program, MASH must enable sponsors to find solar deals in the marketplace that create at least a modest initial savings, so we then can enjoy increasing savings relative to grid pricing, cost stability and all the other solar benefits over time.

MASH Incentives. Among opening commentators, only Everyday meaningfully addresses the incentive levels. As the industry leader in the niche of solar affordable housing in CA, Everyday knows

what is realistic and achievable in the market. As a group of leading MASH users who collectively have installed over 13 MW (including a large number of projects with Everyday, among others) Coalition members also have some insight into the current market. It should be pointed out none of the other commenting parties have any experience executing actual multifamily PV TPO deals. Our experience is that to make deals feasible, MASH incentive levels must remain in the range of $1.80 to $2.00.

Coalition members have experience with low-income housing programs that tried to spread the subsidy funds too thinly, in order to help more projects. In fact, the strategy backfired, and the result was that fewer projects were feasible, and so the programs failed to achieve their goals.

Finally, we disagree with those who supported the staff proposal's newly invented and radical shift of the two tiers of incentives from the current system of Track 1A and 1B based on serving common versus tenant loads to a new system based on essentially "basic" versus "premium" levels of regulation and perceived policy benefits. (If such a shift were made, PG&E's suggestion to name them Tracks 1C and 1D to avoid confusion with the old 1A and 1B is excellent, and we adopt it here.) There is no mandate to make such a major shift; it will reduce resources available to build affordable solar projects and achieve the mandated goals; it will further erode participation by complicating the program; and the previous experience of trying to induce greater public benefits with greater incentives in the Track 2 experiment was a failure. Instead, we support Everyday's approach of continuing the current common-area/tenant-load basis of Tracks 1A and 1B. Moreover, Everyday's justification of common/tenant basis of tracks, that it will incentivize larger tenant-serving projects (versus simpler, safer, smaller common-area-only projects), makes a great deal of sense, in terms of the newly emphasized mandate of maximizing overall ratepayer benefit.

SASH Incentives. For SASH, the Coalition generally agrees with comments of GRID, SCE and SEIA in support of opening the program to TPO financing, which will greatly increase total capital available for low-income solar projects, and concurs with the contention of GRID and others that GRID is well-placed to craft and implement appropriate consumer safeguards. However, as Everyday points out, the favorable economics of TPO financing will allow SASH incentives to go much further in funding PV. The Coalition strongly supports Everyday's proposal to create a second tier of SASH incentives applicable to TPO projects in the range of $2.00.

Funding and Capacity Allocations. Once appropriate incentive levels are set, allocations of funding and capacity goals between MASH and SASH should flow from there. We concur with PG&E and SCE that AB 217 funding should be weighted more heavily to MASH than to SASH, but it needs to

go further. Most comments addressed the allocation split mathematically, without looking at incentive level (i.e., given unrealistically low incentive levels, can enough MW be subsidized). Similarly, most parties accepted staff's recommended capacity allocation between programs, without directly calculating incentives and financial leverage to ensure that funding mechanisms and program goals are in balance. In order to ensure that the program goals as a whole are feasible, the Commission must weight new AB 217 funds more heavily toward MASH, and adjust the incentive levels and capacity goals among programs accordingly.

The Coalition supports Everyday's calculations, starting with the appropriate incentive levels for each element of the program (SASH TPO, SASH homeowner-owned, MASH common area, and MASH tenant loads), multiplied by the funding allocation, but recommends the Commission also add the MW goals directly to the calculation. In Everyday's perfectly reasonable proposed allocations, the SASH goal would be 12.5 MW ($12.5 million at $2/watt + $18.75 million at $3/watt funds 12.5 MW). The Coalition would not object to minor adjustments the Commission may ultimately make to the incentive levels and resulting funding and capacity allocations. Yet the principle remains clear: the MASH program, if properly funded, will do most of the work toward achieving the overall AB 217 goals and maximizing affordable solar installed and thus overall ratepayer benefits.

B. End the improper diversion of MASH funds to enrich mobile home park operators

Staff Questions 2 & 6

An obvious way to make more money available to achieve the goals of the MASH program is to reserve all the funds for actual affordable housing. Everyday's opening comments present evidence that MASH funds have been reserved improperly for projects that fail the plain requirements of PUC 2852 on two counts: first, they are not subject to "deed restriction or affordability covenant with a public entity or nonprofit housing provider" or "pursuant to the terms of the financing" under specified low-income housing programs; and second, the properties did not constitute multifamily housing in developments with either rental units or homes being developed for sale to lower-income households subject to specified resale restrictions or equity-sharing restrictions.

The Coalition agrees with SCE and Everyday that PUC 2852 provides appropriate guidance on the definition of affordable housing, and agrees with PG&E, CSE and CalSEIA that the current advice letters (CCSE AL 48, etc.) putting the 2852 language into the MASH handbook will help address (by highlighting) this important issue. But we take strong exception to the suggestion, in the comments of CalSEIA and CSE, that the requirements were somehow unclear previously, and the handbook was

vague. PUC 2852 has always been clearly referenced in the handbook and other CSI materials as an absolute program eligibility requirement.

Finally, PG&E's suggestion of requiring a sign-off letter from municipal housing agencies, as a sort of double-check that all is in order, is good one in theory. In practice, however, our experience is that this type of routine approval (similar letters are required for all Low Income Housing Tax Credit applications, for example) can sometimes take an inordinate amount of time. Adding a new requirement like this conflicts with the other imperative of simplicity and continuity. If the project sponsor can produce appropriate deed restrictions executed by the city housing department or former redevelopment agency or one of the state or regional entities that normally execute affordability regulatory agreements for low-income housing, that should suffice. Housing department confirmation letters should only be utilized in cases where the deed restriction is with an agency not on the "normal" list.

4. NEW MANDATES AFFECT BOTH CONTINUITY AND FEASIBILITY

The Coalition agrees with the many comments stressing the reduction of unnecessary procedural obstacles, regulatory burdens and administrative costs. Unwelcome program revisions that ignore this imperative both violate the principle of continuing the efficient simplicity of the current programs and erode the feasibility of individual solar projects, thus reducing the reach of MASH and leaving behind a number of low-income properties that might otherwise be able to go solar through the program. The Commission should implement the three new legislative mandates of AB 217 with restraint.

A. Energy Savings Assistance Program

Staff discussion on ALJ ruling, page 7 (not enumerated in recommendations in Attachment A)

The Coalition strongly supports PG&E's proposal with respect to energy efficiency coordination for Track 1C applicants. Recognizing customer confidentiality concerns, they propose PAs regularly query IOU billing databases for MASH CARE tenants and automatically deliver them to ESAP staff for follow-up. This simple automated solution has the additional advantage of freeing MASH project sponsors from this otherwise onerous task. (It also helps argue for continuing the IOU's role as PAs.)

As for Track 1D applicants, if there is a Track 1D based on additional benefits rather than common vs. tenant loads (which we oppose, see our comments above), requiring them to fill out the initial screening questionnaire used by the Multifamily Energy Upgrade California program is acceptable. However, any follow-up from there should be through the Energy Upgrade program, without further cross-program tie-ins, based on our difficult experience trying to make ESAP work with other multifamily programs. (While a number of Coalition members are actively and successfully

participating in Energy Upgrade program, there is concern about overlapping program compliance rules and regulations.) An affidavit by MASH applicants stating they have completed the Energy Upgrade questionnaire and will reasonably follow-up in good faith with that program would be sufficient to allow MASH PAs to clamp down in extreme cases.

Everyday's suggestion of adding an obligation to inform residents of the program is acceptable, though not strictly necessary. Greenlining's suggestions, however, introduce a great deal of unnecessary new complexity – another example of well-intentioned program revisions that a necessarily lean, streamlined program simply cannot support.

B. Job Training *Staff Question 1*

The Coalition agrees with the concerns of SCE, PG&E and CalSEIA that this mandate could turn into a significant program barrier if it does not address practical market conditions of safety, cost, efficacy and other factors. We strongly agree with SCE that implementation needs to be simple and low-cost. Everyday's concerns that numerical quotas do not always lead to real job opportunities mirrors our own initial comments. We are heartened to see that Everyday has had success turning trainees into permanent employees in a number of instances, and support their suggestion of allowing solar providers to demonstrate they have hired low-income trainees as permanent employees as an alternative to specific numeric goals.

We disagree with CSE's suggestions that push in the other direction, toward stiffer quotas. GRIDs comments are interesting, but less applicable to MASH. We agree they need flexibility, and have demonstrated expertise. However, SASH enjoyed a unique combination of high incentive levels requiring very little outside funding plus GRID's position as the single marketing, program administration, installation and training entity statewide. Given these big differences, intensive training standards that work for SASH would not be appropriate for the more market-driven MASH program.

C. Tenant Benefits *Staff Question 5*

First and foremost, as Everyday stated, "it is important to understand that AB 217 requires the CPUC to maximize ratepayer benefit, not program participant benefit." [p. 5] Unfortunately, this staff question misled some parties (PG&E, REP) to comment on ways that tenant benefits could be improved, which is beside the point. Even if the various ideas might be worth trying if constructing a new program, this is not a new program, and there is good reason not to load unmandated new regulatory burdens on an existing successful program. Said Everyday, "There is no nexus between maximizing overall benefits to ratepayers and making sure tenants see a benefit." [p. 6]

CalSEIA's comments were exactly correct, that a new tenant benefit would erode the value of the incentives, divert resources from the primary program goals and reduce the amount of solar installed. We support their analysis and conclusion in full. We also join SCE's comment that "creating additional steps to import the tenant benefit requirements of the CSI-Thermal program into the MASH program may be costly, inefficient and a barrier to MASH program participation." By contrast, the comments of several parties in favor of the staff recommendation misconstrue the nature of tenant benefit.

As CalSEIA states, by the nature of the program and 2852 restriction, MASH-funded solar installations help keep housing affordable. This occurs by two means. First, deed-restricted affordable properties are closely regulated by the CA Tax Credit Allocation Committee (TCAC), HUD and a variety of local government housing agencies, for which the regulation of total housing costs and the relationship between rent, utility costs and tenant income is highly evolved, extremely sophisticated and paramount to regulatory oversight and compliance. As Everyday commented, the Commission should leave this complex matter to the expert housing regulators. The Coalition would like to underscore the comments, one of the main housing regulatory experts, HUD:

> In the first place, affordable housing is governed by regulations restricting rent and incomes levels. These restrictions limit the ability of property owners to increase rents to cover investment costs. Secondly, to scale a solar system to serve tenant units generally requires the property owner to come up with additional resources to offset added system costs. Because the property owner cannot readily capture energy savings that accrue to the tenant's meter, the owner must use project reserves, receipts, or other resources to fund improvements serving tenant units. As such, requiring a distribution of 30% of the incentive amount to tenants could place additional financial burdens on the property owner. [HUD letter[4], item 4, p. 3]

Second, by stabilizing and improving housing operating budgets, solar helps ensure the property can remain affordable and enables sponsors to better provide exactly the kinds of benefits, "like vocational counseling, mental health programs, and legal support services [and other] laudable programs," as CalSEIA put it. As HUD commented, "For affordable housing, the chief property benefit of energy efficiency or renewable energy programs like MASH is the long-term financial stability of the affordable housing asset. This ensures the preservation of affordable housing and affordable rents for low-income families." [p. 3] HUD goes on to list a series of policy tools that could be used if a tenant benefit requirement were imposed, starting with extending the affordability terms (which the Coalition finds the most acceptable among proposed new burdens) – but, as stated, such a benefit is not required by

[4] HUD comment letter to the Commission from Wayne Waite, Manager, Regional Energy and Climate Operations for the U.S. Department of Housing and Urban Development, dated July 17, 2014.

AB 217, and trying to get the MASH Program Administrators to take on the extremely complicated new challenge of regulating project rents, utility allowances and cash flows would make the problems presented with enforcing PUC 2852 look easy by comparison.

5. CONCLUSION

The MASH Coalition appreciates this opportunity to reply.

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Respectfully submitted,

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