



**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

FILED
1-05-15
04:59 PM

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)

**Comments of the Multifamily Affordable Solar Homes Coalition¹ on
the Proposed Decision Extending The Multifamily Affordable Solar
Housing And Single Family Affordable Solar Homes Programs
Within The California Solar Initiative**

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Date: January 5, 2015

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The Multifamily Affordable Solar Homes Coalition (“MASH Coalition”) hereby submits these comments in response to the Proposed Decision of Commissioner Michael R. Peevey issued December 15, 2014 in the above captioned proceeding (the “PD”).

1. INTRODUCTION:

The MASH Coalition represents a group of affordable housing sponsors that have been major users of the MASH program to date. The Coalition is grateful for the Commission’s ongoing support of the program and the low-income renters it serves, welcomes the PD to extend the program and looks forward to soon being able to move ahead with the next round of funding. As property owners making the decision whether or not to complete individual property applications to the program, we are reassured that the PD has in many ways emphasized continuity and simplicity in its approach to implementing the program extension enabled by AB217.

However, we are particularly troubled by a major deviation from this approach: the restructuring of incentive tiers from one based on either common-area or tenant-serving systems to one based entirely on certain new benefit thresholds, with a cap on incentives available at the higher tier. As pragmatic decision-makers operating in the highly constrained affordable housing industry, we are all too aware that these radical changes, which are not warranted based on the record, will have the unintended

consequence of diminishing direct solar benefits available to our low-income residents. Combined with unnecessarily aggressive reductions in incentive levels, the result will be smaller systems serving common areas and fewer systems directly benefitting tenant units, in effect leaving our residents without full access to the benefits of solar. Moreover, these smaller systems will have reduced financial leverage of private sources of capital, and provide less offset to the costs of other ratepayer-funded low-income programs, thus missing this important opportunity to maximize the overall benefits to ratepayers of the low-income solar program.

It is ironic that these major changes will move the program away from greater tenant benefits at the same time the opportunity is ripe to improve the program for low-income renters without radical change to the incentive structure. We endorse a proposal circulated to us by Wayne Waite, whom many of us know from his long leadership on greening affordable housing at the US Department of Housing and Urban Development (HUD),² to provide an incentive structure that mandates a direct benefit to low-income renters while both maintaining the current structure of MASH incentives based on common areas and tenant loads and implementing job training and energy efficiency initiatives required by AB 217.

We also have concerns about ensuring all MASH recipients meet the program eligibility criteria, and about practical details of the proposed implementation of the other threshold requirements including participation in the Energy Savings Assistance (ESA) program.

Therefore in these comments we will urge the Commission to:

- Continue to distinguish the two tracks of MASH incentives by whether they serve common areas or tenant units, with no cap on incentives for PV directly serving residents;
- Increase the incentives to be commensurate with the realistic system costs, within a framework that ensures that MASH capacity goals will be met with existing MASH resources, as suggested by Wayne Waite;
- Require a direct tenant benefit if tenant-based incentives are claimed;
- Provide reasonable flexibility in meeting the other threshold requirements; and
- Provide additional guidance to staff and Program Administrators on MASH eligibility.

2. INCENTIVE STRUCTURES: Retain the Two Tiers of Incentives Based on Common Area or Tenant Serving Solar PV, with No Cap on Upper Tier

² Waite was at HUD for 35 years, most recently as Manager, Field Energy and Climate Operations in HUD's Office of Sustainable Housing and Communities, until his retirement in late 2014. Waite now works for Everyday Energy.

The current MASH program's tiered incentives have made tenant-benefitting solar transactions feasible on affordable housing properties. The PD's proposed incentive structure will make it financially infeasible for affordable housing sponsors to pursue tenant benefiting systems. By providing much smaller incentives which leave greatly increased funding gaps, with no premium for directly offsetting tenant loads, the requirements of the PD would be too complex and burdensome to make it worthwhile, given all the constraints sponsors face in the challenging affordable housing industry. The result will be that affordable housing sponsors will scale back PV installations to common areas only. The MASH program experience has proven that robust incentive premiums to serve tenant areas can overcome these barriers, allowing greater numbers of low-income households to more directly benefit from solar energy systems.

2.1 The proposed major program revision to eliminate the common/tenant distinction is not justified.

The proposed new Tracks 1C and 1D ignore the fact that tenant systems cost more because of the complexities of dealing with a heavily regulated multifamily project. Even the presumed economies of scale for installing more PV in a single construction project are counterbalanced by increased costs of larger systems. When installing a smaller, common-only system, property owners can find the "sweet spot" with the best roof and installation conditions, the most convenient connection points and so forth. When a much larger system starts to cover the site, issues and costs multiply, to address everything from varying roof conditions and tree trimming, to finding space for, protecting and screening inverters, to limitations on site electrical connection capacity and additional requirements for virtual net metering by the IOUs. More costs and risks arise directly from the tenant-serving aspect. There are, appropriately, a number of privacy and other protections in place for tenants, but these make the process much longer and more complicated than for PV systems serving only common areas. Data collection for initial estimation is difficult, for example, with owners having no direct access to tenants billing and usage data. Tenants add a whole new layer to the already lengthy process to obtain the approvals of layers of regulators and financiers of the properties, and it's more difficult to provide the financial projections they require. It's expensive to hire the necessary consultants and pay for additional TCAC auditing required to use the California Utility Allowance Calculator (CUAC). More extensive reporting back and reassurances through the PV project and beyond are required.

The intersection of all these complexities creates an additional cost, the cost of the regulatory, financial and compliance risk. Solar technology, once understood, is safe and predictable. Similarly, offsetting common-area loads, where the costs and saving accrue directly to the property operating

budget, within which the project sponsor (property owner) has strong control over the energy line item. By contrast, accessing tenant unit energy savings through adjustments to the utility allowance is an indirect, highly regulated process. The extent and timing of approvals, updates and the many adjustments to the highly regulated pre-existing deal structure are all variable – as such, sponsors making PV decisions in advance can't be as confident of the outcome of the initial process, or the ongoing annual updating of the calculations. Project sponsors, who are required to provide financial and compliance guarantees to lenders, investors and government agencies, are ultimately on the hook for this risk, and must account for its cost.

The former distinction between the two Tracks or tiers of incentive levels, providing more money for those willing to directly serve tenant units, worked. Particularly as all parties became more comfortable with Virtual Net Metering (VNM), housing sponsors were able to take on added costs and risks in return for the higher rewards.³

The PD's rejection of higher incentive levels to offset tenant loads overstates the effects of TCAC policy changes.⁴ The PD misconstrued our July comments on the staff proposal, which stated in part that, with TCAC's changes, "tenant loads no longer merit the *current* premium over common-area incentives" (emphasis added). We nonetheless clearly advocated continued premiums. We also wish to clarify that our position was based on relatively higher overall incentives than provided in the PD, and without reference to a structured tenant savings benefit, as is advocated for MASH elsewhere in these comments, similar to the 50% minimum resident savings for SASH. If the additional cost and benefit of this minimum resident savings is adopted, relatively higher premiums for the higher incentive tier would be justified.

The PD's 100kW cap on higher incentive levels is not supported in the record. Like the proposed new tiers, it fails to recognize the added costs that do not enjoy economies of scale, and is based on one commenter's suggestions regarding the scaling of just one, relatively minor proposed Track 1D cost component, job training.

Accordingly, the Commission must retain the current differential MASH incentives for tenant and common area serving systems and dismiss the unsupported 100kW cap in the new 1C and 1D incentive structure.

³ It is important to note that none of the MASH Coalition members have adjusted the utility allowance for a tenant benefitting system associated with the first round of the MASH Program where a tenant benefit incentive was claimed.

⁴ PD pp. 54-55.

2.2 Without higher incentives, housing owners will steer away from offsetting tenant loads.

The proposed restructuring away from the common/tenant split ignores the way decisions to size and scope multifamily solar PV systems are actually made. Instead, the perverse effect would be to steer property owners such as ourselves away from deciding to extend systems at a given property beyond common areas and add PV directly offsetting tenant loads, thus eliminating direct tenant benefits.

The decision-making process for multifamily affordable housing creates barriers to providing solar directly to tenants. Affordable housing sponsors operate in an industry where resources are, by definition, particularly scarce, regulatory compliance regimes are strict, and diverse obligations are due to a wide range of stakeholders. Therefore, despite in general being strongly mission driven, sponsors simply can't afford not to make pragmatic, cost-effective decisions. And the fact is, tenant-serving PV is a tough sell.

The decision to install solar PV to offset our common area loads is a relatively easy one. The energy savings accrue directly in our operating budgets, and are easy to estimate and control.

By contrast, the decision to install solar PV to serve tenant units directly, offsetting the loads of our individual low-income residents, is significantly more complex and constrained. This complexity lends itself to more cost and risk. Affordable housing sponsors don't have significant reserves of capital to invest in covering those added costs and risks, and in any case they rarely have unrestrained access to any surplus cash flow that a capital investment would generate to help pay off the investment.

2.3 Legislative and commission goals do not necessitate complete restructuring.

The enhanced program benefits required by AB217 can add on to, rather than replace, the current Tracks 1A and 1B. The concept of additional minimum requirements for all participants along with greater threshold requirements in order to achieve increased incentive levels is entirely consistent with the current designation of common and tenant incentive levels. All the work of the Commission and staff in crafting appropriate responses to both the new Legislative requirements and valid Commission concerns based on a half-decade of program experience can be retained (with the reasonable modifications discussed later in these comments). In effect, directly offsetting tenant unit loads becomes one more requirement of MASH Track 1D.

3. INCENTIVE LEVELS: Increase MASH Incentives to Ensure Feasibility, Particularly for Tenant-Serving Systems

The proposed reductions in incentives are too drastic. The PD incentive levels of \$0.90 per watt and \$1.40 for a limited amount of PV at certain projects are well below what we understand the current

market to be for TPO projects (TPO being expected to be only realistic financing option for the great majority of MASH projects funded by AB217⁵). While property owners only know what they are seeing in the market and don't have access to the detailed cost information solar providers have, particularly for the more complex TPO deals that will likely fund most of the new round of MASH projects, we definitely have found that it costs more to provide tenant-serving solar than systems for common areas only.

Whatever the exact final incentives are, there are sufficient MASH funds to create significantly higher incentives for both tracks than provided in the PD.

There should be nearly \$60 million in MASH funding available, with the \$5,869,062 in excess administrative funds remaining from the first round of MASH added to the \$54 million in AB217 funding. The PD concludes that it is reasonable that future administrative costs through the end of the program should cost no more than \$3,780,000, or 7% of \$54 million⁶. That leaves just over \$56 million to fund incentives. (It could be argued that the 7% should apply to the \$59,869,062 total, but that wouldn't be justified, given that the PD reasonably expects program uptake and processing to be much faster than the 5+ years to date because of the long current waiting list; and given that after 5+ years the program interpretation, materials and implementation details are now well established and the PAs and other participants are well experienced. The mere availability of a greater program budget, with no change in PA work plan, should not justify any increase in the administrative budget. Doing so essentially would create an administrative fee on the administrative fee surplus.)

Our projects on the MASH2 waiting lists are typically proposed in the range of 25% of PV offsetting common area loads and 75% offsetting tenant unit loads. At the incentive levels in the proposal by Wayne Waite mentioned above, namely \$1.10 for Track 1C and \$1.80 for enhanced Track 1D (serving tenant areas), the available funds would incentivize over 36 MW. Even if a more conservative 20% / 80% allocation of common / tenant PV is used *and* the administrative budget were increased to 7% of the total incentive funds, the available incentives budget still would fund over 35 MW, exceeding the capacity goal set by the PD.⁷

4. STRUCTURED BENEFITS: The PD favors low income homeowners over low income renters.

⁵ See Comments of MASH Coalition Regarding AB217 Implementation Staff Proposal filed 2014-07-22, p. 11.

⁶ PD Table 2, discussion at page 31, and Conclusion of Law no. 24

⁷ The administrative budget and total incentive funds would equal approximately \$3,917,000 and \$59,952,000, respectively.

In Section 10 of the PD, the Commission requires that low-income homeowners receive a 50% discount to their current utility bill if they utilize a TPO model in conjunction with a SASH rebate, to ensure a direct tenant benefit. The PD seems to be favoring low income homeowners over renters. While both should be treated the same, it is indisputable that low income renters are lower income than homeowners.⁸ Additionally, a tenant benefit tied to a multifamily project that is properly regulated will ensure that the benefit of the solar PV will always benefit a low income renter, in fact generations of renters, each of whom must be regularly income-qualified under the terms of the housing financing.

In the case of homeowners, they only have to qualify for SASH when they apply. There is no comparable mechanism in place to ensure that the SASH-funded PV system will continue to benefit a low income homeowner. In many cases a home may be sold or the owner has pulled themselves out of the low income designation, yet continues to receive the benefit of the SASH subsidized solar PV. Section 2852 requires resale restrictions. First, 2852 provides no detail on how or for which buyers such a resale restriction shall operate or for whom – only the most recent sale is explicitly directed at low-income residents by the language of 2852 – and, by their nature, infrequently invoked, locally governed resale restrictions are more difficult to enforce. For example, for all practical purposes it is the real estate agent and title insurance company, who may have no interest in affordable housing but a salient interest in the pending sale, who must alert the home-seller and governing agency to the resale restriction on title. (And in fact there is a history of poor enforcement of below-market rate resale restrictions by too many California municipalities, compared to the much more robust compliance operations maintained by the major rental housing governing agencies.)

Second, 2852 does not even require the next owner to be low-income, because it allows, as an alternative in lieu of resale restrictions, equity sharing arrangements consistent with the terms of Government Code 65915(c)(2). In equity sharing arrangements, the assisted homeowner essentially pays back the original government subsidy. These arrangements are between the seller and governing agency; there is no income restriction imposed on the new buyer. Add to all this the fact that the referenced Government Code 65915(c)(2), which was originally written to regulate local governments granting density bonuses, creates a somewhat confusing guide for SASH, in that it includes moderate income households and explicitly pegs the equity formula to moderate-income affordability. None of this is to suggest that SASH is not serving appropriately qualifying low-income households; indeed their

⁸ There is extensive government and academic literature available based on state and federal data showing that low-income renters as a class have lower incomes and fewer economic resources than low-income homeowners. Relative economic status among low-income households, however, is not a criteria of CSI nor a useful policy debate.

marketing and programmatic efforts at reaching the desired target beneficiaries is exemplary. It is only to demonstrate that it is readily evident that, over time, because of the nature of the underlying housing regulations, MASH provides much greater certainty that the CSI-assisted PV will continue to serve low-income households throughout the term of the restrictions.

The bottom line is that the Commission should ensure that it is treating low income homeowners and low income renters in a similar manner and require that both demonstrate a direct benefit if a SASH or MASH tenant based incentive is claimed.

This essential goal can be achieved by adopting the 50% structured tenant benefit for tenant-serving solar (i.e., the “enhanced Track 1D” that adds the tenant-serving criteria to the criteria in Table 2) and increasing the Track 1D incentives sufficiently to fund it. The 50% level of minimum direct tenant benefit and the necessary incentives to support it is structured into the SASH program per the PD. The Commission should provide parity between the programs by doing the same for MASH and mandate a 50% direct tenant benefit at the incentive levels advocated for by Wayne Waite and Everyday Energy.

5. OTHER PROGRAM REQUIREMENTS: Reasonable Flexibility is Needed in a Number of New Threshold Requirements in Order to Make the Program Work Smoothly

New MASH program requirements are necessary in order to implement the mandates of AB217 and it is an opportune moment to enhance direct tenant benefits, as discussed. Nonetheless, as in any program, more requirements add more program costs which means fewer projects will be feasible, especially if incentive levels are severely reduced. Ensuring the new requirements are implemented in a reasonable manner that is as consistent as possible with current practices and programs is the best way to both include the new mandates and enable the greatest amount of low-income solar PV and thus maximizing the overall benefits of the program. Several new requirements still have issues.

5.1 Energy Savings Assistance (ESA) Program obligation is not feasible as written. The MASH Coalition supports efforts to increase energy efficiency when feasible at our properties, and many members have accessed these types of services whether through ESA, related current or previous IOU programs, or own our independent efforts for example during major property rehabilitations where resources are available. We agree with Findings of Fact nos. 22 and 23 and the concept of creating a “pathway to tenant enrollment,”⁹ as well as Conclusions of Law nos. 15 and 16.

But the PD errs by obligating MASH applicants not only to initiate contact and cooperate with the ESA program but also to ensure their tenants enroll in ESA or, if appropriate, the MIDI program serving

⁹ PD p. 16

slightly higher incomes.¹⁰ While additional cooperation among the parties makes sense, and are consistent with and can draw from the measures enacted by D.14-08-030, the obligation to ensure tenant participation is infeasible. It requires of MASH applicants something which they are not legally capable of delivering – tenant participation – and then to work around this barrier it relies on a HUD process that is not functional. Moreover, for the most part the desired efficiency gains do not rely on multifamily resident participation. For all these reasons, the tenant obligation should be eliminated.

The fundamental problem is that the ESA was conceived as a single-family program that has never worked well for multifamily. The affordable housing industry has engaged for a number of years in efforts to make ESA work better for MF, with varying results. The California Housing Partnership Corporation (CHPC) and Stewards of Affordable Housing for the Future (SAHF, a network of leading affordable housing sponsors) worked with housing sponsor LINC Housing (LINC) on a pilot program, where concentrated additional resources could be brought to bear. The November 2013 report on the effort concluded that many barriers remained, only some of which have since been solved by D.14-08-030 and related efforts.¹¹

For MASH in particular there is a disconnect between the MASH applicant/property owner on whom the ESA obligation falls and the low-income resident intended to be the program participant, as recognized in PD Conclusion of Law no. 15. There are privacy issues that prevent necessary sharing of data. More importantly, MASH property owners don't have the right to force their tenants to enroll in any program or service – under prevailing affordable housing law, services can only be offered, never required. This is fundamentally unlike SASH, where each household voluntarily decides whether to take on the assisted solar project, including all the accompanying conditions.

To resolve these problems, the PD relies on an “expedited enrollment” process¹² that does not exist. Global qualification of MASH properties where at least 80% of tenants have qualifying income levels is a good idea, and it would be even better if HUD already had a list we could use for this purpose. But, while HUD was interested several years ago in working on this concept, to our knowledge, no such list exists, and there are currently no HUD resources available to create or maintain such a list. The policy work necessary to work with HUD, TCAC or another housing regulatory agency to create and feasibly implement such a list would likely be a years-long effort far beyond the scope and timeline afforded by MASH.

¹⁰ PD Conclusion of Law no. 17, second and third sentences.

¹¹ See report at <http://www.chpc.net/dnld/CityGardens112213.pdf>

¹² PD p. 18

Trying to use other methods to “quickly and easily” determine ESA eligibility from existing multifamily low-income data, such as redacted rent rolls, will be neither quick nor easy. The ESA and MIDI income limits are not compatible with existing multifamily affordable housing income regulations. The ESA uses the CARE standard of 200% of a statewide poverty standard, and the MIDI program uses the slightly higher 250% standard. By contrast, affordable housing almost exclusively relies on AMI standards that vary across the state and bear no direct relationship to the CARE/ESA or MIDI standards. Thus cumbersome individual analysis of properties would still be required, contrary to the PD’s good intentions of having a smooth and workable process.

Moreover, the multifamily efficiency programs that are supposed to wrap up ESA and other programs into a single, user-friendly interface for property owners, notably including the Energy Upgrade California multifamily component, are in fact still a patchwork of relatively new and lightly tested regional programs. Finding the right implementation pathway through each does not accord well with the MASH program, where a very large number of wait-listed new projects are expected to roll out very quickly upon the release of the final program decision.

Finally, tenant-level participation is not the most important outcome. As a practical matter, property owners are already participating in energy efficiency programs, and will be required to participate in order to receive MASH funds. The goal of the AB217 mandate is to ensure that those participating in the low-income solar programs are aware of such programs and appropriately take advantage of ratepayer-funded resources available to determine and encourage making feasible efficiency upgrades. For MASH, the property owners making the decision are already participating and informed. Moreover, they make all the important efficiency decisions for the individual tenant units as well, from heating systems to envelope measures to appliance selection. Little is to be gained from explicit tenant participation.

There is no practical solution to the legal/technical barriers, nor any pressing need, for formal tenant participation. The PD should be modified accordingly.¹³

5.2 Energy Efficiency walk-through compliance options should be broadened. The energy efficiency walkthrough audits discussed on PD page 37 and Conclusions of Law nos. 28 – 31 are, like

¹³ If ongoing program experience suggests still more robust cooperation in creating the pathway to ESA enrollment is advisable, the Commission could later choose to require additional IOU referral efforts as proposed by PG&E in their comments on the July 2014 staff proposal, which suggests the utilities implement “a regularly scheduled query of the PG&E billing database that would list new MASH CARE tenants, and deliver the list automatically to ESAP staff on the first and 15th of every month. Subsequently, ESAP staff would follow up with eligible tenants as proposed.” Response Of Pacific Gas And Electric Company (U 39 E) To The Administrative Law Judge’s Ruling (1) Incorporating Staff Proposal Into The Record (2) Requesting Comments From Parties And (3) Setting Comment Dates, filed July 22, 2014, pages 8-9.

the efficiency goals behind the ESA, laudable. For the walkthroughs, the proposed implementation measures are generally feasible. However, compliance options should be broadened, to avoid unnecessary waste of ratepayer funds (not to mention government low-income housing assistance that property owners draw upon).

First, the Commission should expand the range of qualifying programs. Second, they should also explicitly expand the retrospective timeframe for participation, such that properties that have substantially completed a program that includes high-quality energy audits within the last three years do not need an updated audit

The list of qualifying activities and programs should include any of the following:

a. Per the PD, an energy efficiency walkthrough audit conducted that meets ASHRAE Level I requirements or higher, or enroll in either a utility, REN, CCA, or federally funded whole-building multifamily energy efficiency program.

b. Completed certification for one of the 3 leading green rating systems used in CA affordable multifamily housing: LEED, Enterprise Green Communities or BuildIt Green's GreenPoint Rated systems. (These programs all require a comprehensive examination of property energy efficiency.)

c. Other substantial rehabilitation or recent new construction of the property that included sufficiently comprehensive onsite inspections by HERS Rater or similarly highly qualified, certified professional, as reasonably determined by PA upon written evidence submitted by applicant. (For financing or other reasons, including strong incentives such as those contained in TCAC's competitive scoring applications for tax credit financing, multifamily properties often include substantial energy efficiency and sustainability measures into their projects.)

6. MASH ELIGIBILITY: Provide Clear Guidance to MASH Program Administrators regarding proper California Public Utilities Code Section 2852 documentation

The PD clearly states that "Any multifamily property that appropriately demonstrates eligibility under the standards in Section 2852 that apply to multifamily properties shall meet the MASH low-income documentation eligibility requirement." (p.51) We agree. The PD further states, the documentation must be "independently enforceable and verifiable and not contingent upon participating in the CSI Low Income programs."¹⁴ The Commission must provide guidance as to what these requirements entail as to avoid the current confusion over low income program eligibility.

¹⁴ PD p. 51

First, for MASH, those 2852 standards include a proper deed restriction or regulatory agreement, that relates to long-term affordability to low-income households. The restriction or covenant needs to be established as a contract with a responsible agency providing compliance oversight. The term must be 30 years or as pursuant to the terms of certain public financing programs for affordable housing.

Second, the requirement to serve lower-income households means households earning less than 80% of the Area Median Income (AMI), adjusted for family size, pursuant to the Health and Safety Code definitions explicitly adopted by CPU Code Section 2852.¹⁵ AMI data is readily available from various state agencies.¹⁶ Income limits are subject to the PD's above-cited declaration of "independently enforceable and verifiable" documentation.

Third, MASH is restricted to rental housing – dwelling units owned and maintained by the landlord. Low-income households that own their own units have a different pathway in CSI, the SASH program.

Fourth, the logical corollary of the above is "that the documentation presented under Section 2852(a)(3)(B) [must] be independently enforceable and verifiable and not contingent upon participating in the CSI Low Income programs," as stated on page 51 of the PD. If a submitted affordability deed restriction for the MASH waitlist is not established with a proper compliance agency or if it references the CSI program, this must be considered a fatal error rather than a correctable mistake. Moreover, the Commission must ensure that the MASH PAs understand the difference between a proper deed restriction and a rent control ordinance.

While none of the above is controversial, the difficulty has been in appropriately applying these clear standards to mobilehome parks, which are a unique form of housing with a number of specific provisions in state housing and other law that assign it a status somewhat apart. Nonetheless, by carefully applying the standards, even mobilehome parks can be appropriately processed in many cases.

Clearly, as with any other multifamily housing property, a mobilehome park operator that owns the dwelling units, rents them out to low-income households and meets the other standards would be eligible for MASH, consistent with the PD as cited above. An example would be Haley Ranch SD MASH 67, a property where the land and all the manufactured units are owned by an affiliate of Community Housing Works, a MASH Coalition member and well-established nonprofit housing sponsor.

¹⁵ 2852(a)(1) reads as follows: "'Affordable housing cost,' 'affordable rent,' and 'lower income households' have the same meanings as in those set forth in Chapter 2 (commencing with Section 50050) of Part 1 of Division 31 of the Health and Safety Code." Those H&S Code sections clearly differentiate between "lower income households", defined at 50079.5, and "moderate income households", defined at 50093.

¹⁶ See for example the TCAC list at <http://www.treasurer.ca.gov/ctcac/rentincome/14/income/post20131218.pdf>

On the other hand are mobilehome parks where the operator does NOT own the dwelling units and rent them out to low-income households. In these cases, provided they meet the other standards, the homeowner may be eligible for SASH. As for any SASH recipient, the low-income homeowners would independently qualify and receive the CSI benefits. The mobilehome park owner would have no part in financing the assisted solar installation, would not be a party to the CSI application and would not be subject to any deed restriction.

The interpretation difficulties seem to have come in cases where the mobilehome park owner owns the land and leases out slips to the owner of a manufactured home. This situation brings up issues regarding who benefits from the solar installed, as well as the question of what is the proper CSI program. The Western Manufactured Housing Communities Association¹⁷ lobbied for and achieved the enactment of Public Utilities Code Section 739.5(i) that specifically states that park owners are not compelled to share any of the benefits of a CSI rebate with their tenants. This means that the park owner can still charge the same for an electricity hook up even though his cost to deliver the electricity has been decreased by the installation of solar. This seems like a proper outcome in the CSI general market, but not in the low-income programs that are designed to help low income homeowners and renters. If the mobile home park otherwise qualifies as low income multi-family, it should be restricted to receiving a MASH rebate for the demonstrated common area load offset.

In any case, as with any other MASH recipient, the property must meet all the 2852 standards. In addition to the proper form of deed restriction or covenant, the property must be restricted to “affordable housing cost” to “lower income households”. That means that *total housing costs* – including rents and/or mortgage payments as well as utility costs – cannot exceed an amount equal to 30% of no greater than 80% of AMI (or such lower AMI standard as may apply), as defined in the Health & Safety Code sections incorporated by reference into Section 2852. The covenant would have to address all the housing cost components – rent, mortgage and utilities – to be compliant with the “affordable” definitions required by 2852.

To ensure MASH remains a program for multifamily rental housing properly deed restricted to be affordable to low-income residents, as the law requires, we recommend additional guidance along these lines be provided in the MASH handbook.

¹⁷ See <http://www.wma.org/about-wma> and https://www.pge.com/regulation/GRC2011-Ph-II/Pleadings/WMA/2012/GRC2011-Ph-II_Plea_WMA_20120123_227081.pdf

7. CONCLUSION

The MASH Coalition appreciates the Commission's ongoing support of the MASH program and championing of the principles behind it. We hope these comments have demonstrated the need to revise the PD to reverse a dramatic and unwarranted change in the incentive structure that could disrupt the continuing successful evolution of the program. Instead, we urge the Commission to act as follows:

- Maintain the existing track structure based on common versus tenant loads offset;
- Add a structured resident savings benefit along with the other enhanced benefits pursuant to AB217, in order to access the higher incentive levels for tenant-serving PV;
- Eliminate the cap on the higher incentive tier;
- Provide additional guidance as to MASH eligibility, to ensure all recipients are properly deed-restricted rental housing affordable to lower-income households;
- Make certain adjustments to ensure reasonable flexibility in meeting the other threshold requirements with respect to ESA program participation, energy efficiency and job training.

In summary, the best choice for MASH is clear. The key is to maintain the existing common / tenant track structure and robust incentives that would push MASH applicants to stretch their planned systems to include tenant units, coupled with a structured resident savings benefit along with the other enhanced benefits pursuant to AB217. This structured benefit option would provide all of the following outcomes:

- ❖ fully accommodates enhanced benefits required or encouraged by AB217
- ❖ no disruptive change to the nature of the program incentive structure, thus reduces complexity
- ❖ meets MW capacity goal without requiring any additional MASH resources
- ❖ significantly enhances direct tenant benefits
- ❖ strongly incentivizes property owners to choose this option – which in turn means choosing to provide all the other enhanced threshold benefits required for the higher incentives
- ❖ reduces ratepayer costs in other low-income programs (ongoing CARE discounts)

Respectfully Submitted this 5th day of January 2015, Carlsbad California

By: _____/s/ *G. Andrew Blauvelt*

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MASH Coalition

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