

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE

SAN FRANCISCO, CA 94102-3298

May 21, 2012

TO PARTIES OF RECORD IN APPLICATION 10-11-002.

At the Commission Meeting of May 10, 2012, Commissioners Michael R. Peevey and Timothy Alan Simon stated that they dissented in Decision 12-05-014. The decision was mailed on May 15, 2012. The dissent of Commissioner Peevey is now available and is attached herewith.

/s/ KAREN V. CLOPTON

Karen V. Clopton, Chief
Administrative Law Judge

KVC:lil

Attachment

D.12-05-014

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Dissent of President Peevey to D.12-05-014

The ALJ's decision approved by three of my colleagues denied PG&E's application to invest in the PV MDF on two grounds. The ALJ concluded that the PV MDF does not offer a reasonable prospect of providing benefits to ratepayers and that it would be duplicative of R&D performed elsewhere. The ALJ decision reaches both conclusions on the basis of less than two pages of analysis, and I respectfully disagree for the reasons detailed in my alternate.

I contend that this proposed R&D project is an appropriate use of ratepayer funds. The PV MDF compares favorably to other electricity generation related R&D projects approved in recent years, whether by the CPUC or the CEC through their public goods charge funded research program. Rather than granting funds to support R&D for a particular PV design, an inherently high-risk proposition, the PV MDF would have facilitated the development of many possible technological break throughs. As the hypothetical example in my alternate demonstrates, even a relatively small reduction in solar panel prices would repay PG&E's ratepayer investment several times over, without even considering the spillover benefits to the customers of other California utilities. In short, the potential benefits of the PV MDF dwarf the relatively small investment that was requested from ratepayers.

I would like to respond briefly to the rationales that my colleagues offered for their "nay" votes on the alternate. I simply do not understand Commissioner Florio's statement that the deferred tax asset would provide a benefit to ratepayers. True, ratepayers would have been asked to contribute less money, but at the expense of earning a proportionately smaller return. Regardless, the amount of money at risk would remain the same because the return of the

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gross-up for taxes was guaranteed by PG&E, with the limited exception that a future reduction in corporate tax rates could have slightly lowered the returned gross-up. Additionally, I disagree with Commissioner Florio's statement that the funding for this investment would have to be drawn from the CSI budget. Such a conclusion rests on a very liberal reading of SB 1. If the legislature had intended to require that all funding for R&D related in any way to solar technology be deducted from the CSI budget, it could easily have done so in a much clearer manner.

Commissioner Sandoval cited the portion of the P.U. Code that requires the Commission to minimize expenditures on projects that have a low probability of success. Ultimately, the probability of success for all R&D is a judgment call. As explained in my alternate, I sincerely believe that in light of the market research conducted by SVTC, the impressive credentials of their management and technical staff, and the competitive process by which the PV MDF was selected for a DOE grant that the PV MDF had a reasonable probability of success. I note that the State of New York contributed over \$160 million to leverage a \$60 million grant from the same DOE solicitation in order to construct an equivalent PV MDF for thin-film technologies. I find it hard to believe that the State of New York would have committed to such a large expense if it did not conclude, after a thorough assessment, that the MDF model for supporting technological innovation offers a reasonable probability of success.

Commissioner Sandoval also appeared to criticize SVTC for the fact they had only secured letters of intent rather than contracts for their services. To my knowledge, neither PG&E nor SVTC ever claimed that their letters of intent were equivalent to contracts. It should not be surprising that PV firms would hesitate

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to sign contracts with two to three years ago when SVTC was preparing its DOE bid when there was no certainty about if and when the facility would be available.

Commissioner Ferron offered several reasons for his opposition to the investment. He stated that given the size of the investment, deducting half of its cost from the budgets proposed in the Electric Program Investment Charge (EPIC) PD, as suggested in my alternate, would consume an inappropriate amount of the R&D budgets recommended in the EPIC PD. Commissioner Ferron correctly observed that the \$5.9 million to be deducted in 2012 would constitute 40% of the proposed 2012 budget for PG&E's share of the utility-run portion of the technology demonstration and deployment budget. As a side note, I would argue that the PV MDF investment should more appropriately be drawn from the applied research and development budget. Regardless, focusing only on PG&E's contribution to the EPIC budget overstates the impact of deducting half the cost of the PV MDF investment, which would constitute only 11% of the total proposed 2012 budget for applied research and development or 8% of the total proposed 2012 budget for technology demonstration and deployment. Whichever budget the PV MDF would have been drawn from, it is obvious that my proposal to deduct some of the investment from the EPIC budget would leave the vast majority of EPIC R&D funding available for other projects.

Commissioner Ferron added that he did not feel that SVTC's proposal had been subjected to a rigorous review process where it would have been compared to other potential uses of R&D funding, as it would have if it had been submitted to an Energy Commission R&D solicitation. However, representatives from

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SVTC stated at the all-party meeting on May 2, 2012, which Commissioner Ferron attended by telephone, that they did approach the Energy Commission and they were informed that no open solicitation was appropriate for such a project. Likewise, the CSI RD&D program was not designed to fund projects of this magnitude and no other competitive review process currently existed at the Commission at the time the PV MDF application was filed, and such a process will not exist until well after the EPIC PD is adopted by the Commission. It is not at all clear to me what competitive process Commissioner Ferron believes that SVTC should have participated in.

Finally, Commission Ferron stated that while SVTC was the recipient of a grant from DOE's Sunshot Initiative, that initiative has very different goals than the R&D funded by our public purpose charges. I disagree. As articulated in P.U. Code Sec. 740.1(e)(4), one of the objectives we must consider when evaluating proposed R&D projects is whether the project supports "development of new resources and processes, particularly renewable resources and processes which further supply technologies." According to DOE, the Sunshot Initiative "is a collaborative national initiative to make solar energy cost competitive with other forms of energy by the end of the decade." I somehow fail to see the incompatibility of the goals of the Sunshot Initiative and utility-funded R&D. It is disappointing to me that the State of New York was willing to spend over \$160 million to secure \$60 million in DOE matching funds for a similar solar technology development facility, while this Commission refused to approve a far smaller sum to fund SVTC's proposed MDF. I hope this decision is not

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indicative of a general willingness among my colleagues to cede California's technological leadership to other states.

Dated May 18, 2012, at Fresno, California.

/s/ MICHAEL R. PEEVEY

Michael R. Peevey

Commissioner