BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

FILED
03-16-12
04:59 PM

Order Instituting Rulemaking on the Commission's Own Motion to Determine the Impact on Public Benefits Associated with the Expiration of Ratepayer Charges Pursuant to Public Utilities Code Section 399.8.	)))))	Rulemaking 11-10-003 (Filed October 6, 2011)

SAN DIEGO GAS & ELECTRIC COMPANY'S (U 902 E) REPLY COMMENTS IN RESPONSE TO PHASE 2 SCOPING MEMO AND STAFF PROPOSAL

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March 16, 2012

#265067

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I. INTRODUCTION

In accordance with Rules of Practice and Procedure of the California Public Utilities Commission ("Commission"), San Diego Gas & Electric Company ("SDG&E" or "we") hereby submits its Reply Comments in accordance with the February 10, 2012 Phase 2 Scoping Memo and Ruling of Assigned Commissioner Peevey and Administrative Law Judge Fitch ("Scoping Memo") and the February 24, 2012 email of Administrative Law Judge Fitch.[1] The Scoping Memo directs parties to file comments in response to the Staff Proposal ("the Staff Proposal" or "the Proposal"), attached to the Scoping Memo as Attachment A, which proposes "guiding principles" for the Energy Program Investment Charge ("EPIC") program established by the Commission in Phase 1 of this proceeding in D.11-12-035.[2]

SDG&E filed its Opening Comments on March 7, 2012 in response to the Staff Proposal as did more than two dozen other parties. SDG&E hereby replies to certain issues raised in the parties' opening comments.

[1] ALJ Fitch's email granted Southern California Edison's ("SCE's") request to extend the deadline for Phase 2 reply comments by one week, to March 16, 2012.

[2] Phase 2 Scoping Memo at 2-3.

II. GENERAL EPIC STRUCTURE AND FUNDING SHOULD BE DEVELOPED THROUGH WORKSHOPS

After reviewing the opening comments, SDG&E is heartened at the general consensus that EPIC's goals and funded projects must have a clear nexus with the electric industry and provide direct benefits to IOU electric utility customers.[3] SDG&E hopes that EPIC, regardless of its final form, adopts this goal as its first priority.

Based on the various comments, SDG&E recommends that the Commission and all parties convene in a series of workshops to discuss the fundamental questions: what do we want EPIC to accomplish and how can those goals best benefit the IOU electric utility customers who pay for it? Many commenting parties concur with SDG&E's Opening Comments that until these fundamental questions are answered and basic terms are defined, it is premature to allocate funding (whether by dollars or percentages) to particular areas, projects or program

[3] *San Diego Gas & Electric Company's (U 902 E) Opening Comments In Response To Phase 2 Scoping Memo And Staff Proposal* ("*Opening Comments of SDG&E*") at 4 ("Providing a direct and measureable benefit to the IOU electric utility customers funding the program should be the most important goal for EPIC."); s*ee also, e.g.*, *Opening Comments of Division of Ratepayer Advocates* ("DRA") at 1-2 ("DRA supports ratepayer funding for activities with a clear nexus in the electricity industry that provide ratepayer benefits and efficient use of ratepayer funds."); *Opening Comments of SCE* at 10 ("[T]he primary focus of any customer-funded RD&D program should be . . . the development of technologies to support the delivery of safe and reliable energy service at a just and reasonable cost. Moreover, any RD&D paid for by customers must benefit customers, not merely society as a whole."); *Opening Comments of Consumer Federation of California* ("CFC") at 6 (endorsing for EPIC the "overarching requirement that the funds provide benefits to electricity ratepayers, thereby ensuring a clear nexus between EPIC-funded programs and electricity service."); *Opening Comments of Pacific Gas & Electric* ("PG&E") at 2-6 (explaining the rationale for energy RD&D must include "the need for energy RD&D to be sufficiently utility-specific to demonstrate a reasonable likelihood that it will result in utility-specific ratepayer benefits.").

administration.[4] In addition, regardless of EPIC's final structure, SDG&E and several of the commenting parties urge the Commission to mandate an annual audit of the CEC's administration of EPIC funds, establish a systematic and public assessment of EPIC's successes and failures, and design a funding mechanism to protect EPIC funds from diversion.[5]

In the end, it is essential to create a program administration process that provides clarity concerning EPIC's impacts and outcomes, and that is more transparent than similar past programs. SDG&E's Opening Comments were intended, in part, to point out the importance of learning from past program administration when devising any new program structure and policy. For example, SDG&E identified criticisms contained in the report from the 2011 Legislative

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[4] Opening Comments of SDG&E at 3 ("the Proposal fails to justify its suggested budget allocations"); s*ee also, e.g., Opening Comments of SCE* at 12 ("Any specific funding proposal for the various investment areas discussed above is therefore premature at this time" and "the Staff Proposal does not provide an adequate record to support reserving 15% of EPIC funds for CEC administrative costs"); *Opening Comments of CFC* at 7-9 (recommending "a more in depth 'just and reasonable' analysis pursuant to §451 of the Public Utilities code before going forward with committing to $142 million dollars per year in funding" for EPIC); *Opening Comments of California Energy Efficiency Industry Council* at 10 (questioning the allocation of $700,000 annually to the Commission's "oversight" of the CEC); *Opening Comments of the California Farm Bureau Federation* ("CFBF") at 10 ("It is indeed difficult to predetermine appropriate funding when the actual Investment Plan has not been established."); *Opening Comments of the Center for Biological Diversity* at 3 ("The proposed 20% minimum for bioenergy demonstration is unjustified" and "EPIC should not commit funding for bioenergy indiscriminately . . . "); *Opening Comments of PG&E* at 8-9 (finding "the recommendations on particular funding levels [] premature" and instead advocating a "zero-based" investment planning approach); *Opening Comments of DRA* ("DRA reserves the right to review certain expenditures, such as the amount allocated to bioenergy, that are supported in other programs like the Renewables Portfolio Standard (RPS).").

[5] *Opening Comments of SDG&E* at 3 (noting that the Proposal "fails to call for audits of CEC expenditures, and does not institute fiscal and administrative accountability measures."); *see also Opening Comments of CFC* ("[F]orward looking, [EPIC] program evaluation should involve a cost-benefit analysis that adequately measures the cost of individual program areas versus benefits to get a proper assessment of whether programs are getting adequate funding. If the audit concludes that there are unspent funds, then ratepayers are entitles to a refund."); *Opening Comments of CFBF* at 10 ("[T]he Commission should provide a continual assessment of what are the appropriate administrative costs. . . . As the administrative costs are assessed from year to year, any savings should be either returned for additional programs or to the ratepayers."); *Opening Comments of the Center for Biological Diversity* at 8 (noting that the planning process should "periodically consider revisions to the policy framework adopted in this phase of the proceeding, in order to be able to incorporate developments in both science and policy."); *Opening Comments of SCE* at 14 (recommending that "the program administrator should be required to identify all of the different tasks and steps that are involved in a particular project, including its and the grantee's administrative costs, to justify a grant", "budgets should be scrutinized" and "the Commission should conduct program audits to safeguard customer dollars."); *Opening Comments of PG&E* at 11 ("[T]he [EPIC] governance process should include an annual "mid-course" review and periodic reports that include CPUC review of annual budgets and program priorities, particularly administrative and other overhead costs.").

Analyst's Office and in Legislative committee reports concerning the lack of publically-available information about the CEC's spending decisions.[6] SDG&E also highlighted similar criticisms of the University of California's overhead costs as another topic of which there is little public information available. Those criticisms were not directed at the University of California, but rather at the lack of transparency of the CEC's administration of the PIER program. Likewise, SDG&E criticized the Staff Proposal's suggestion regarding sole source procurement (*e.g.*, the University of California's Energy Institute at Haas unbiased policy assessments). Again, SDG&E's criticism was not leveled at the policy of sole source procurement – it recognizes that there are cases in which sole source procurement is the only sensible option – but rather at the lack of transparency in making those judgments.

In SDG&E's opinion, four particular issues discussed in parties' opening comments deserved additional attention, specifically (1) the Proposal's suggestion to combine all utility electric RD&D in a separate proceeding; (2) bioenergy funding; (3) intellectual property ("IP") rights and royalties for IOU electric customers who fund EPIC; and (4) the New Solar Homes Program. SDG&E discusses all four of the issues in turn below.

III. THE PROPOSAL'S SUGGESTION TO COMBINE ALL UTILITY ELECTRIC RD&D INTO A SINGLE PROCEEDING IS OUT OF SCOPE FOR THIS RULEMAKING, AND WOULD WREAK HAVOC ON PROGRAMS ALREADY APPROVED BY THE COMMISSION

The Staff Proposal suggests that all electric utility RD&D be combined in a single proceeding and be subjected to capped spending amounts.[7] SDG&E continues to strongly oppose this recommendation because it is out of scope for this proceeding.[8] In addition, SDG&E concurs with SCE's reasons for opposing this idea, notably that an occasional review of an IOU

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[6] *SDG&E Opening Comments* at 14.

[7] Staff Proposal at 46-49.

[8] *SDG&E Opening Comments* at 37-38.

investment plan would be a "poor substitute for the constitutional and statutorily required safeguards" already in place for utility electric RD&D activities.[9]

It is also unclear whether this recommendation is meant to apply only to RD&D conducted by the three electric IOUs or to RD&D conducted by all utilities (such as gas). For the purpose of these comments, SDG&E assumes that the Proposal only refers to RD&D conducted by electric utilities. Our confusion underscores a point well made by SCE, that if the Commission intends to consider this concept, it must provide sufficient notice to all utilities and all stakeholders in every affected proceeding.[10] As such, SDG&E stresses that any outcome from this proceeding should not impact any pending utility electric RD&D or gas RD&D requests because proper notice to all relevant parties has not been provided.

Most importantly, the proposed centralization of utility electric RD&D would wreak havoc on current utility electric RD&D activities. In the end, contrary to Staff's intent, the one large centralized proceeding proposed actually poses a greater risk of orphaning projects than the current, more focused individual proceedings. SDG&E's electric RD&D activities are unique, discrete projects, developed by SDG&E thanks to its unique knowledge of its own grid and its own customers.[11] SDG&E's current electric RD&D activities have already been through extensive processes to secure co-funding partnerships with public and private entities, develop their unique electric RD&D strategies, and identify and use individual contractors. Throwing all of SDG&E's electric RD&D efforts into a single, financially-capped proceeding would frustrate many of these efforts, and result in a confusing, bloated, and most likely, very lengthy

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[9] *SCE Opening Comments* at 27.

[10] *PG&E Opening Comments* at 18.

[11] For example, SDG&E is developing the experimental microgrid at Borrego Springs, where many of the new smart grid conceptual ideas will be evaluated for whether they are suitable for widespread deployment, as well as integration systems designs being tested for interoperability. SDG&E is also developing communication and control infrastructure to coordinate the dispatch and functioning of a growing variety of intelligent electronic devices in the overall SDG&E power system, in a manner that maximizes value to the customer.

proceeding. It would also subject all of SDG&E's electric RD&D activities to arbitrary and inflexible timelines that do not necessarily coincide with the electric RD&D projects' individual timelines or budget cycles, which could slow or disrupt the project teams' progress toward their project goals, and cause budget overruns.

IV. ONLY CERTAIN BIOGAS PROJECTS SHOULD BE CONSIDERED AS POTENTIAL EPIC FUNDING RECIPIENTS

To establish a successful renewables program, the program creator must first articulate a clear and specific program goal. Without such a goal, it is impossible to discern which specific projects, out of the many possible, should be chosen as the most likely to help achieve that goal. Without such a goal, it is also impossible to measure whether the projects selected for funding are contributing to the program's overall success. Therefore, targeted funding of a few particular activities geared towards a single renewables effort is the most effective use of the funds. Projects funded through this strategy should also be subject to declining incentives over time, as well as a sunset, in case they do not achieved the program's specific and enumerated goal.

SDG&E's quarrel with many of the comments on renewables incentives is that they advocate the PGC's flawed approach of not clearly articulating goals, and they propose to spread funds thin among too many technologies, rather than have a focused program. In the case of bioenergy, if the Commission finds that this area deserves EPIC funding, only those bioenergy activities that provide direct benefits to IOU electricity customers should be considered as possible fund recipients. SDG&E believes that these activities would be limited to pre-commercial, technologically viable projects that produce renewable natural gas (biomethane). Such projects recover biogas from biomass resources through biomass gasification and methanation processes or anaerobic digesters at municipal waste water treatment plants, dairy or cattle farms, and food processing facilities. If these projects produce directed biogas, they could

potentially provide direct benefits to our customers because they would not interfere with system dispatch, they would continue to provide dispatchability of generation to enable electric utilities to follow load and mitigate the effects of large amounts of must-run renewables,[12] and they would "green" existing fossil facilities.

SDG&E specifically disagrees with the suggestion that electric utilities will benefit by adding more baseload generation.[13] In general, electric utilities do not need more baseload generation that runs at night or at other times when additional energy is not needed. Such generation removes operating flexibility and generally increases operating costs.

Although SDG&E's initial thinking favored directed biogas that is injected into pipelines for use at existing combined cycle facilities because it would not disrupt optimal system dispatch but would replace fossil generation with non-fossil generation, SDG&E now recognizes that other parties have supported various uses of biomethane from other sources.[14] Therefore, in these Reply Comments, SDG&E supplements its recommendations to acknowledge the comments of other parties, such as the Joint Comments of the Agricultural Energy Consumers Association and Sustainable Conservation, the Bay Area Biosolids to Energy Coalition, and the California Farm Bureau Federation, who assert the value of other biomethane sources.[15]

Based on this additional assessment, for purposes of designing the EPIC renewable program, it is reasonable to leave the door open for electricity derived from biomethane, whether

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[12] *SDG&E Opening Comments* at 16.

[13] "Biogas from all types of projects can provide baseload power and as a result delivers power when other renewables cannot." *Joint Opening Comments of the Agricultural Energy Consumers Association and Sustainable Conservation* at 5.

[14] The use of landfill gas is not currently allowed in natural gas pipelines because of the uncertain impacts of landfill gas constituents on crucially important factors, such as health and pipeline integrity. These impacts are the subject of ongoing study. Accordingly, it would be inappropriate for the EPIC program to include an element that depended on pipeline injection of gas from landfills.

[15] *Joint Opening Comments of Agricultural Energy Consumers Association and Sustainable Conservation* at 2; *CFBF Opening Comments* at 5-6. *Bay Area Biosolids to Energy Coalition Opening Comments* at 1-2.

through directed biogas or on-site generation, where the program is designed to ensure benefits to our electric customers. In general, the guiding principles should provide that the sole ratepayer-funded source of any subsidy is funding through the EPIC. Electric or gas sales from EPIC-subsidized sources should also be subject to requiring added ratepayer-funded subsidies, such as through a net metering tariff with built-in cross-subsidies, or a feed-in tariff that contains additional built-in subsidies. Instead, those sources receiving EPIC subsidies need to be competitive with the utility's other options on the same least-cost-best-fit basis by which all renewable options are assessed. By designing the program in this manner, electric customers receive the benefit of a direct contribution to the RPS, without interfering with the renewables procurement process that is designed to optimize resource selection. To the extent that projects are too small to justify direct competition, any feed-in tariff must be contingent on applying this same principle. This approach recognizes that a purpose of EPIC funding may be to assist projects be competitive.

SDG&E opposes any program that depends on dual subsidies or that interferes with the electric utility's portfolio development or management. In general, SDG&E does not agree with any claims that IOU electric customers should subsidize any fuel source based on some broadly asserted "societal" benefit. For example, Waste Management suggests that EPIC funds should be used to pay for bioenergy project air quality compliance obligations.[16] Air quality compliance obligations for landfills do not directly benefit our electric customers by advancing RD&D or renewable technologies, and therefore, they should not be paid for by IOU electric customers through EPIC. Similarly, the Joint Comments of the Green Power Institute et al. suggest that EPIC should provide support for processing and transporting of biomass feedstock.[17] While

[16] *Waste Management Opening Comments* at 5-6.

[17] *Joint Opening Comments of Green Power Institute et al*. at 4.

processing and transporting biomass feedstock are steps in the energy production supply chain, SDG&E concurs with the Joint Comments of the NRDC et al.[18] that subsidizing these steps would not provide our customers with direct benefits, and therefore, the steps should not receive EPIC funding.

Finally, SDG&E agrees with the comments made by the Center for Biological Diversity and the Green Power Institute et al.[19] in support of the Proposal's recommendation to terminate the Existing Renewable Facilities Program, which provided subsidies for existing biomass power plants. Over the past 15 years, the biomass projects funded by the PGC program have not reached market sustainability. If the technology has the potential of being sustainable in the marketplace, 15 years should be sufficient time to achieve that goal. However, SDG&E also recommends that funding for those existing renewable facilities programs that have been awarded funding should be phased-out over the period of at least the term of the existing contract that relied on the funding under the condition that there is a mechanism in the program to ensure the IOU electric customers obtain the benefit from the subsidy, instead of the developers pocketing all.

V. PURSUANT TO STATE LAW, THE IOU ELECTRIC CUSTOMERS FUNDING EPIC DESERVE TO SHARE IP BENEFITS

All the parties, except the University of California, who discussed IP issues, share SDG&E's bafflement at the Proposal taking the IP "issue completely off the table."[20] The Proposal recommends that the recipients of EPIC funding – not the IOU electric customers, the electric utilities or the State of California – should own all the IP developed using IOU electric

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[18] *Joint Comments of NRDC et al.* at 9.

[19] *Center for Biological Diversity Opening Comments* at 2; *Joint Opening Comments of Green Power Institute et al*. at 4.

[20] *Joint Opening Comments of NRDC et al.* at 14.

customers' funds.[21] If the Commission adopted this suggestion, then the IOU electric customers funding EPIC would not reap any intellectual property benefits of what they fund, whether through rights or royalties.[22]

We disagree with the Proposal's "recommendation that IP rights developed under EPIC should be held by the entity developing that IP" and that "EPIC funding recipients [should not be required] to pay royalties to ratepayers for the IP they develop and subsequently commercialize or otherwise profit from."[23] According to the NRDC Joint Parties, the University of California already has the "specific authority and protocols to negotiate a share of IP rights."[24] Any contracting party that is not required to share any IP rights or pay royalties to the customers funding EPIC would experience a tremendous financial windfall at the expense of electric utility customers.

All other parties that addressed the IP issue, including SDG&E, TURN, SCE, PG&E and NRDC, unanimously disagree with the Proposal's recommendation. Instead, they urge the Commission to allow those IOU electric customers funding EPIC to reap the benefits of their monies.[25] TURN notes that "Ratepayers deserve better [that the blanket denial advocated by the Proposal] and should derive maximum value from any innovations resulting from grant-funded technological developments."[26] DRA also "supports more efficient repayment of ratepayer investments" in EPIC programs through intellectual property rights.[27] "The Joint Parties

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[21] Staff Proposal at 42-44.

[22] Staff Proposal at 42-44.

[23] *Opening Comments of the University of California* at 8.

[24] *Joint Opening Comments of NRDC et al.* at 14.

[25] *See, e.g.*, *Opening Comments of SCE* at 15 ("The Commission should not increase customer rates through the EPIC to fund RD&D programs while allowing all grantees under all circumstances to retain full intellectual property rights in technologies funded with those customer dollars.").

[26] *Opening Comments of TURN* at 4.

[27] *Opening Comments of DRA* at 3.

[including the NRDC] believe that considering this issue in more detail is merited given the degree to which ratepayers monies may be used . . ."[28]

As PG&E correctly notes, the Proposal's recommendation is contrary to established California law. Section 851 of the Public Utilities Code applies to the disposition of all utility property that is "necessary and useful" in the performance of the utility's duties to the public.[29] D.06-12-043 implements the Commission's policies regarding ratemaking for the gain or loss on sale of utility assets subject to section 851, including intangible assets, such as intellectual property. In addition, the Public Resources Code requires that "an equitable share of rights in the intellectual property or in the benefits derived therefrom shall accrue to the state."[30]

In D.06-12-043, the Commission established just such an equitable sharing for the sale of similar utility assets, allowing ratepayers to gain 67% of the net proceeds, with the utility retaining 33% of the net proceeds.[31] D.08-04-039 (as modified by D.08-04-054) requires that ratepayers receive a benefit from this IP and technology transfer, and directs the California Institute for Climate Solutions' Board of Governors Technology Transfer Subcommittee to require that at least 10% of net revenues revert to ratepayers, unless such an action is violative of existing laws. A sharing mechanism for utility RD&D has been litigated and approved three

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[28] *Joint Opening Comments of NRDC et al.* at 14.

[29] *Opening Comments of SDG&E* at 33.

[30] Section 25620.4 of the Public Resources Code states in full:

> (a)To the extent that intellectual property is developed under this chapter, an equitable share of rights in the intellectual property or in the benefits derived therefrom shall accrue to the State of California.
>
> (b)The commission may determine what share, if any, of the intellectual property, or the benefits derived therefrom, shall accrue to the state. The commission may negotiate sharing mechanisms for intellectual property or benefits with award recipients.

[31] D.06-12-043 at 1 (modifying D.06-05-041) (known as the Commissions "Gain on Sale" decision). D.06-05-041 had previously recognized that it was appropriate for ratepayers and shareholders to both gain in the sale of non-depreciable assets, including intangible assets like intellectual property.

separate times in Commission decisions,[32] and continues to provide a valuable tool in advancing RD&D. For example, SoCalGas' existing RD&D sharing mechanism is consistent with this approach, as it shares net proceeds from successful equity and royalty investments 60% ratepayers, 40% shareholders.

Another example of an equitable sharing mechanism that was adopted for ratepayers can be found in Resolution E-4361. In this resolution related to IP developed by SDG&E, the Commission found reasonable an allocation of proceeds from warrants if/when exercised on a 67%/ 33% basis between ratepayers and shareholders based on Commission authorization in D. 06-05-041 (as modified by D. 06-12-043). The Commission also found reasonable the allocation of royalties on a 60%40% basis between ratepayers and shareholders based on Commission authorization in D. 08-07-046 where the sharing of SoCalGas RD&D proceeds was last set.

SDG&E recommends IOU electric utility customers be allocated 60% of any royalties and 67% of any sale proceeds resulting from IP developed with EPIC funding. Should other sources of funding be used in the research, the prorate share of the benefits should be allocated to the IOU electric utility customers. An efficient means of flowing these benefits to those funding the programs would be to have these royalties off-set future contributions from IOU electric utility customers. Furthermore, SDG&E continues to advocate for the treatment of IP rights as outlined in its Opening Comments.[33]

VI. THE NEW SOLAR HOMES PROGRAM SHOULD CONTINUE

Several commenting parties, including California Building Industry Association ("CBIA"), Solar Energy Industries Association ("SEIA"), PG&E, and Californians for Clean

[32] D.97-07-054, D.04-12-015; D.08-07-046.

[33] *SDG&E Opening Comments* at 33.

Energy and Jobs ("CCEJ"),[34] advocate for proactive measures to ensure the continuation of NSHP funding. SDG&E concurs that NSHP should continue to be funded. However, none of the commenting parties recognize the Proposal's flawed conclusion that using EPIC funds for the NSHP would exceed the $2.2 billion CSI spending cap.[35] SDG&E again draws parties' attentions to this flawed logic.

Barring the ability to immediately use EPIC funds to fill the NSHP funding gap left by the discontinuance of the PGC, SDG&E supports the recommendations of the CCEJ:

> [T]he Legislature should address the statutory constraints that prevent the CPUC from funding NSHP . . . however, there would be no budgetary headroom in the last two years of the first EPIC investment period…we recommend that staff allocate contingency funding to NSHP or commit to fund NSHP in an amount to be determined by the program administrator in consultation with stakeholders in the event the Legislature resolves statutory constraints.[36]

SDG&E prefers this proposal over SEIA's recommendation, by which a new program that mimics NSHP would be created:

> . . . Staff should undertake the directive given it by the Commission of recommending additional programmatic activities that might be supported by EPIC funds and advocate the derivation of a program which, by providing incentives for the installation of distributed generation systems (solar as well as other eligible renewable technologies that serve on-site load) on new homes will assist the state in meeting its distributed generation goals.[37]

While the creation of a replacement NSHP program is preferable to no program at all, the course of action that SEIA recommends would likely cause massive confusion as customers on the NSHP waitlist attempt to apply to the new program.

SDG&E shares the general concern that funds paid into the CEC for use in the NHSP program may not have been all spent, leaving a potential funding shortfall. The Commission

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[34] *CBIA Opening Comments* at 1-3; *PG&E Opening Comments* at 9; *SEIA Opening Comments* at 3-5; *CCEJ Opening Comments* at 8-9.

[35] *SDG&E Opening Comments* at 21-22.

[36] *CCEJ Opening Comments* at 8.

[37] *SEIA Opening Comments* at 4.

should promptly urge the CEC to turn over any unspent funds, and, to the extent any of those funds have been diverted, the Commission should urge the CEC to ascertain and provide regular public updates on the status of repayment, and to seek repayment at the earliest possible moment to support state solar policy. If legislation is needed to achieve this, the Commission and the CEC should jointly seek legislation that returns unspent funds to the NHSP program.

VII. CONCLUSION

SDG&E thanks the Commission for its consideration of SDG&E's Reply Comments In Response To Phase 2 Scoping Memo And Staff Proposal and respectfully requests that the Commission implement SDG&E's proposals as outlined herein.

DATED at San Diego, California, this 16th day of March, 2012.

Respectfully submitted,

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