

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



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**Order Instituting Rulemaking Regarding Policies,
Procedures and Rules for the California Solar
Initiative, the Self-Generation Incentive Program
And Other Distributed Generation Issues.**

**Rulemaking 08-03-008
(Filed March 13, 2008)**

**PETITION OF
THE CALIFORNIA DEPARTMENT OF COMMUNITY SERVICES
AND DEVELOPMENT FOR MODIFICATION OF DECISION 07-11-045:
OPINION ESTABLISHING SINGLE-FAMILY LOW-INCOME INCENTIVE
PROGRAM WITHIN THE CALIFORNIA SOLAR INITIATIVE TO PERMIT
THIRD PARTY OWNERSHIP TO ALLOW FOR FREE SOLAR-GENERATED
ELECTRICITY FOR LOW-INCOME HOMEOWNERS**

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Dated: October 30, 2008

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I. INTRODUCTION

Pursuant to Rule 16.4 of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure, the State of California's Department of Community Services and Development ("CSD") respectfully submits this Petition to Modify "Decision 07-11-045: Opinion Establishing Single-Family Low-Income Incentive Program Within the California Solar Initiative" ("Decision").¹ The Decision establishes within the California Solar Initiative ("CSI") a program to provide incentive payments for solar energy systems ("Systems") installed on single-family, low-income, owner-occupied households (the "Single-Family Low-Income Program" or "SFLIP").² As is permitted under the general CSI program, CSD seeks an order

¹ Decision 07-11-045: Opinion Establishing Single-Family Low-Income Incentive Program Within the California Solar Initiative, Docket No. R.06-03-004 (November 16, 2007) ("Decision").

² See *id.* at 2.

from the Commission modifying the Decision to allow third party ownership of Systems installed under the SFLIP and assignment of SFLIP incentives to such third party owners. If the Commission grants this Petition, there will be substantial benefits, including:

- FREE electricity for participating California low-income homeowners;
- FREE installation of solar energy systems;
- Broader participation in the SFLIP, because participating low-income homeowners will have no financing obligations;
- Creation of “Green Jobs”; and
- Quick implementation of the SFLIP.

II. SUMMARY

In the Decision, the Commission explained that “until we have further experience with solar incentives to low-income homeowners or more information concerning third-party ownership arrangements for low-income homeowners,”³ ownership of the Systems and payment of SFLIP incentives would vest solely in the low-income homeowners themselves. However, the Commission emphasized that it “will consider modifying this order to allow third-party ownership arrangements for low-income customers if [it is] presented with a proposal that adequately protects and benefits low-income homeowners.”⁴ The Commission, therefore, invited parties to be innovative in designing and proposing third-party ownership arrangements under the SFLIP.

CSD has developed an innovative third party ownership proposal that not only addresses the Commission’s concerns regarding protecting consumers and ensuring long-term benefits to low-income homeowners, but also addresses other SFLIP structural issues that may hinder the

³ See Decision at 40.

⁴ See *id.* at 41.

program from delivering its benefits to low-income households. In short – and as more thoroughly detailed in CSD’s proposal submitted to the Commission on June 9, 2008 – CSD has entered into a public-private partnership with a financial partner who proposes to assume the initial financial risk by covering the up-front costs necessary for System acquisition and installation. The low-income homeowners would receive both the System installation and all System-generated electricity for free, while CSD’s financial partner would retain ownership of the Systems. As the owner of the Systems, CSD’s financial partner would receive assignment of the CSI SFLIP incentive payments and be entitled to any renewable energy certificates (“RECs”) generated by such Systems. CSD’s proposal incorporates significant consumer protection measures and eliminates the need for low-income homeowners to apply for long-term loans and, in the unlikely event that they would receive such loans in the current credit environment, to take on the burden of substantial debt. By allowing CSD to provide this innovative option to low-income homeowners, the Commission will markedly increase participation in the SFLIP, particularly the participation of the “extremely low-income” and “very low-income” homeowners who need assistance the most, improve its chances of meeting the milestone set by the Decision of 1,000 installed Systems by the end of 2010,⁵ and greatly benefit California’s low-income community.

As the Commission made clear in the Decision, only those entities whose third party ownership proposals provide adequate consumer protections should be permitted to own SFLIP Systems and receive SFLIP incentive payments. CSD’s proposal meets these requirements. Therefore, CSD respectfully requests that the Commission modify the Decision to allow third-

⁵ See Decision at Appendix A, p. 8.

party ownership of Systems under the proposal set forth herein and receipt of assignment of corresponding SFLIP incentive payments.

III. DISCUSSION

A. The SFLIP's Remaining "Financing Gap" Will Make Low-Income Homeowner Participation in the SFLIP Very Difficult

As currently structured, the SFLIP's incentive program creates a "financing gap" that was only partially addressed by the Commission's recent decision to allow SFLIP incentives to be assigned to third parties.⁶ As Grid Alternatives acknowledged in its Petition for Modification, assignment of incentive payments will not relieve low-income homeowners from all obligation to acquire financing and "loans would be limited to the after-incentive costs of the system."⁷ Moreover, before the current financial crisis even began, CSD conducted surveys showing that 74% of low-income homeowners would be unwilling or unable to finance any amount for the installation of Systems.⁸ In light of the current credit climate, even those eligible homeowners who are willing to finance a portion of the costs may be unable to obtain such financing. The financing barrier is particularly high for those homeowners that qualify as "extremely low income" and "very low income" under the California Health and Safety Code Section 50079.5;⁹ those homeowners who would most benefit from the SFLIP.

⁶ See Proposed Decision Modifying Decision 07-11-045 Regarding Low-Income Single-Family Solar Incentive Program, Docket No. R.08-03-008 (September 24, 2008).

⁷ See Petition of Grid Alternatives for Modification of Decision 07-11-045: Opinion Establishing Single-Family Low-Income Incentive Program Within the California Solar Initiative, Docket No. R.06-03-004 (July 8, 2008) at 9.

⁸ CSD RFP Response at Workplan 9.

⁹ California Health and Safety Code § 50079.5

The Commission itself noted in the Decision that requiring low-income homeowners to take on loans to finance the Systems may not be realistic.¹⁰ CSD agrees with the Commission's concern for a number of reasons, including the following:

1. Few financial institutions may be willing to lend to low-income individuals, many of whom may have a high debt-to-income ratio, and those loans that do become available will likely be offered only at higher rates.
2. Government-supported lending programs have limited funds at their disposal, and those funds are:
 - i. frequently exhausted very early after being allocated;
 - ii. at risk of being replenished at even lower levels or not replenished at all;
and
 - iii. at risk of being reallocated for other purposes.
3. Low-income individuals may be hesitant to take on additional debt, especially when they are having trouble making ends meet day-to-day.

As noted above, the current credit crisis and economic conditions will likely exacerbate the problems noted by the Commission, as fewer lenders are willing to take on risky debt and low-income homeowners feel the pinch of the economic downturn. Although allowing assignment of incentive payments to third parties eases the burden on the homeowners to some degree, it does not eliminate this burden entirely. Many low-income homeowners will still be discouraged from participating in the SFLIP if they are required to finance any portion of the costs, as is the case under Grid Alternative's proposal.

¹⁰ See Decision at 11.

B. CSD’s Third Party Ownership Proposal Eliminates the “Financing Gap,” Addresses the Commission’s Consumer Protection Concerns and Provides Substantial Long-Term Benefits to the Low-Income Homeowners

CSD has a long-standing commitment to the well-being of the low-income community and seeks to bring “ever-increasing hope, dignity and quality of life for California’s low-income residents.”¹¹ CSD believes that the SFLIP is an ambitious program that has the potential to greatly benefit low-income homeowners and CSD wishes to put its particular expertise with the low-income community to work by participating in this program. To that end, CSD has performed thorough research and developed a proposal for third-party ownership under the SFLIP that overcomes the inherent financing weaknesses of the current SFLIP structure, protects the participating homeowners’ interests, and provides substantial long-term benefits to low-income homeowners, including free electricity.

1. ***The Third Party Owner Will Assume the Initial Financial Risks Instead of the Low-Income Homeowner***

A primary benefit of third party System ownership under CSD’s proposal is that the low-income homeowner will be relieved of any obligation to provide funding for the design, procurement and installation of the Systems. Most importantly, the homeowners will receive 100% of the electricity generated by the System installed on their houses for free. Moreover, Systems will not be installed in a one-size-fits-all fashion that disregards the homeowner’s roof size and electricity needs. Instead, Systems will be optimally sized to achieve greater retail electricity savings for the homeowner. The third party System owner will be responsible for all up-front costs of design, procurement, and installation of the Systems. The third party System owner will make payments directly to all third party installers and service providers up-front,

¹¹ CSD Organization Vision, available at <http://www.csd.ca.gov/AboutUs/AboutUs.aspx>.

thereby reducing the risks assumed by such third parties under the current SFLIP structure. The third party System owner will retain ownership of the System and will seek various incentives associated with the installation, including the SFLIP incentive payments through the Program Administrator. By providing up-front payments, CSD and its financial partner ensure third party installers' and other service providers' participation in the SFLIP. Additionally, without the fear of burdensome debt looming over them, it is likely that many more low-income homeowners will be interested and willing to participate in the SFLIP.

CSD intends to work with the California Solar Energy Industry Association ("CALSEIA") to train community based organizations and other members of the low-income community in installing Systems. The third party System owner will compensate the trainees' employers for the services they provide. CSD's proposal will thus create "Green Jobs" and introduce low-income individuals to an industry with tremendous growth opportunities.

2. *Consumer Protection Mechanisms Are Incorporated By Aligning the Third Party System Owner's Interests With Those of the Low-Income Homeowners*

In the Decision, the Commission noted parties' concerns regarding "customer abuse, fraudulent behavior, and improper or flawed installation."¹² The Commission also expressed the desire to ensure that "any third-party ownership arrangements provide long-term benefits to low-income homeowners."¹³ CSD's proposal incorporates substantial consumer protection mechanisms by ensuring that the proposed third party System owner's interests are aligned with those of the participating low-income homeowner. For instance, the third party System owner's returns will depend upon the System's proper construction and installation, because the System's

¹² See Decision at 40.

¹³ See *id.*

complete installation and operability must be verified before incentives may be paid. Moreover, CSD's financial partner's long-term interests are highly aligned with the low-income homeowners' interests, because, as the System owner, CSD's financial partner will own all of the System-generated RECs and, like the homeowner, will benefit from a well-designed and reliable System.

CSD and its financial partner are aware that currently California does not allow unbundled, tradeable RECs to be sold for compliance with California's renewable portfolio standards; however, this may not always be the case. In the meantime, the third party System owner can certify the generated RECs through voluntary programs, such as Green-e Energy, and sell the RECs on the voluntary market. Because RECs are created as the associated electricity is generated, both the low-income homeowner and the third party System owner have a common interest in ensuring the long-term functioning of the System.

In the event of a dispute, CSD will utilize its substantial experience working with the low-income community to interface with the homeowner to address any issues or concerns that the homeowner may have. CSD conducted careful due diligence before entering into a Memorandum of Understanding with its financial partner and is confident that the proposal it has crafted sufficiently protects the interests of the low-income community that CSD serves.

3. Third Party System Ownership Provides Substantial Long-Term Benefits To Low-Income Homeowners

The Commission stated that it was "concerned with ensuring that any third-party ownership arrangement will provide long-term benefits to low-income homeowners."¹⁴ Under CSD's third party ownership proposal, the low-income homeowners will receive installation of a

¹⁴ See Decision at 40.

System and all generated electricity for free. CSD's financial partner has conducted extensive research and will install utility-grade Systems: ones as good or better than those a customer participating in the mainstream CSI would receive. All Systems will comply with SFLIP requirements, including the permanency requirements set forth in the CSI Program Handbook.¹⁵ Additionally, CSD's financial partner is in the process of negotiating better-than-industry-standard warranty terms for the Systems it procures and installs. Participating low-income homeowners will also benefit from CSD's customer service and extensive experience working with the energy and financial needs of the low-income community.

It is important to understand that CSD's proposal does not involve the use of homeowner power purchase agreements ("PPAs"), loans, property liens, or other financing arrangements, which could put low-income homeowners at risk. First, Systems will be installed for free, negating the need for homeowners to obtain loans and finance the installation costs not covered by the SFLIP incentive payments. Second, the low-income homeowners will receive directly all electricity generated by the System for free, negating the need for the PPAs that typically accompany a third party System ownership structure.¹⁶ Because CSD's proposal does not contain the types of agreements that are at the core of the concerns relating to third party System ownership structures, CSD's proposal both minimizes the risks for low-income homeowners and provides them with substantial long-term benefits.

CSD and its financial partner are able to deliver free electricity to low-income households because CSD will be contributing considerable financial and in-kind resources from its Low

¹⁵ CSI Program Handbook (January 2008) at 21-22.

¹⁶ CSD's Program Manager Proposal contains the detail of the electricity-related components that CSD believes deserve a second look, due to the benefits that accrue to the homeowner. CSD has not proposed previously and is not proposing here that the homeowner have any type of monetary obligation to CSD or to the third party System owner.

Income Home Energy Assistance Program funding and its financial partner will seek returns from other solar incentives, like the federal investment tax credit and voluntary REC sales, which exist outside of the SFLIP. As such, the CSD requests that its financial partner be able to receive these other solar incentives without affecting the SFLIP incentive payment. Given the choice between bridging the “financing gap” with long-term homeowner debt (where and when available), on the one hand, and non-CSI solar incentives, on the other, the policy choice seems clear.

4. *Third Party System Owners Can Maximize Overall SFLIP Savings and Efficiency*

Under CSD’s proposal, third party System owners can maximize the efficacy of the SFLIP funds. In the Decision, the Commission stated that “[t]he program should strive to maximize households served.”¹⁷ A third party owner of many Systems will have the unique ability to procure System components in bulk from reputable vendors at a lower cost. By paying less for each individual System, the third party owner will most efficiently utilize SFLIP funds, while obtaining high quality System components, and therefore possibly enabling the SFLIP’s budget to stretch to finance more System installations than originally anticipated.

CSD’s proposal for third-party ownership will also assist the SFLIP in meeting the SFLIP milestones it has established. CSD has proposed to both Grid Alternatives and the Energy Division to implement CSD’s “Solar For All California” model, perhaps in an area of the State not currently served by Grid Alternatives. Such a cooperative arrangement would accelerate the Program Manager’s ability to report the accomplishment of the SFLIP’s key program milestones. In the Decision, the Commission set a goal of having 1,000 Systems installed on low-income

¹⁷ See Decision at 10.

homes by the end of 2010.¹⁸ If the Commission grants this Petition, CSD and its financial partner intend to begin this program immediately. CSD has preliminarily identified a substantial number of eligible homes on which Systems can be installed, and its financial partner is poised to implement this proposal. These System installations could fulfill a significant portion of the Commission's overall 2010 goal and will support the SFLIP's ultimate success.

IV. CSD SEEKS CLARIFICATION FROM THE COMMISSION REGARDING PAYMENT OF INCENTIVE FUNDS TO PROGRAM PARTICIPANTS

If the Commission grants this Petition, CSD and its financial partner plan immediately to expend substantial funds to begin its program to install systems for free for low-income homeowners. CSD therefore seeks clarification from the Commission that, once installation is complete, the system is verified as operable, and CSD and/or its financial partner present an Incentive Claim Form Package, as specified in Section 4.1.5 of the CSI Program Handbook, to the Program Manager, the Program Manager will process the appropriate incentive payment. In other words, CSD requests clarification that the Program Manager may not refuse to authorize incentive payments for eligible Systems installed in accordance with the CSI rules and the Decision, as modified. Alternatively, CSD respectfully requests that the Commission clarify that, if the Program Manager and Southern California Edison ("SCE") have not reached an agreement on the Program Manager contract by the time a System is installed as described in this petition, then CSD's financial partner will be entitled to receive such incentive payments from the applicable investor owner utility ("IOU") upon the completion of eligible Systems and

¹⁸ See Decision at Appendix A, p. 8.

presentment of an Incentive Claim Form Package. As stated above, CSD is prepared to begin implementation immediately.¹⁹

V. CONCLUSION

For the foregoing reasons, CSD respectfully requests that the Commission modify the Decision, as set forth in Appendix A, to permit: (1) third party ownership of solar energy Systems as proposed by CSD herein; and (2) assignment of SFLIP incentives to such third party System owners, including allowing CSD's financial partner to receive other solar incentives without affecting the SFLIP incentive payment. CSD also requests that the Commission clarify that: (1) the Program Manager cannot deny incentive payments to parties who install operable Systems on eligible homes and present completed Incentive Claim Form Packages; and (2) in the event that the Program Manager and SCE have not contracted by the time a System is installed as described herein, the third party System owner may apply to, and receive incentive payments directly from, the applicable IOU.

Respectfully submitted,

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¹⁹ The Commission had intended for SFLIP implementation to begin mid-2008. *See* Decision at 36. However, CSD understands that Grid Alternatives and SCE have made little progress on the Program Manager contract to date.

APPENDIX A

Suggested Modification to Conclusions of Law in D.07-11-045 (Nov. 16, 2007)

17. The Program Manager may only ~~pay~~ approve and process low-income incentives ~~to~~ for eligible project costs incurred with the consent of a qualifying low-income homeowner who is ~~also the system owner and~~ the occupant of the home, but a qualifying homeowner may assign his or her right to receive the incentive payment to: 1) a third party that provides solar equipment, installation, or financing for such equipment or installation costs, as long as the homeowner initially owns and continues to own the solar energy system; or 2) a third party system owner in an arrangement approved by the Commission. In the case of an incentive payment assignment evidenced by a writing signed by the low-income homeowner, the applicable IOU shall pay the incentive payment directly to the assignee designated in such writing; otherwise, the applicable IOU shall pay the incentive payment directly to the qualifying low-income homeowner.

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