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

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

Rulemaking 10-05-004  
(Filed May 6, 2010)

**ASSIGNED COMMISSIONER'S RULING REQUESTING COMMENT ON MODIFICATION TO DECISION 06-08-028 AND DECISION 06-12-033 REGARDING THE CALIFORNIA SOLAR INITIATIVE INCENTIVE MECHANISM AND DIRECTING TEMPORARY POSTPONEMENT OF CERTAIN NEW RESERVATION NOTICES**

This ruling requests that parties comment on three proposed modifications to the California Solar Initiative (CSI) incentive mechanism established by Decision (D.) 06-08-028, and later modified by D.06-12-033. Through June 23, 2010, the CSI Program has received 765 megawatt (MW) of applications for over 42,000 new solar projects. The proposed modifications respond to high participation rates in the program to date and adjust incentives in order to help ensure the program achieves its MW goals. The proposed modifications would: 1) remove the 8% discount rate embedded in the calculation of performance-based incentive (PBI) payments; 2) reduce incentive rates for government and non-profit applicants; and 3) shift \$20 million from the program administration budget to the incentive budget.

While the Commission considers these modifications, the CSI Program Administrators (PAs), namely Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and the California Center for

Sustainable Energy (CCSE), are directed to temporarily postpone issuing Confirmed Reservations (reservations<sup>1</sup>) for new applications seeking government/non-profit incentives and PBI applications received after the date of this ruling. The PAs may continue to process and issue reservations for all applications received on or before the date of this ruling. However, they may not issue reservations for applications seeking government/non-profit incentives and PBI received after the date of this ruling until further directed by the Commission. I anticipate this will occur when the Commission issues a decision on the proposal in this ruling to modify the incentives established in D.06-08-028 and D.06-12-033.

The PAs may continue to receive all applications, but the PAs are directed to notify applicants that issuance of reservations for new government/non-profit incentives and PBI applications received after the date of this ruling will be postponed until after Commission action and the incentive rate for the projects in those new applications received after today's date may be adjusted from the current rates adopted in D.06-08-028 and D.06-12-033. The PAs are directed to continue issuing reservations for any applications received on or before the date of today's ruling at the existing incentive levels. The PAs are directed to continue issuing confirmed reservations for eligible Expected Performance Based Buydown (EPBB) applications, unless the applicant is seeking government/non-profit EPBB incentives, even if received after today's ruling.

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<sup>1</sup> For the purpose of this ruling, confirmed reservation includes any Confirmed reservation Notice, Initial reservation Notice, Conditional reservation Notice, or any other reservation or contract that establishes the incentive level for a CSI application.

The PAs are directed to issue notice of a potential incentive level change to their program-related websites, newsletters, and the CSI Program Handbook.

I anticipate that this is only a temporary postponement in issuing reservations for new PBI and government/non-profit applications and fully expect the program to resume issuing new government/non-profit incentive reservations and PBI incentive reservations as soon as the Commission issues a decision on the incentive modification proposal in this ruling.

In short, the incentive modification proposal and the temporary postponement of issuance of reservations for new incentive applications received after the date of this ruling pertains only to new applicants seeking government/non-profit incentives and PBI applications through the general market CSI program, as established in D.06-08-028 and modified by D.06-12-033. This ruling does not impact residential or commercial EPBB incentive applications, any applications received on or before the date of this ruling, and applications for incentives through the Multifamily Affordable Solar Housing (MASH) or Single Family Affordably Solar Housing (SASH) programs, or the CSI Thermal program for solar water heating incentives. Administration of those other programs will continue unaffected by this ruling.

## **1. Background**

The Commission established the CSI in early 2006 in D.06-01-024 and implemented it later in 2006 with the issuance of D.06-08-028 and D.06-12-033. The CSI was conceived as a 10 year program of solar incentives, from 2006 through 2016. Later in 2006, the Legislature passed Senate Bill (SB) 1 (Stats. 2006, ch. 132), which directed the Commission and the California Energy Commission (CEC) to implement the CSI given specific requirements and budget limits. Specifically, SB 1 mandates that the total cost of the CSI program

overseen by the Commission shall not exceed a total program cost of \$2,166,800,000. The Commission has established a goal for the general market CSI program to install 1,750 MW of solar energy systems. (D.06-12-033, Appendix B, Table 10.)

The CSI program has been very popular to date and participation in the program has exceeded Commission expectations. Through June 23, 2010, the CSI Program has received 765 MW of applications for over 42,000 new solar projects. In late May, all three PAs notified the Commission through letters to the Administrative Law Judge (ALJ), as required by D.06-08-028, that they again lowered their incentive rates because of the volume of applications received and processed thus far. The CSI trigger tracker website ([www.csi-trigger.com](http://www.csi-trigger.com)) indicates that as of today, the three PAs are paying incentives at the step levels shown in Table A below, per the declining 10-step trajectory for incentives adopted in D.06-08-028 and modified in D.06-12-033. Table B below shows the corresponding incentive rates for those 10-steps.

**Table A: CSI Step Levels as of June 24, 2010**

	PG&E	SCE	CCSE
Residential	Step 7	Step 4 (with enough applications to move to Step 5)	Step 7
Non-Residential	Step 7 (with enough applications to move to Step 8)	Step 6 (with enough applications to move to Step 7)	Step 7

**Table B: CSI Incentive Levels as adopted in D.06-12-033**

Step	Statewide MW in Step	EPBB Payments (per Watt)			PBI Payments (per kWh)		
		Residential	Non-Residential		Residential	Non-Residential	
			Commercial	Government/ Non-Profit		Commercial	Government/ Non-Profit
1	50	n/a	n/a	n/a	n/a	n/a	n/a
2	70	\$2.50	\$2.50	\$3.25	\$0.39	\$0.39	\$0.50
3	100	\$2.20	\$2.20	\$2.95	\$0.34	\$0.34	\$0.46
4	130	\$1.90	\$1.90	\$2.65	\$0.26	\$0.26	\$0.37
5	160	\$1.55	\$1.55	\$2.30	\$0.22	\$0.22	\$0.32
6	190	\$1.10	\$1.10	\$1.85	\$0.15	\$0.15	\$0.26
7	215	\$0.65	\$0.65	\$1.40	\$0.09	\$0.09	\$0.19
8	250	\$0.35	\$0.35	\$1.10	\$0.05	\$0.05	\$0.15
9	285	\$0.25	\$0.25	\$0.90	\$0.03	\$0.03	\$0.12
10	350	\$0.20	\$0.20	\$0.70	\$0.03	\$0.03	\$0.10

In designing the CSI, the Commission acknowledged that CSI budget planning is complicated because of uncertainty from many sources.

First, there is uncertainty related to how much electricity individual PBI systems will actually produce and earn in incentive payments over the five year PBI payment period. In D.06-08-028, the Commission considered whether to cap PBI payments for better budget control, but the Commission rejected a performance cap on PBI projects. (D.06-08-028 at 33.) Instead, the Commission directed the PAs to closely track expected PBI payments. To ensure adequate funds over the five year PBI payment period, the Commission directed PG&E, SCE and San Diego Gas & Electric Company (SDG&E) to make quarterly projections of the total five years' expected PBI payment amount for all solar projects completed in that quarter, and deposit that amount in an interest earning balancing account. (*Id.* at Ordering Paragraph (OP) 7.) At the same time, the Commission cautioned the PAs to operate within their total budgeted CSI funds and ordered them to "not exceed their individual CSI budgets as set forth in D.06-01-024." (*Id.* at OP 5.) The total CSI funds in D.06-01-024 were later

modified by SB 1 and D.06-12-033. Given the high volume of participation in CSI and corresponding progression through the planned incentive steps, it is important for the Commission to analyze the PBI payment estimates to ensure adequate funds are available for the duration of the CSI program.

Second, the Commission noted total CSI budget uncertainty due to assumptions regarding the rate of participation of government and nonprofit entities systems which are eligible to receive higher incentives. In D.06-08-028, the Commission assumed that government/non profit applicants would make up 20% of the program (or 30% of the non-residential sector), residential applicants would make up 33%, and other commercial applicants would make up the remaining 47% of the program participants. (*Id.* at 104.) D.06-08-028 stated that if those assumptions proved invalid, review of incentive levels would occur. (*Id.* at 105.)

Third, there is budget uncertainty arising from applications that later drop out. The MWs associated with those dropouts are added back to the program into the step that is current at the time they drop out of the program. Thus, these projects may be added back into the program at a lower step level than when they were initially subscribed and will therefore be associated with a lower incentive level than initially anticipated at the outset of the program. All of these factors and potentially others, combine to create complexity in managing the CSI budget over time. In July 2008, Commission staff held a workshop to review the status of the CSI budget and how dropouts in the program affected the budget. Analysis by Energy Division staff for that workshop indicated that no program adjustments were necessary at that time, but that periodic review should be conducted. Given the high levels of program participation and the rapid pace of incentive steps reduction, it is time again to review budget commitments.

## **2. Proposal to Modify The CSI Incentive Mechanism**

Given the high participation rates in the CSI to date and in order to ensure the capacity of solar energy systems installed through the program is consistent with the program's MW goals, it may be necessary to make modifications to certain aspects of the incentive mechanism to maximize the effectiveness of the remaining CSI program budget. Energy Division staff has reviewed the incentive dollars currently allocated under the program and has noted that obligations for payments to PBI program participants is greater than was budgeted in Table 13 of Appendix B of D.06-12-033. If the incentive budget level and corresponding budgets are unmodified, the Energy Division believes that the program incentive budget would be depleted well before the program achieves its overall capacity goals.

A variety of interrelated factors have contributed to the current budget outlook. First, the budget impact of PBI incentives is greater than the costs of the equivalent up-front, or EPBB incentives, and yet the program budgets have assumed the EPBB incentive costs for planning purposes. Applicant dropouts and a lower rate of government and non-profit participation partially mitigate these higher PBI payouts. Nonetheless, it may be necessary to make adjustments to the CSI budget and incentive mechanism to achieve program MW goals. In addition, the Commission envisioned in D.06-08-028 that interest earned on PBI payments waiting in escrow would add to the budget. The subsequent passage of a CSI budget cap in SB 1 means that any interest earned cannot increase the total dollars spent on CSI, but merely lowers collections required from ratepayers. Budget uncertainties were recognized at the outset of the program and reflected in the Commission's determination that at some point in the program, we would need to revisit the incentives and make adjustments

accordingly. (D.06-08-028 at 106.) Given Commission staff analysis that the current CSI budget spent or committed is higher than anticipated in D.06-08-028 or D.06-12-033, this ruling proposes that the Commission should consider modifying the incentive mechanism for CSI in three ways.

First, the Commission should consider adjusting the discount rate built into the PBI incentive payments. When the Commission established the CSI incentive levels in 2006, it reasoned that it should include a discount rate of 8% when calculating the incentives for systems that must wait five years to receive their full incentive payout under the PBI mechanism. This adjustment was done to ensure that customers receiving PBI incentives would be indifferent to receiving an upfront incentive versus an incentive paid out over five years. Given changes to the economic climate since 2006, it may no longer be appropriate to employ a discount rate of 8%. In addition, the Commission cannot use the interest earned in the PA's escrow accounts to reduce PBI payment liabilities. If the Commission modified the PBI payment rates to remove the discount rate for any new PBI applicants, it would preserve budget dollars to install more systems under the program.

Second, the Commission concluded in D.06-08-028 that it should establish a higher rebate level for tax exempt entities such as government and non-profit institutions which are not eligible for federal tax credits. The Commission adopted a differential in incentive rates for tax exempt entities that varies depending on the step level. The Commission noted at the time that these tax exempt entities could still take advantage of federal tax credits through third-party financing arrangements with solar providers, and if they did so, they would receive the lower commercial incentive rate. (D.06-08-028 at 20-21.) Commission data suggests that many government/non-profit applicants are

using third-party financing and receiving the lower commercial incentive rate. Program records indicate that government/non-profit applicants are the “host customer” in over 33% of the projects, on a capacity basis. It appears that since many government/non-profit applicants are taking advantage of third-party owner financing arrangements, the incentive differential is not essential. If the Commission decreased the differential between commercial and government/non-profit applicants by 50%, it would preserve additional budget dollars to install more MWs in the last steps of the program. The impact of these two proposed changes on the incentive levels is reflected in Table C below.

**Table C: Proposed Modifications to CSI Incentive Levels**

Step	Statewide MW in Step	EPBB Payments (per Watt)			PBI Payments (per kWh)		
		Residential	Non-Residential		Residential	Non-Residential	
			Commercial	Government/Non-Profit		Commercial	Government/Non-Profit
1	50	n/a	n/a	n/a	n/a	n/a	n/a
2	70	\$2.50	\$2.50	<b>\$2.88</b>	<b>\$0.32</b>	<b>\$0.32</b>	<b>\$0.36</b>
3	100	\$2.20	\$2.20	<b>\$2.58</b>	<b>\$0.28</b>	<b>\$0.28</b>	<b>\$0.33</b>
4	130	\$1.90	\$1.90	<b>\$2.28</b>	<b>\$0.22</b>	<b>\$0.22</b>	<b>\$0.26</b>
5	160	\$1.55	\$1.55	<b>\$1.93</b>	<b>\$0.18</b>	<b>\$0.18</b>	<b>\$0.22</b>
6	190	\$1.10	\$1.10	<b>\$1.48</b>	<b>\$0.13</b>	<b>\$0.13</b>	<b>\$0.17</b>
7	215	\$0.65	\$0.65	<b>\$1.03</b>	<b>\$0.07</b>	<b>\$0.07</b>	<b>\$0.12</b>
8	250	\$0.35	\$0.35	<b>\$0.73</b>	<b>\$0.04</b>	<b>\$0.04</b>	<b>\$0.08</b>
9	285	\$0.25	\$0.25	<b>\$0.58</b>	<b>\$0.03</b>	<b>\$0.03</b>	<b>\$0.07</b>
10	350	\$0.20	\$0.20	<b>\$0.45</b>	<b>\$0.02</b>	<b>\$0.02</b>	<b>\$0.05</b>

Note: Shaded & bold areas denote change. The proposed incentive levels, if adopted, would not apply to applications submitted on or before the date of this ruling. This proposed incentive level table would modify and replace Tables 3, 5, and 6 of Appendix B of D.06-12-033.

Third, this ruling proposes to shift \$20 million in program administration funds to the incentive budget. The CSI general market program budget includes

a 10% allocation for program administration, which includes application processing, program evaluation, and marketing and outreach. The Commission in D.06-08-028 mandated that the PAs spend only half of this program administration allocation, or 5% of the total budget, reserving funds for program evaluation and marketing and outreach which have not been fully allocated. This ruling proposes that \$20 million of those funds reserved for administration be reallocated to cover incentive budget needs. These \$20 million in funds are not applied to increase the MW goal in any particular step, but instead extend the total amount of incentives available from \$1,707 million to \$1,727 million. PAs are reminded that they are still required to manage the incentive budget. This means that if this proposal is adopted, the PAs must stop accepting new incentive applications once the incentive budget reservations reach their proportional share of \$1,727 million, regardless of where each PA is in issuing reservations in the step table. We understand that the deduction of \$20 million from program administration may affect application processing, program evaluation, and/or marketing and outreach activities. The exact adjustments for each will be determined after the Commission has a chance to review the CSI administration budget in a comprehensive context at a later date. The impact of this proposed modification on the administration and evaluation budgets, as well as the overall CSI general market incentive program budget is reflected in Table D and Table E below.

**Table D: Proposed Administrative and Evaluation Budgets by Utility Territory<sup>2</sup>**

Utility	Administrative Budget CSI General Market Program (\$M)
PG&E	\$74.16
SCE	\$78.07
SDG&E	\$17.48
<b>Total</b>	<b>\$169.71</b>

Note: This table proposes modifications to Table 3 of Appendix A of D.06-12-033. Proposed modifications are shown as shaded.

**Table E: Proposed CSI Budget**

Budget Category	(\$ in millions)
SB 1 CSI Budget	\$2,166.80
Low Income Budget (10%)	216.68
Research Development and Demonstration (RD&D) Budget	50.00
SDREO Pilot Budget	3.00
Budget remaining	1,897.12
Administration Budget <sup>3</sup>	<b>169.71</b>
CSI Budget for Direct Incentives in general market program	<b>\$1,727.41</b>

Note: This table proposes modifications to Table 1 of D.06-12-033 (at 28). Proposed modifications are shown as shaded areas.

<sup>2</sup> The administrative budget includes funding for evaluation, marketing and outreach, and general administrative functions related to the general market program.

<sup>3</sup> The administration budget of \$169.71 does not include administrative costs for low income programs, Research, Development & Demonstration (RD&D), and solar water heating pilot program. Administrative costs for those programs shall be incorporated into their total budgets, which shall not exceed the figures in this table.

Therefore, this ruling asks parties to comment on a proposal to: 1) remove the 8% discount rate embedded in PBI; 2) reduce the differential incentive rates for government and non-profit applicants whether they receive PBI payments or an up front, EPBB incentive; and 3) shift \$20 million in funds reserved in the program administration budget to the incentive budget. If this proposal were adopted, it would modify the PBI and EPBB incentive rates for any new PBI and government/non-profit applications received after the date of this ruling. If this proposal were adopted, it would modify a number of tables set forth in D.06-12-033, but these new tables would only apply to new PBI and government/non profit applications received after the date of this ruling.

**3. Temporary Postponement of Issuance of Confirmed Reservations for Certain New CSI Applications**

While the Commission considers the proposed modifications to D.06-08-028 and D.06-12-033 discussed in this ruling, the PAs should temporarily postpone issuing reservations for applications received after the date of this ruling seeking government/non-profit incentives, either on an EPBB or PBI basis, as well as any PBI project applications received after the date of this ruling. The PAs may continue to receive these applications (and check them for completeness), but they should not issue reservations until the Commission acts on the proposals in this ruling. The PAs should continue to process new residential and commercial EPBB applications. The PAs should also continue to process all applications received on or before the date of this ruling at the incentive levels established in D.06-08-028 and D.06-12-033.

The PAs should queue new applications seeking government/non-profit incentives and PBI applications received after the date of this ruling on a first-come, first-served basis for reservation processing after the Commission

issues a decision on the proposals in this ruling or until further Commission direction. At the same time, the PAs should notify all new CSI applicants that the Commission is considering a proposal to modify the incentive levels and the incentive the applicant may ultimately receive may be lower than those in D.06-08-028 and D.06-12-033.

This temporary postponement in issuing certain new reservations would still allow new government/non-profit rate applicants and PBI applicants to submit applications, but would direct the PAs to not issue reservations for these projects and PBI projects until the Commission can review whether incentive changes are needed for the final stages of the program.

Therefore, **IT IS RULED** that:

1. Parties may file comments on the proposed modifications to Decision (D.) 06-08-028 and D.06-12-033 contained in this ruling no later than Thursday, July 22, 2010, and reply comments no later than Wednesday, July 28, 2010.
2. For new government/non-profit rate applications and performance-based incentive applications received after the date of this ruling, the California Solar Initiative (CSI) Program Administrators, namely Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and the California Center for Sustainable Energy (CCSE), are directed to: (a) temporarily postpone issuing reservation notices; (b) not pay incentives until further order or ruling of this Commission; and (c) queue such applications for reservation processing in the order received, i.e., on a first-come, first-served basis, following Commission action on the proposed modifications in this ruling.

3. The CSI Program Administrators should ensure that all applicants seeking government/non-profit incentives and/or performance-based incentives are notified that incentive rates for these CSI applications received after the date of this ruling are subject to change, and note the changes that might occur based on the proposals in this ruling and the record developed by comments in response to this ruling. The CSI Program Administrators are directed to issue notice of a potential incentive change to their program related websites, their newsletters and the CSI Program Handbook.

4. The CSI Program Administrators shall continue to receive and process general market Expected Performance Based Buydown CSI applications, unless those applications seek government/non-profit incentives, and shall continue to process all CSI applications received on or before the date of this ruling.

5. This ruling shall be served on the service list for Rulemaking (R.) 08-03-008 in addition to any temporary service list available for R.10-05-004.

Dated July 9, 2010, at San Francisco, California.

/s/ MICHAEL R. PEEVEY  
Michael R. Peevey  
Administrative Law Judge

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Upon confirmation of this document's acceptance for filing, I will cause a Notice of Availability of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the Notice of Availability of the filed document is current as of today's date.

Dated July 9, 2010, at San Francisco, California.

/s/ CRISTINE FERNANDEZ  
Cristine Fernandez

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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