

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE
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Agenda ID #6539
Quasi-legislative

TO PARTIES OF RECORD IN RULEMAKING 06-03-004

This is the proposed decision of Commissioner Michael R. Peevey. It will not appear on the Commission's agenda for at least 30 days after the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the proposed decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the proposed decision as provided in Article 14 of the Commission's Rules of Practice and Procedure (Rules), accessible on the Commission's website at www.cpuc.ca.gov. Pursuant to Rule 14.3, opening comments shall not exceed 15 pages.

Comments must be filed either electronically pursuant to Resolution ALJ-188 or with the Commission's Docket Office. Comments should be served on parties to this proceeding in accordance with Rules 1.9 and 1.10. Electronic and hard copies of comments should be sent to ALJ Duda at dot@cpuc.ca.gov and Commissioner Peevey's advisor Andrew Schwartz at as2@cpuc.ca.gov. The current service list for this proceeding is available on the Commission's website at www.cpuc.ca.gov.

/s/ ANGELA K. MINKIN
Angela K. Minkin, Chief
Administrative Law Judge

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Attachment

Decision **PROPOSED DECISION OF COMMISSIONER PEEVEY**
(Mailed 4/3/2007)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

Rulemaking 06-03-004
(Filed March 2, 2006)

**OPINION MODIFYING DECISION 06-08-028
REGARDING THE CALIFORNIA SOLAR INITIATIVE INCENTIVE
ADJUSTMENT MECHANISM**

This decision modifies the Commission's prior order implementing the California Solar Initiative (CSI), namely Decision (D.) 06-08-028. The decision is modified to clarify a process for handling applications that drop out or reduce their system sizes.

1. Background

In the Commission's first CSI order, D.06-01-024, the Commission established a mechanism for solar incentives to decline over the ten year duration of the CSI program. This initial mechanism reduced incentives at the start of each calendar year, or based on megawatts (MWs) of program participation, whichever occurred sooner. In D.06-08-028, the Commission modified the initial incentive adjustment mechanism so that incentives would not adjust on a calendar year basis, but only decline based on the volume of solar

installations, as measured in MWs in applications for incentives that had reached the “conditional reservation” stage.¹ The decision adopted several tables detailing the MWs in each step, and the MWs allocated to each utility for each step of the incentive mechanism. (See D.06-08-028, Tables 10, 11 and 13.) Further, the Commission specifically directed the CSI Program Administrators to reduce incentives when conditional reservations for solar incentives reach the MW targets in Table 11. (D.06-08-028, Ordering Paragraph 19.) In a subsequent order, the Commission made minor modifications to the CSI incentive mechanism tables, including Table 11, to reflect an adjusted MW goal for the Commission portion of CSI, as set forth in Senate Bill 1. (D.06-12-033.)

In D.06-08-028, the Commission recognized that the CSI Program Administrators, solar industry, and participating customers would need a program handbook to facilitate program implementation. As directed in the order, Energy Division convened a handbook workshop, forwarded a draft handbook to the Administrative Law Judge (ALJ), and the CSI Program Handbook was approved by an Assigned Commissioner Ruling on December 20, 2006.

2. Need for Modification

In a ruling dated February 27, 2007, the assigned ALJ noted a discrepancy and potential ambiguity between the incentive adjustment mechanism adopted in D.06-08-028, as modified in D.06-12-033, and the language describing implementation of that mechanism in the CSI Program Handbook. The CSI

¹ The terminology “conditional reservation” refers to applications that have passed initial screening for eligibility and provided payment of the application fee.

Handbook describes a process for handling the MWs associated with projects that drop out of the program. Specifically, if applicants drop out and MWs remain unused in a prior step, these MWs can be added to the next step of the incentive mechanism. However, the Commission orders adopting the incentive mechanism did not address how program administrators should handle the MWs associated with applications that drop out. As the ALJ ruling notes, if the Program Administrators follow the CSI Handbook language and reallocate MWs from drop out applications to the next incentive step, this will change the allocations set forth in Table 11 of D.06-08-028, as modified by D.06-12-033.

For example, the Commission's adopted incentive adjustment tables indicate that Step 1 contains 50 MWs and Step 2 contains 70 MWs. After 50 MWs are conditionally reserved, the incentive adjusts to the Step 2 level for the next 70 MWs of CSI applications. The Handbook language, however, will result in variance from these MW allocations. If Program Administrators determine that 10 of the 50 MWs reserved for incentives in Step 1 have dropped out, they can increase Step 2 from 70 MWs to 80 MWs. As a result, the incentive adjustments would no longer match the MW targets established in the underlying Commission decisions, although the cumulative total of MWs for Steps 1 and 2 would still be the same. If Step 1 shrinks and Step 2 expands, the two steps together still do not exceed 120 MW. Moreover, as Step 1 MWs drop out and are reallocated and paid at the lower Step 2 incentive level, the Commission still has the opportunity to achieve its overall CSI MW goals and spends less ratepayer money than originally envisioned.

The ALJ ruling solicited comments from parties on whether the method for handling drop out applications, as set forth in the CSI Program Handbook, should be adopted. In addition, the ruling asked for comment on three

refinements to the drop out process described in the Handbook. These refinements are as follows. First, Program Administrators may reallocate MWs from prior steps to the current step under which reservations are being issued. Second, the reallocation of MWs should conform to originally adopted policy that one-third of MWs are reserved for residential applicants and two-thirds for non-residential. Third, the Program Administrators must provide weekly updates on their websites to indicate the total MWs available for incentives at each level.

3. Discussion

The parties filing comments, namely Americans for Solar Power (ASPV), the California Solar Industries Association (CAL SEIA) and PV Now (filing jointly as the “Joint Solar Parties”), Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), Southern California Edison Company (SCE), and San Diego Regional Energy Office (SDREO), generally support the proposed method for handling drop out allocations as described in the ALJ ruling. They comment that if the Program Administrators reallocate MWs for projects that do not come to fruition, this helps ensure MWs will not be “lost” and the Commission has a better chance of reaching its CSI MW goals.

We find the process described in the CSI Program Handbook and the ALJ ruling for reallocating MWs associated with applications that have dropped out is reasonable and the Commission should modify its prior orders describing the incentive adjustment mechanism, particularly Table 11 of D.06-08-028, to clarify that this reallocation may occur.

In addition, several parties ask for clarification that as projects drop out, the associated kilowatts (kW) from that dropped out application should be reallocated to the current step for the same market segment in which the project

was initially reserved (i.e., residential or non-residential). In other words, if a residential application drops out, the kW associated with the application are reallocated to the current step for residential incentives, and kW from non-residential drop outs would be reallocated to the current step for non-residential incentives. This is what was intended by the ALJ in her ruling, and we will ask Energy Division to ensure the Program Handbook is clear on this point.

SDREO requests that the reallocation method should apply not only to unused MW from applications that drop out, but also unused MW from projects where system size has been reduced, because it is not uncommon that upon installation, the system size may decrease. This proposal is reasonable and we will adopt it. If we allow the Program Administrators to reallocate MWs from projects where size has been reduced, this can help the Commission meet its overall CSI MW goals.

ASPV comments that the current CSI program handbook requires the Program Administrators to provide data on MW of confirmed reservations as close as possible to real time. Therefore, ASPV suggests that mandating weekly website updates of the MW available for incentives is less of a requirement than the real time information required in the Program Handbook. ASPV asks that any requirements on Program Administrators to provide information on the total MWs of confirmed reservations not lessen the requirement for these real-time updates. We agree with this proposal and will modify the handbook language accordingly.

In summary, the Commission should modify Table 11 in D.06-08-028, as modified by D.06-12-033, to indicate that the Program Administrators may apply the MWs from applications that drop out or reduce their size to the current incentive step, as long as the cumulative total of MWs in prior steps is the same.

In addition, the Energy Division should ensure the Program Administrators modify Section 3.1 of the CSI Program Handbook to state the following:

Projects are counted toward the MW trigger once they are deemed eligible, have paid an application fee (if applicable), and have been issued a confirmed reservation. As the number of MWs allocated through the confirmed reservations reaches its maximum within any particular step, the Program Administrators will move to the next step. If there are any MWs that remain unused and unaccounted for in any previous steps, due to events such as Applicants dropping out of the process or reducing the size of their systems, those MWs will be added to the current step under which Program Administrators are issuing reservations and incentives, thus increasing the number in that step and ensuring that no MW are left outstanding. Any reallocation of MWs from a higher step to a lower step due to drop outs or system size reductions can take place as long as the reallocation is consistent with how the MWs were initially reserved for either residential or non-residential projects. Reallocations from Step 1 may be assigned to either residential or non-residential applicants, at the discretion of the Program Administrators. The Program Administrators will provide updates to their solar application websites as close as possible to real time and no less than weekly to indicate the total MWs available for incentives at each step and in each customer sector, including those MWs newly available due to reallocations.

PG&E and SDREO request clarification that the Program Administrators' system size calculation can include the "design factor" adopted by the Commission in D.06-08-028. They claim use of the design factor is needed to ensure CSI budget dollars and MW totals match for each incentive mechanism step. It appears this accounting detail has already been proposed and approved in the context of the CSI Program Handbook which provides detailed guidance on program implementation details. We agree with PG&E and SDREO that the Program Administrators should use the design factor when tracking system size

so that the dollars budgeted for incentives in each step match with the system sizes which count toward the MWs in each step.

ASPV urges the Commission to monitor the customer drop out rate over time and consider rule or program changes to discourage drop outs. We agree that monitoring the rate of customer drop outs is prudent and direct our Energy Division to do so.

4. Comments on Proposed Decision

The proposed decision of Commissioner Michael R. Peevey in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and Rule 14.2(a) of the Commission's Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____.

5. Assignment of Proceeding

Commissioner Michael R. Peevey is the assigned Commissioner and Dorothy J. Duda is the assigned Administrative Law Judge in this portion of the proceeding.

Findings of Fact

1. In D.06-08-028, the Commission directed the CSI program administrators to reduce incentives to solar project applicants when conditional reservations for incentives reach certain MW targets, as set forth in Table 11 of the order, and later modified in D.06-12-033.

2. There is a discrepancy between the incentive adjustment mechanism defined in Table 11 of D.06-08-028 and the language describing implementation of the mechanism in the CSI Program Handbook.

3. If the Program Administrators follow the CSI Handbook and reallocate the MWs from applications that drop out to lower incentive steps, the actual

incentive steps will no longer match the MW targets and allocations established in Table 11 of D.06-08-028, although the cumulative total of MWs in the steps would be the same.

4. Measuring system sizes using a design factor ensures CSI budget dollars and MW totals match for each incentive mechanism step.

Conclusions of Law

1. If MWs from Step 1 are reallocated and paid at the lower Step 2 level, the Commission has the opportunity to achieve its overall CSI MW goals while spending less ratepayer money.

2. D.06-08-028 should be modified to allow the Program Administrators to reallocate MWs associated with applications that have dropped out or reduced their system size, as long as they do not exceed the cumulative total of MWs in prior and current steps.

3. Any reallocation of MWs for applications that drop out or reduce their size should be to the current step for the same market segment in which the project was initially reserved, with the exception of Step 1 reallocations.

4. The Program Administrators should provide data on MWs of confirmed reservations, including reallocations, as close as possible to real time and no less than weekly.

5. The Program Administrators should use the design factor when tracking system size.

O R D E R

IT IS ORDERED that:

1. Decision (D.) 06-08-028, as modified by D.06-12-033, is further modified as set forth in Appendix A of this order.

2. The Commission's Energy Division shall:
 - a. Ensure the Program Administrators modify Section 3.1 of the CSI Program Handbook to describe the reallocation process as described in this order.
 - b. Monitor the rate at which CSI applications drop out.
3. The CSI Program Administrators shall use the design factor when tracking system size.

This order is effective today.

Dated _____, at San Francisco, California.

APPENDIX A

Modifications to D.06-08-028

Decision 06-08-038 shall be modified as follows (additions are underlined):

Conclusions of Law

51. We should establish MW triggers for each utility, and for the residential and non-residential sectors within each utility, based on the MW levels of program participation adopted in the trigger mechanism in D.06-01-024. If there are any MWs that remain unused and unaccounted for in any previous steps, due to events such as applicants dropping out of the process or reducing the size of their systems, the CSI Program Administrators may reallocate those MWs to the current step under which they are issuing reservations and incentives. Reallocations should be consistent with how the MWs were initially reserved, with the exception of Step 1 reallocations.

Ordering Paragraphs

19. Upon commencement of Step 2, the incentive adjustment mechanism adopted in D.06-01-024 (Appendix A, Table 5) is modified to base incentive adjustments purely on the volume of megawatts (MWs) of solar installations, as set forth in Table 11 of this order. Incentives may vary by utility service territory and customer sector, according to the MWs of achieved solar demand specified in Table 11. Each program administrator shall automatically reduce its incentive level when conditional reservations for solar incentives in its utility service territory reach the MW targets in Table 11, although Program Administrators may reallocate MWs from drop outs or system size reductions from prior steps to the current step. When the Program Administrators automatically reduce

incentive levels, they shall provide written notification of this incentive reduction by letter to the ALJ and the service list of this proceeding, or any successor proceeding.

Table 11, previously modified in D.06-12-033, is modified further to add a footnote as follows:

Table 11
CSI MW Targets by Utility and Customer Class

Step	MW in Step*	PG&E (MW)		SCE (MW)		SDG&E (MW)	
		Res	Non-Res	Res	Non-Res	Res	Non-Res
1	50	--	--	--	--	--	--
2	70	10.1	20.5	10.6	21.6	2.4	4.8
3	100	14.4	29.3	15.2	30.8	3.4	6.9
4	130	18.7	38.1	19.7	40.1	4.4	9.0
5	160	23.1	46.8	24.3	49.3	5.4	11.0
6	190	27.4	55.6	28.8	58.6	6.5	13.1
7	215	31.0	62.9	32.6	66.3	7.3	14.8
8	250	36.1	73.2	38.0	77.1	8.5	17.3
9	285	41.1	83.4	43.3	87.8	9.7	19.7
10	350	50.5	102.5	53.1	107.9	11.9	24.2
Totals		764.8		805.0		180.3	
Percent		43.7%		46.0%		10.3%	

* If there are MWs that remain unused and unaccounted for in any previous steps, due to events such as applicants dropping out or reducing their system sizes, those MWs will be added to the current step under which Program Administrators are issuing reservations and incentives. Any reallocation of MWs from a higher step to a lower step due to drop outs or system size reductions can take place as long as the reallocation is consistent with how the MWs were initially reserved for either residential or non-residential projects. Reallocations from Step 1 shall be at the Program Administrators' discretion.

(END OF APPENDIX A)

INFORMATION REGARDING SERVICE

I have provided notification of filing to the electronic mail addresses on the attached service list.

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

Dated April 3, 2007, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid