

Decision 11-11-004 November 10, 2011

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)

DECISION MODIFYING DECISION 10-01-022 REGARDING CERTIFICATION STANDARDS FOR SOLAR WATER HEATING SYSTEMS

Summary

This decision modifies Decision 10-01-022, which established the California Solar Initiative (CSI) Thermal Program, regarding certification standards for solar water heating systems that apply for CSI Thermal incentives. This decision grants in part a petition filed by EchoFirst, Inc., and finds that the International Association of Plumbing and Mechanical Officials (IAPMO) is qualified to certify solar water heating systems to Solar Rating and Certification Corporation (SRCC) standards. The CSI Thermal Program Administrators are directed to accept SRCC certifications rendered by IAPMO. Additionally, this decision establishes a process for the CSI Thermal Program Administrators to consider requests for acceptance of SRCC certification performed by entities that are American National Standards Institute accredited listing agencies.

Background

In Decision (D.) 10-01-022, the Commission established the California Solar Initiative (CSI) Thermal program, which pays incentives to solar water heating (SWH) systems that displace gas water heating and electric water heating. The CSI Thermal program was established pursuant to Assembly Bill (AB) 1470 (Stats. 2007, Ch. 536), which contains direction to the Commission in regards to the program budget, design, and eligibility criteria.

Among other aspects of the legislation, AB 1470 added Pub. Util. Code § 2864,¹ which requires the Commission, in consultation with the California Energy Commission, to establish eligibility criteria for SWH systems that receive incentives through the CSI Thermal program. Specifically, the section states that eligibility criteria shall include:

Design, installation, and energy output or displacement standards. To be eligible for rebate funding, a residential [SWH] system shall, at a minimum, have a [Solar Rating and Certification Corporation, or SRCC]² OG-300 Solar Water Heating System Certification. Solar collectors used in systems for multifamily residential, commercial, or industrial water heating shall, at a minimum, have a SRCC OG-100 Solar Water Heating System Certification. (Section 2864(a)(1).)

D.10-01-022 noted this requirement in AB 1470 and stated “we will authorize SWH incentives only for electric and gas-displacing SWH systems that have Solar Rating and Certification Corporation (SRCC) certification.” (D.10-01-022 at 27.) Thus, the decision incorporated the SRCC certification requirement in the adopted CSI Thermal Program. (Id., Appendix A at 4.)

¹ All statutory references are to the Public Utilities Code, unless otherwise noted.

² SRCC is defined in Section 2861(i).

Petition by EchoFirst

EchoFirst Inc. (EchoFirst) filed a petition on July 18, 2011³ requesting the Commission modify D.10-01-022 to clarify language regarding the SRCC certification requirement. According to EchoFirst, the statute is ambiguous in its use of the terms “standard” and “certification” and the issue of whether OG-300 certification can be granted to an SWH system by an entity other than SRCC is not addressed in Section 2864.

Commission Staff interpret the SRCC certification requirement in Section 2864 and D.10-01-022 to mean that only SRCC may certify equipment as meeting the SRCC OG-300 and OG-100 standard. EchoFirst contends this is unduly restrictive and confers monopoly status on SRCC, whereas the logical outcome is to distinguish standards from certification bodies. Therefore, EchoFirst requests that any approved Nationally Recognized Testing Laboratory (NRTL)⁴ or American National Standards Institute (ANSI) accredited laboratory that certifies solar energy products, such as the International Association of Plumbing and Mechanical Officials (IAPMO), be considered a qualified certifying body to certify equipment to the SRCC OG-300 standard. This would

³ EchoFirst initially filed its petition on July 18, 2011 in Rulemaking (R.) 08-03-008, the rulemaking in which D.10-01-022 was adopted. The petition was resubmitted on July 21, 2011 in R.10-05-004, and served on the service lists of both R.08-03-008 and R.10-05-004, per the instructions in Ordering Paragraph 3 of R.10-05-004, the successor rulemaking to R.08-03-008.

⁴ An NRTL is a testing facility recognized by the United States Department of Labor Occupational Safety and Health Administration to provide product safety testing and certification services to manufacturers.

be similar to ETL,⁵ which has authority to certify Underwriters Laboratories Inc. standards.

In support of its petition, EchoFirst attaches a May 23, 2011 letter from Assemblymember Jared Huffman, author of AB 1470, to Commission President Michael Peevey, wherein Huffman states that he intended to make the SRCC standard, not SRCC as a certifying entity, the requirement for SWH system eligibility. Huffman's letter states that he never intended to sole-source certification to SRCC. (EchoFirst Petition, Attachment 2, Exhibit A.)

Furthermore, EchoFirst provides documentation that three entities currently allow certification of SWH systems by IAPMO. Specifically, the United States Environmental Protection Agency (EPA) recognizes IAPMO for third-party certification of SWH systems for the EPA's "Energy Star" product labeling system, and the Salt River Project Agricultural Improvement and Power District and the Arizona Corporation Commission recognize IAPMO certification of SWHs to the SRCC OG-300 standard for their programs as well. (EchoFirst Petition at 5.)

EchoFirst contends that by distinguishing the SRCC OG-300 standard from certification bodies, SWH manufacturers are given the appropriate latitude to choose a certifying body. According to EchoFirst, this is uniform industry practice in all major consumer product categories and would have the practical effect of assuring reliability, durability, safety, installation, performance and operation of SWH systems. In a declaration attached to the Petition, Richard Reed of SunEarth, Inc., a manufacturer of solar thermal collectors and packaged

⁵ "ETL" was originally a trademark of ETL Testing Laboratories, and is now a trademark of Intertek Testing Services.

SWH systems, notes the protracted wait times for SRCC to make additions or changes to SunEarth's product listings. Reed contends that multiple certifying agencies are standard industry practice and are required to accommodate the industry's growth and development. (EchoFirst Petition, Attachment 1.)

Timeliness of Petition

D.10-01-022 was effective on January 21, 2010. Rule 16.4(d) of the Commission's Rules of Practice and Procedure requires petitions to be filed and served within one year of the effective date of the decision. If more than one year has elapsed, the petition must explain why the petition could not have been presented within one year. EchoFirst explains its petition was not filed earlier because it did not realize that the Commission would not accept SRCC certification performed by entities other than SRCC until discussion with Commission Energy Division Staff in April 2011. Therefore, EchoFirst requests that its petition be accepted despite the fact it is beyond the one year effective date of D.10-01-022. EchoFirst provides a reasonable explanation for filing its petition beyond the one year effective date of D.10-01-022. We will accept and consider EchoFirst's petition.

Parties' Comments

Responses to the petition were filed by the California Solar Energy Industries Association (CALSEIA), the Commission's Division of Ratepayer Advocates (DRA), and jointly by Southern California Edison Company, Pacific Gas and Electric Company, Southern California Gas Company, and the California Center for Sustainable Energy (collectively, the CSI Thermal Program Administrators, or PAs).

DRA and CALSEIA support the petition. DRA agrees with EchoFirst that there is no valid public policy reason to confer monopoly status on SRCC, which

could have the unintended consequence of slowing down market acceptance of SWH systems. DRA maintains that a competitive market for certification services has worked well in other industries, such as the photovoltaic industry, and can provide timelier certification of qualifying projects. CALSEIA supports the petition and emphasizes that all SWH systems should be certified to a single standard, which is critical for estimating system performance and assigning incentive values through the CSI Thermal Program. CALSEIA urges that the Petition should not preclude continued certification by SRCC.

The CSI Thermal PAs support the Petition to allow SWH systems certified by IAPMO to be eligible for CSI Thermal incentives given the evidence submitted by EchoFirst regarding IAPMO as a certifying body accredited by ANSI. The CSI Thermal PAs do not agree, however, with the portion of EchoFirst's petition that would allow any NRTL or ANSI-accredited laboratory to certify SWH systems, unless the entity is specifically approved by the Commission. Thus, the CSI Thermal PAs would limit modification of D.10-01-022 at this time and only allow the addition of IAPMO as a certifying entity. EchoFirst does not object to the CSI Thermal PAs' suggestion that further Commission review and approval should be required before allowing additional NRTL or ANSI accredited laboratories, beyond IAPMO, to certify SWH systems.

In addition, the CSI Thermal PAs allege that various administrative, technical, and programmatic changes are necessary if IAPMO is accepted as a certifying entity. The PAs request 90 calendar days for implementation of program changes if the Petition is granted. EchoFirst counters that a maximum of 30 days should be sufficient to implement certification by IAPMO, contending that the CSI Thermal PAs need only upload basic certification data comprising 16 data fields if IAPMO becomes a certifying entity.

Discussion

Upon review of the petition, we find that EchoFirst has provided adequate evidence that IAPMO is ANSI-accredited to certify solar energy products to the SRCC standards required by Section 2864 for the CSI Thermal Program. (EchoFirst Petition, Attachment 2, Exhibits B and C.) EchoFirst provided the Commission's Energy Division Staff, under a nondisclosure agreement, with access to a report by a consultant for Arizona Public Service who reviewed detailed computer modeling results comparing IAPMO product listings with the OG-300 standard. Based upon the support provided in the petition and review by Energy Division Staff, we are satisfied that IAPMO is qualified to certify SWH systems to SRCC standards.

The SRCC OG-100 and OG-300 ratings are the basis on which the CSI Thermal Program pays incentives. Therefore, we should clarify that when SWH systems have SRCC ratings from two or more certifying entities (also known as "listing agencies"), the CSI Thermal Program will accept only the lowest of the ratings, to eliminate motivation for solar equipment manufacturers to "shop around" for the highest rating.

At the same time, we agree with the CSI Thermal PAs that we should not accept certification by any NRTL or ANSI-accredited listing agency without some level of additional review. We will grant EchoFirst's petition only in part. We will allow IAPMO to be considered a qualified entity to certify equipment to SRCC standards, as required by Section 2864, but we will not extend this approval to all NRTL or ANSI-accredited laboratories. Rather, we will establish a process for the CSI Thermal PAs to consider acceptance of SRCC certification by additional ANSI-accredited listing agencies.

Specifically, CSI Thermal program participants who want acceptance of SRCC certifications rendered by entities other than SRCC and IAPMO may submit a letter to the CSI Thermal PAs requesting the CSI Thermal Program accepts these additional certifying entities. Entities seeking acceptance of the SRCC certifications they perform must be accredited by ANSI as listing agencies. The CSI Thermal PAs may require that these entities provide detailed computer modeling results and system design schematics to allow the CSI Thermal PAs to compare product listings and certification practices with SRCC OG-300 and OG-100 standards. The PAs may also require these entities to provide a publicly-available detailed list of data fields in a standard format such as the “Comma-Separated-Value” format. The Commission’s Energy Division shall specify the format for such data in consultation with the CSI Thermal PAs.

The CSI Thermal PAs shall charge the entity seeking certification for any costs to review such requests, after first receiving approval from the Energy Division Director for the pass-through of these costs. We will require the CSI Thermal PAs to notify Energy Division if they accept SRCC certifications performed by additional entities, and the PAs should keep the CSI Thermal Handbook and any applicable websites updated.

While a request by letter to the CSI Thermal PAs is sufficient to seek acceptance of new listing agencies, we will require the CSI Thermal PAs to file a Tier 2 advice letter for Commission approval should they want to suspend accepting certifications from entities other than SRCC. The CSI Thermal PAs may seek such suspension should they find the SRCC ratings from entities other than SRCC differ significantly from those provided by SRCC. We find this reasonable given a statement made by the author of AB 1470, Assemblymember Huffman, in his letter to President Peevey:

It's also important to note that regardless of the entity certifying a solar water heating unit, all certification entities should produce *the same test results* when testing a solar water heater for eligibility against the SRCC OG-300 or OG-100 standard. (EchoFirst Petition, Attachment 2, Exhibit A; emphasis in original.)

As Huffman points out, there should not be much difference between the SRCC and other entities' test results. While a small degree of variability is expected, if differences are significant, the CSI Thermal PAs may seek Commission approval to suspend accepting certifications by IAPMO or other ANSI-accredited listing agencies. The CSI Thermal PAs may also seek Commission approval to suspend certifications if the PAs determine that the certifying entity has not provided necessary information to administer CSI Thermal incentives, including but not limited to system diagrams to inspect OG-300 systems and performance data necessary for incentive calculations, or the certifications are in any other way deficient.

Finally, we agree with EchoFirst that a maximum of 30 days should be sufficient to implement acceptance of SRCC certification by IAPMO. We will direct the CSI Thermal PAs to accept IAPMO certification to SRCC standards within 30 days of the effective date of this decision, dependent upon IAPMO providing all required documentation and data inputs to the PAs in a timely manner. We will give the ALJ flexibility to modify the compliance dates in this order.

In summary, we conclude we should modify the last sentence of the first paragraph on page 27 of D.10-01-022 to state (new text is underlined):

Therefore, we will authorize SWH incentives only for SWH systems that have been certified to SRCC standards by SRCC, by the International Association of Plumbing and Mechanical Officials (IAPMO), or by other entities approved by the CSI Thermal PAs that are accredited by the American National Standards Institute (ANSI).

When SWH systems have SRCC ratings from two or more certifying entities, the CSI Thermal Program will accept only the lowest rating.

Further, it is necessary to modify Appendix A of D.10-01-022. The first bullet point under the heading “Eligibility” on page 4 of Appendix A should be modified as follows (new text is underlined):

- Energy output displacement standards. Residential SWH systems shall have Solar Rating and Certification Corporation (SRCC) OG-300 SWH system certification and solar collectors used in multifamily residential commercial or industrial water heating shall have SRCC OG-100 SWH system certification. SRCC certification may be rendered by SRCC or the International Association of Plumbing and Mechanical Officials, or any American National Standards Institute accredited listing agency, if approved by the CSI Thermal PAs. When SWH systems have SRCC ratings from two or more certifying entities, the CSI Thermal Program will accept only the lowest rating.

Comments on Proposed Decision

The proposed decision in this matter was mailed to the parties in accordance with Section 311 and comments were allowed under Rule 14.3 of the Commission’s Rules of Practice and Procedure. Comments were filed by CALSEIA and jointly by the CSI Thermal PAs, namely PG&E, SCE, SoCalGas and CCSE. Reply comments were filed by EchoFirst. Where the comments suggested minor adjustments or clarifications to the decision, these changes have been incorporated. Where comments introduced new arguments or facts, they were not considered.

The CSI Thermal PAs ask for three modifications to the decision. First, they request 60 days to implement the decision, and additional time beyond 60 days if IAPMO does not provide necessary documentation in a timely manner.

We will leave the implementation deadline at 30 days, but provide flexibility to the ALJ to amend deadlines if warranted. Second, they request that the Commission require IAPMO and any future certifying entities to publicly publish eligible systems data in a standard “comma-separated-value” (CSV) format. We agree that publishing of the information in a standard format is important and have added this clarification. We will not specify the CSV data format in this decision, but direct Energy Division to specify the data format in coordination with the CSI Thermal PAs. Finally, the CSI Thermal PAs suggest the Commission assign a third party to serve as the approving body for entities requesting to certify solar thermal systems. We decline to make this modification at this time because we have no record regarding which third party entities might be qualified or available to perform this work, and developing this information will delay the decision. It is more reasonable to give the CSI Thermal PAs the ability to hire a contractor to perform this work, when and if it should be needed, and then pass the cost of any contractor through to entities seeking approval as certifying entities.

CALSEIA comments that the terms “NRTL” and “ANSI-accredited laboratory” are used inaccurately in the decision. These entities are correctly known as “Listing Agencies” and informally described as “certification bodies.” According to CALSEIA, entities operating SWH system testing laboratories do not offer product certification services. IAPMO is an ANSI-accredited Listing Agency, but is not operating as an NRTL or an ANSI-accredited laboratory. The decision has been revised accordingly to add the term “listing agency” and remove references to NRTLs as listing agencies.

Assignment of Proceeding

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

Findings of Fact

1. Section 2864 requires SWH systems to have SRCC OG-300 or OG-100 certification to receive rebate funding.
2. D.10-01-022 states that the Commission will only authorize SWH incentives for systems that have SRCC certification.
3. Commission Staff and the CSI Thermal PAs have interpreted Section 2864 and D.10-01-022 to mean that only SRCC may certify equipment to the OG-300 and OG-100 standards.
4. The U.S. EPA, the Salt River Project Agricultural Improvement and Power District, and the Arizona Corporation Commission recognize IAPMO certification of SWHs to the SRCC OG-300 standard.
5. EchoFirst did not file its petition within one year of D.10-01-022 because it did not realize the Commission would not accept SRCC certification performed by entities other than SRCC until April 2011.

Conclusions of Law

1. It is reasonable to distinguish the SRCC standards from the certification entities that apply those standards.
2. IAPMO is qualified to certify SWH systems to SRCC standards.
3. The Commission should modify D.10-01-022 to accept certification performed by IAPMO or any ANSI-accredited listing agency, if approved by the CSI Thermal PAs.
4. The CSI Thermal PAs may require entities seeking certification eligibility to provide detailed computer modeling results, system design schematics and a

publicly-available list of data fields in a standard format, as specified by Energy Division.

5. When SWH systems have SRCC ratings from two or more certifying entities, the CSI Thermal Program should accept only the lowest rating.

6. The CSI Thermal PAs shall charge the entity seeking acceptance of SRCC certifications for any costs to review such requests, after first receiving approval from the Energy Division Director for the pass-through of these costs.

7. The Commission should allow the CSI Thermal PAs to file a Tier 2 advice letter to suspend accepting certifications from a particular listing agency other than SRCC if the ratings differ significantly from those provided by SRCC, if information necessary to administer the CSI Thermal Program is not provided, or if the PAs find the certifications are in any other way deficient.

8. A maximum of 30 days should be sufficient to implement acceptance of SRCC certification by IAPMO, assuming IAPMO provides all required documentation and data inputs to the PAs in a timely manner.

9. EchoFirst's petition should be considered although it was filed more than a year after the Commission issued D.10-01-022.

O R D E R

IT IS ORDERED that:

1. The petition of EchoFirst filed on July 18, 2011 is granted in part.
2. Decision 10-01-022, which established the California Solar Initiative Thermal Program to provide solar water heating incentives, is modified as set forth in Appendix A.
3. Within 30 days of the effective date of this decision, the California Solar Initiative Thermal Program Administrators (namely Pacific Gas and Electric

Company, Southern California Edison Company, Southern California Gas Company, and the California Center for Sustainable Energy) shall accept Solar Rating and Certification Corporation certification performed by the International Association of Plumbing and Mechanical Officials.

4. The California Solar Initiative Thermal Program Administrators (CSI Thermal PAs, namely Pacific Gas and Electric Company, Southern California Edison Company, Southern California Gas Company, and the California Center for Sustainable Energy) may consider requests from program participants to accept Solar Rating and Certification Corporation certifications performed by an American National Standards Institute accredited listing agency.

5. The California Solar Initiative Thermal Program Administrators (namely Pacific Gas and Electric Company, Southern California Edison Company, Southern California Gas Company, and the California Center for Sustainable Energy) shall pass-through costs incurred to review requests for acceptance of Solar Rating and Certification Corporation certification onto the entity seeking such acceptance, after first obtaining review and approval from the Energy Division Director.

6. The California Solar Initiative (CSI) Thermal Program Administrators (namely Pacific Gas and Electric Company, Southern California Edison Company, Southern California Gas Company, and the California Center for Sustainable Energy) may file a Tier 2 advice letter to suspend accepting certifications from a particular listing agency other than the Solar Rating and Certification Corporation (SRCC) if the ratings differ significantly from those provided by SRCC, if information necessary to administer the CSI Thermal Program is not provided, or if the certifications are in any other way deficient.

7. The Administrative Law Judge may modify the compliance dates set forth in this order for good cause and as needed to ensure effective program implementation.

8. This proceeding remains open for consideration of additional issue as set forth in the Scoping Memo Ruling dated November 9, 2010.

This order is effective today.

Dated November 10, 2011, at San Francisco, California.

MICHAEL R. PEEVEY

President

TIMOTHY ALAN SIMON

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

MARK J. FERRON

Commissioners

Appendix A
Modifications to Decision 10-01-022

1) The last sentence of the first paragraph on p. 27 of D.10-01-022 is modified to state (new text is underlined):

Therefore, we will authorize SWH incentives only for SWH systems that have been certified to SRCC standards by SRCC, by the International Association of Plumbing and Mechanical Officials (IAPMO), or by other entities approved by the CSI Thermal PAs that are accredited by the American National Standards Institute (ANSI). When SWH systems have SRCC ratings from two or more certifying entities, the CSI Thermal Program will accept only the lowest rating.

2) The first bullet point under the heading “Eligibility” on page 4 of Appendix A is modified as follows (new text is underlined):

- Energy output displacement standards. Residential SWH systems shall have Solar Rating and Certification Corporation (SRCC) OG-300 SWH system certification and solar collectors used in multifamily residential commercial or industrial water heating shall have SRCC OG-100 SWH system certification. SRCC certification may be rendered by SRCC or the International Association of Plumbing and Mechanical Officials, or any American National Standards Institute accredited listing agency, if approved by the CSI Thermal PAs. When SWH systems have SRCC ratings from two or more certifying entities, the CSI Thermal Program will accept only the lowest rating.

(End of Appendix A)