

**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.

FILED  
PUBLIC UTILITIES COMMISSION  
MARCH 2, 2006  
SAN FRANCISCO OFFICE  
RULEMAKING 06-03-004

**ORDER INSTITUTING RULEMAKING  
REGARDING POLICIES, PROCEDURES AND RULES FOR THE  
CALIFORNIA SOLAR INITIATIVE, THE SELF-GENERATION INCENTIVE  
PROGRAM AND OTHER DISTRIBUTED GENERATION ISSUES**

**I. Summary**

This rulemaking is initiated for the purpose of developing rules and procedures for the California Solar Initiative (CSI) and the Self-Generation Incentive Program (SGIP) and to continue our consideration more generally of policies for the development of cost-effective, clean and reliable distributed generation (DG). The Commission will hold a Prehearing Conference in this matter on March 23, 2006.

**II. Background**

In recent years, this Commission has made a substantial effort to stimulate development of DG projects and technologies by providing financial incentives to project developers and exemptions from standby rates and DWR cost responsibility surcharges. This rulemaking evolves from and builds on the work we began in three previous proceedings, Rulemaking (R.) 98-12-015, R. 99-10-025, and R.04-03-017. These previous rulemaking orders describe our fundamental view of DG and its role in providing the state with clean, reliable energy

resources and remain useful as background documents guiding our work here. The joint agency Energy Action Plan II, the Integrated Energy Policy Report issued by the California Energy Commission and our own orders also emphasize the state's commitment to DG development. As we stated in R.04-03-017, we have much to learn regarding the true costs and benefits of adding DG to the electrical system; about the proper levels of incentives for various DG technologies; and about the extent to which DG can and should be incorporated into utility long-term resource planning and procurement.

The prior DG rulemaking (R.03-04-017) refined SGIP rules and incentive levels, adopted new interconnection rules, conducted an inquiry into cost-benefit methodologies and stated our intent to fund a new solar DG program, the California Solar Initiative (CSI). D.05-12-044 provided a total of \$342 million for solar incentives in 2006 for the CSI. D.06-01-024 committed \$2.5 billion to CSI over ten years, established broad program principles and set forth a number of program issues that require our additional attention. We also expressed our interest in refining the existing program in several ways and an intent to investigate them over the coming year or so.

This proceeding will address the following broad categories of issues:

- Resolution of the cost-benefit methodologies explored in R.03-04-017;
- Ongoing management of the SGIP;
- Further development of program rules and policies for the CSI;
- Analysis of subsidies for renewable DG and measurement of renewable DG output for purposes of counting renewable DG output toward the renewables portfolio standard (RPS) requirements of utilities.

We describe each of these in more detail below.

### **III. Preliminary Scoping Memo: Scope of the Proceeding**

This new Rulemaking divides the present task into five issue areas:

**Cost-Benefit-Analyses for Customer and IOU Installations:** As we discussed in R.04-03-017, the Commission must establish a way of measuring costs and benefits of DG projects to meet our legislative obligations and to measure the success of various program elements and tailor incentives accordingly.<sup>1</sup>

In R.04-03-017, we began the process of investigating a cost-benefit methodology for DG projects. The Commission solicited testimony and held hearings on this matter in May 2005 following the issuance of a report sponsored by the Self-Generation Working Group and drafted by Itron, Inc. in March 2005.<sup>2</sup> The proceeding was also guided by the energy efficiency standard practice manual, which has been in use for evaluating utility energy efficiency programs for several years.

In September 2005, the assigned ALJ issued a proposed decision on this topic and later withdrew it in order to coordinate its findings with the work in

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<sup>1</sup> Public Utilities Code Section 353.9, enacted in SB 28x of 2001, as follows:

“The commission shall create a firewall that segregates distribution cost recovery so that any net costs, taking into account the actual costs and benefits of distributed energy resources, proportional to each customer class, as determined by the commission, resulting from the tariff modifications granted to members of each customer class may be recovered only from that class.”

Similarly, Public Utilities Code Section 2827(n) directs the Commission to “assess the environmental costs and benefits of net metering to customer-generators, ratepayers, and utilities, including any beneficial and adverse effects on public benefit programs and special purpose surcharges.”

<sup>2</sup> The March 2005 report is titled “Framework for Assessing the Cost-Effectiveness of the Self-Generation Incentive Program.”

other related proceedings, including our rulemaking developing consistent avoided costs (R.04-04-025), and the work undertaken in energy efficiency proceedings (R.01-08-028 and related).

We expect to renew our inquiry into this topic over the next year. Parties should expect to hear from the assigned ALJ about how the Commission will proceed on this topic in the near future.

**SGIP Rules and Management.** The Commission's SGIP program has so far encumbered more than \$421 million in incentives and motivated more than 113 MW of DG capacity since 2001. In R.04-03-017, we refined our interconnection rules, revised incentive payments, and approved a method to recognize DG air quality standards set forth by AB 1685. We also addressed funding issues when utility budgets became exhausted before the end of the funding cycle. These types of issues will continue to require our oversight.

The SGIP is currently set to sunset at the end of 2007. We are strongly inclined to continue the program past that date, but will need to determine, in this proceeding, the exact nature of that program continuation, including funding levels, timeframe, incentive amounts, as well as other ongoing policy and program modifications. At this point, we are also concerned with the prospects for performance-based incentives (PBI). Currently, incentives are paid for installed capacity based on a flat "dollar per watt." We have also stated our intent to reduce these incentive payments in the years ahead in order to motivate market transformation. We expect to consider whether performance-based measures would motivate better and more efficient projects and project management.

We will also consider changes to incentive levels and technologies as market conditions change. As we stated in R.04-03-017, our ongoing collaboration with the CEC will help us to understand and incorporate these

technologies when and if they become viable, and we encourage other parties to propose ways to motivate sound technological development as well.

**CSI Program Rules and Policies.** D.06-01-024 adopted a number of policies for the implementation of the CSI, which we created in D.05-12-044 and funded at a level of \$343 million for 2006. The CSI commits \$2.5 billion for solar incentives over the next ten years. D.06-01-024 sets the stage for this expanded commitment to solar development and leaves many program details to further investigation. Specifically, we stated our intent to develop a more detailed record on the following unresolved program issues:

- **Performance-based incentives** – how to create incentive schedules to promote better project development and project management;
- **Federal tax incentives** – the impact of new federal tax breaks on total project costs and how to recognize these tax credits in the calculation of appropriate CSI incentives;
- **Solar technologies other than photovoltaics** – how to determine which new and developing technologies are promising enough to qualify for incentives and what those incentives should be;
- **Energy efficiency standards** -- Requirements for project developers to implement energy efficiency improvements or standards in order to qualify for incentives;
- **Financing assistance for low income projects** – whether and how to promote solar projects in low income or other communities by providing access to low-cost or no-cost financing;
- **Administration by third parties** -- how to implement third party administration for the residential retrofit component of CSI ;

- **Marketing and outreach** – the development of protocols for CSI that make good use of funds in efforts to inform potential solar customers and developers of program opportunities;<sup>3</sup>
- **Advanced metering** – the types of metering necessary and for what purposes, and their relationship to advanced metering infrastructure proposals pending before the Commission from two utilities;
- **Research, development and demonstration (RD&D)** – how to fund solar related RD&D that will promote the most effective use of CSI funds and promote market development of the best technologies;
- **Program evaluation** – Assess program effectiveness through review of evaluations filed by program administrators.

We hope to resolve these issues expeditiously – and to modify the SGIP implementation handbook accordingly -- in order to assure a comprehensive, efficient, and effective CSI program fully developed and operational by 2007.

**Participation by small multi-jurisdictional utilities.** As expressed in Senate Bill 1 and D.06-01-024, we support a statewide program, and encourage municipal electric utilities and utility districts to participate in the CSI or develop similar programs within their service territories. Thus far, we have not addressed participation by California’s small multi-jurisdictional utilities (SMJUs). In this proceeding, we intend to consider whether and to what extent these utilities could participate in the CSI. The SMJUs are added as respondents to this proceeding to facilitate our consideration of these issues. (Appendix C)

**Treatment of DG Output for Purposes of RPS.** The Commission is currently developing protocols for each utility’s efforts to deliver renewable

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<sup>3</sup> D.06-01-024 required that the current SGIP program administrators file marketing and outreach proposals by June 1, 2006. We hereby suspend that deadline, and instead will delegate to the assigned ALJ, in consultation with the Assigned Commissioner, the ability to set the schedule for this rulemaking in general, and marketing and outreach proposals in particular.

energy to their customers, as required by the RPS. As part of that effort, we are exploring the use of renewable energy credits (RECs) that, if owned or bought by the utilities, would quantify utility investments in renewable energy toward the utility's overall portfolio requirements. In D.05-05-011, we addressed a controversy regarding whether and how DG should be counted as part of utility renewable energy portfolios. That order explains the related controversies well, and finds that we should, in R.04-03-017 or successor docket, consider (1) a way to calculate the benefits ratepayers have received from the SGIP subsidies they have paid to DG projects, for purposes of fairly allocating RPS credit and RECs between the utilities and the DG project owners and, 2) how to measure a DG project's output with sufficient accuracy to support the use of the output for RPS purposes. Other issues related to attributes and uses of RECs would continue to be decided in R.04-04-026 or its successor and R.06-02-012 (in which we intend to address a number of questions related to the use of RECs in the RPS program).

We will proceed to consider this matter expeditiously and direct the ALJ to coordinate this inquiry with work in R.06-02-012 and R.04-04-026 or its successor.

#### **IV. Proceeding Schedule**

On February 3, 2006, the ALJ assigned to this proceeding scheduled a workshop on PBI and the impact of federal tax incentives on investment decision-making. The Commission will be scheduling additional workshops or opportunities for comments or testimony on other topics in the near future. We hope to issue a roadmap for addressing all related issues in a final scoping memo, following a prehearing conference to discuss ways to manage the many issues to be resolved in this rulemaking.

We anticipate that this proceeding will take no longer than 18 months to complete.

## **V. Parties and Service List**

This OIR is served on the parties to R.04-03-017, which we close today. It is also served on the parties to R.04-04-026.

Within 20 days from the mailing date of this order, any person or representative of an entity interested in monitoring or participating in this proceeding should send a letter to the Commission's Process Office (Processoffice@cpuc.ca.gov) and to the Public Advisor's Office (Publicadvisor'soffice@cpuc.ca.gov), both of which are located at 505 Van Ness Avenue, San Francisco, California 94102, requesting that the person or representative's name be placed on the service list. The Process Office will thereafter create a new service list and the new service list will be posted on the Commission's web site, [www.cpsc.ca.gov](http://www.cpsc.ca.gov) soon thereafter. Parties' request for inclusion on the service list should include an email address. Parties who do not contact the Commission for inclusion on the service list will not receive future documents in this proceeding.

In accordance with Commission practice, by entering an appearance at a hearing or by other appropriate means, an interested party or protestant gains "party" status. A party to a Commission proceeding has certain rights that non-parties (those in "state service" and "information only" service categories) do not have. For example, a party has the right to participate in evidentiary hearings, file comments on a proposed decision, and appeal a final decision. A party also has the ability to consent to waive or reduce a comment period. Non-parties do not have these rights, even though they are included on the service list for the proceeding and receive copies of some or all documents. When individuals write to the Process Office to request to be on the service list, they should indicate if they wish to be an appearance, and if so, they should indicate how they intend to participate in the proceeding. Individuals who

intend to maintain appearance or party status must appear at the prehearing conference to confirm this.

Any party interested in participating in this rulemaking who is unfamiliar with the Commission's procedures should contact the Public Advisor's Office in Los Angeles at (213) 576-7056, or in San Francisco at (415) 703-2074, (866) 836-7875 (TTY - toll free) or (415) 703-5282 (TTY).

Parties are encouraged to serve documents electronically, in accordance with Rules 2.3 and 2.3.1 of the Commissions' Rules of Practice and Procedure.

## **VI. Preliminary Categorization of the Proceeding**

Rule 6(c)(2) requires that an order instituting rulemaking preliminarily determine the category of the proceeding and the need for hearing. As a preliminary matter, we determine that this proceeding is "ratesetting," as defined in Rule 5(c), because of the dollar magnitude of the CSI itself and the ratemaking effects of our policy decisions in several implementation areas. Although we hope that the issues in this proceeding may be resolved through a combination of workshops and formal comments, we preliminarily determine that limited evidentiary hearings may be necessary. As provided in Rule 6(c)(2), any person who objects to the preliminary categorization of this rulemaking as "ratesetting" or to the preliminary hearing determination, shall state the objections in comments on the preliminary scoping memo. Such comments may be filed and served by March 17, 2006. After considering the comments on the preliminary scoping memo, the Assigned Commissioner will issue a scoping ruling making a final category determination; this final determination is subject to appeal as specified in Rule 6.4.

## **VII. Ex Parte Communications**

In accordance with Rule 7(a)(4), *ex parte* communications in this proceeding are governed by the requirements of Rules 7(c) and 7.1.<sup>4</sup>

### **Findings of Fact**

1. The Commission has expressed its support for the development of distributed generation by utilities and customers.
2. State policy and utility rules will affect the development of distributed generation.

### **Conclusions of Law**

1. The Commission should initiate a new rulemaking to continue to consider policies, rules and practices that would promote the development of cost-effective distributed generation in California.
2. Pub.Util.Code § 353.9, enacted in Senate Bill 28x of 2001 requires the Commission to develop a cost-benefit methodology for analyzing distributed generation investments.
3. Because all of the issues remaining in R.04-03-017 will be addressed in this rulemaking, the record in R.04-03-017 should be incorporated into this docket and R.04-03-017 should be closed.

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<sup>4</sup> An *ex parte* communication is defined in Rule 5(e) as

...a written communication (including a communication by letter or electronic medium) or oral communication (including a communication by telephone or in person) that:

- (1) concerns any substantive issue in a formal proceeding.
- (2) takes place between an interested person and a decisionmaker, and
- (3) does not occur in a public hearing, workshop, or other public setting, or on the record of the proceeding.

**O R D E R**

Therefore, **IT IS ORDERED** that:

1. A rulemaking is instituted on the Commission's own motion to establish policies, procedures and incentives regarding distributed generation and distributed energy resources to implement the provisions of Pub.Util.Code § 353.9 as set forth herein, to implement the provisions of the California Solar Initiative (CSI), and to address ongoing issues associated with the Self-Generation Incentive Program.

2. Pacific Gas and Electric Company, Southern California Edison Company, Southern California Gas Company, and San Diego Gas and Electric Company are made respondents to this proceeding.

3. The small multi-jurisdictional utilities listed in Appendix C of this order are made respondents to this proceeding for the purpose of facilitating our consideration of the nature and extent of their participation in the CSI.

4. The record in Rulemaking (R.) 04-03-017 is incorporated in this proceeding by reference.

5. The Executive Director shall cause this Order Instituting Rulemaking to be served on the respondents, the Executive Director of the California Energy Commission, the California Independent System Operator, the California Air Resources Board, the California Environmental Protection Agency, and on the parties to R.04-03-017 and R.04-04-026.

6. Within 20 days from the date of mailing of this order, any person or representative of an entity interested in monitoring or participating in this rulemaking should send a letter to the Commission's Process Office, 505 Van Ness Avenue, San Francisco, California 94102, or process office@cpuc.ca.gov asking that his or her name be placed on the service list.

7. The category of this rulemaking is preliminarily determined to be “ratesetting.” Any persons objecting to the preliminary categorization of this rulemaking as “ratesetting” or to the preliminary determination that limited evidentiary hearings may be necessary shall state the objections in comments on the preliminary scoping memo; such comments shall be filed and served no later than March 17, 2006.

8. The June 1, 2006 deadline, set in Decision 06-01-024, for SGIP program administrators to file marketing and outreach proposals, is hereby suspended.

9. The assigned administrative law judge shall conduct proceedings in this rulemaking to effect the Commission’s policy and direction as set forth herein; in that capacity the ALJ, in consultation with the Assigned Commissioner, may make any adjustments to the schedule for this proceeding in general, and the marketing and outreach proposals in particular.

10. The Commission hereby schedules a prehearing conference in this proceeding for the purpose of discussing the management of this docket. The prehearing conference will take place at 11:00 a.m. on March 23, 2006 in the Commission’s San Francisco Hearing Room.

11. R.04-03-017 is closed.

This order is effective today.

Dated March 2, 2006, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
GEOFFREY F. BROWN  
DIAN M. GRUENEICH  
RACHELLE B. CHONG  
Commissioners

R.06-03-004 ALJ/KLM/eap

Commissioner John A. Bohn recused himself from this agenda item and was not part of the quorum in its consideration.

I reserve the right to file a concurrence.

/s/ RACHELLE B. CHONG  
Commissioner

APPENDIX A

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(END OF APPENDIX A)

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(END OF APPENDIX C)

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Commissioner Rachelle B. Chong, concurring:

My first major vote as a Commissioner was in support of the California Solar Initiative. This Commission rulemaking will begin the critical work of implementing our important solar policy.

We have committed to provide \$2.5 billion dollars in incentives over ten years. That is a lot of money. We have identified an ambitious goal of developing 3,000 megawatts of new solar power capacity by the year 2017.

There are two things I would like to see: (1) I want this program to be implemented on schedule within 18 months; (2) I want this program to be monitored effectively due to the size of the dollars involved. This Commission will be called upon, and should be able, to demonstrate actual results for this Solar Initiative investment.

As we develop the specific rules and procedures, I ask our staff to remain focused on the goal of this program – to increase actual solar energy production, especially from customer-side photovoltaics. After all, this initiative is not about subsidizing the solar industry. To meet our goal, incentives should *not* pay for solar panels that are sitting around in someone's garage, or that are installed on the north facing roof of a house hidden deep in a redwood forest.

I will keep close watch as we implement this initiative. I ask all who are involved in this effort to keep the following in mind: incentives must lead to performance, administrative costs must be minimized and the program's results must be measured and reported periodically.

Solar energy has been around for many years, but now that we have made a substantial financial commitment to this technology, Californians rightfully expect results.

/s/ RACHELLE B. CHONG  
RACHELLE B. CHONG  
Commissioner

San Francisco, California  
March 2, 2006