

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

RESOLUTION E-4197
December 18, 2008

R E S O L U T I O N

Resolution E-4197. Pacific Gas & Electric (PG&E) and Southern California Edison (SCE), on behalf of the California Solar Initiative Program Administrators.

By PG&E Advice Letter 3311-E filed on August 8, 2008, PG&E Advice Letter 3062-E and SCE 2131-E filed June 4, 2007.

SUMMARY

This Resolution grants some changes to the California Solar Initiative (CSI) Program Handbook (Handbook) as proposed by PG&E and SCE in the above Advice Letters, and rejects other proposed changes. The Commission grants CSI reservation transferability, as requested in AL 3311-E, with some modifications. The Commission denies AL 3062-E and AL2131-E, as the issue of CSI Program dropouts does not require any programmatic changes at this time. On its own motion, the Commission clarifies that new panels added to an existing inverter are eligible for CSI incentives, with some conditions.

In particular, this Resolution allows CSI participants to transfer their incentive reservation from one site to another, if the first site is found to be unsuitable for solar project development, with some conditions. This Resolution modifies the site transferability suggestions made by PG&E on behalf of the CSI Program Administrators (PAs) in AL 3311-E, and outlines the conditions under which a reservation transfer is permissible.

This Resolution denies the Handbook changes requested in Advice Letters 3062-E and 2131-E, as they have either been adopted via other Advice Letters or dismissed following a workshop on CSI Program Dropouts and Incentive Budgets, held July 14, 2008.

On our own motion, the Commission uses this Resolution to add a section to the CSI Program Handbook clarifying that new photovoltaic (PV) panels added to an existing inverter are eligible for a CSI rebate, provided the system met Program requirements at the time of installation and was partially funded by the Program Administrators.

BACKGROUND

On January 17, 2006, the Commission issued Decision (D.) 06-01-024, establishing the California Solar Initiative. On August 24, 2006, the Commission issued D.06-08-028, which, among other things, clarified the advice letter process for submitting revisions to the CSI Program Handbook. As part of this advice letter process, CSI Program Administrators have submitted PG&E AL 3311-E and PG&E AL 3062-E / SCE AL 2131-E, seeking to change several aspect of the Handbook. Additionally, the Commission can also change the Handbook on its own motion, via Resolution.

PG&E AL 3062-E / SCE AL 2131-E : Proposals to change CSI Program rules to limit dropouts

In D.07-05-007, the Commission directed the PAs to “work with the solar industry to propose methods to discourage application dropouts and propose changes through the CSI Program Handbook” (D.07-05-007, pg.7). At the time, there was uncertainty in the solar industry as to whether the CSI Program would experience the same level of application dropouts that had been problematic in its predecessor program, the Self Generation Incentive Program (SGIP). In response to D.07-05-007, PG&E and SCE, on behalf of the three PAs, filed PG&E AL 3062-E / SCE AL 2131-E in June 2007, and sought to address CSI dropouts through Handbook changes. These Advice Letters were protested and subsequently suspended by the Energy Division. On July 14, 2008, Energy Division hosted a public workshop on CSI Program dropouts. At the workshop, it was determined that the number of CSI Program dropouts was not significant. In post-workshop comments, parties requested that no action be taken now, and that Energy Division continue to monitor the number of CSI dropouts, lest they surpass some threshold of significance. Energy Division will host a follow-up workshop on Program dropouts in 2009.

PG&E AL 3311-E : Proposal to allow transferability of CSI reservations

PG&E AL 3311-E seeks to change the Handbook to allow CSI reservation holders to transfer their reservation to another site if the first site is found unsuitable. Currently, the Handbook does not allow for reservations to be transferred from one site to another, and those customers that find their first site unsuitable must drop out of the CSI Program and reapply with a second site. This poses a particular problem if the CSI incentive levels have been reduced between the two reservations, as a project that encounters an unexpected problem must drop out of the CSI Program and reapply for a reservation at the new, lower incentive level.

NOTICE

Notice of AL 3026-E was made by publication in the Commission's Daily Calendar. PG&E states that a copy of the Advice Letter was mailed and distributed in accordance with Section III-G of General Order 96-A.

Notice of AL 2131-E was made by publication in the Commission's Daily Calendar. SCE states that a copy of the Advice Letter was mailed and distributed in accordance with Section III-G of General Order 96-A.

Notice of AL 3311-E was made by publication in the Commission's Daily Calendar. PG&E states that a copy of the Advice Letter was mailed and distributed in accordance with Section III-G of General Order 96-A.

PROTESTS

Advice Letter 3311-E was protested on the grounds that it may allow for gaming and is based on incomplete information.

PG&E's Advice Letter AL 3311-E was timely protested by the Solar Alliance and California Solar Energy Industries Association (CALSEIA). A number of commercial solar customers including Safeway, Macy's, Office Depot, Staples, and the California Retailers Association (together referred to here as the "Joint Retailers", as they filed identical letters) filed letters in support of the option for site transferability.

CALSEIA contends that allowing customers the option to transfer reservations may encourage "gaming" and disproportionately benefit those customers with multiple sites, while disadvantaging those customers with a single site.

CALSEIA also contends that the suggested change lacks adequate data about the problem that it seeks to address, and that as written, the suggestion gives the Program Administrators too much discretion in decision-making.

The Solar Alliance supports the transferability of a CSI reservation, but suggests that transfers be limited to one megawatt (MW) or one reservation per customer, per incentive step.

The Joint Retailers strongly support the option for CSI reservation transferability, and list a number of factors that may contribute to a project site being unsuitable for development, even after a CSI reservation has been made.

PG&E responded to the protests of CALSEIA and the Solar Alliance, but not to the Joint Retailers, on September 5, 2008. In their response, PG&E revised their suggestions in the Advice Letter and proposed to allow transfer of a reservation only in cases of force majeure or the sale of a building.

Following PG&E's response, CALSEIA filed a reply stating that they remain opposed to the idea of reservation transferability, even in cases of force majeure and sale of a property, primarily due to a lack of good information about the extent of the problem within the CSI Program. CALSEIA contends that the real issue is declining incentive levels, and that this should be addressed as a programmatic change. Additionally, CALSEIA would like the Program Administrators to more fully define "force majeure", and limit that definition to catastrophic events.

PG&E replied to the joint retailers on September 22, 2008, and suggested that the Commission resolve the issue of reservation transfer from one site to another in the form of a Resolution.

Advice Letters 3062-E and 2131-E were protested on the grounds that they were not supported by data on CSI Program dropouts.

PG&E's Advice Letter AL 3062-E and SCE's Advice Letter 2131-E were timely protested by Californians for Renewable Energy (CARE), PV Now, CALSEIA and ASPv. Together, these parties suggest that the Commission suspend the Advice Letters and hold a workshop to address the issue of CSI Program dropouts and gather more data on the perceived dropout problem.

PG&E replied to these protests on July 2, 2007. In its reply, PG&E supported the idea of a workshop on CSI Program dropouts before any actual Handbook changes were implemented.

DISCUSSION

The Commission grants CSI reservation transferability, as suggested in AL 3311-E, with some modifications.

With respect to AL 3311-E, the Commission will allow customers to transfer their CSI reservations from one site to another with some conditions. The Commission clarifies that this Resolution refers to CSI *reservations* only; installed systems are only eligible for transfer on a limited, case-by-case basis, as outlined in the Handbook Section 2.5, and this Resolution in no way addresses those requirements. With this Resolution, the Commission brings the CSI Program rules in line with the rules of its predecessor program, the Self Generation Incentive Program, and does not appear to conflict with any state law or CPUC decision. Though allowing CSI reservation transferability only benefits those applicants with multiple site locations, the Commission recognizes that approving this change positively impacts the CSI Program's ability to encourage distributed solar development and deployment, particularly at the commercial scale. In the interest of encouraging the development of solar projects, and of supporting customers who are dedicated to "going solar", the Commission chooses to allow customers to transfer their CSI reservation without capacity modification from an unsuitable site to a more suitable site, if one exists.

However, the Commission also recognizes that this change cannot be granted without a series of ground rules to prevent gaming. CALSEIA is right to be concerned that without any limitations, customers with multiple sites may be inclined to submit reservations without fully performing their "due diligence" at the selected site, thus encouraging a "race to the bottom" with respect to the quality of due diligence performed prior to application submittal. Therefore, the Commission grants AL 3311-E, which approves changes to the Handbook to allow the transfer of a CSI reservation from one site to another, with the following modifications:

1. Reservation transferability is granted only to those projects that are within their first 12 months (for residential / commercial) or 18 months (for government & non-profit) of regular project implementation time or their

first six month extension period, and for all future projects. Reservation transferability will not be granted retroactively to those projects that have been cancelled or have withdrawn from the CSI program. Dropouts are permanent; therefore these applications must reapply at currently applicable incentive levels.

2. In order to transfer a reservation, applicants must demonstrate to their Program Administrator that they have spent a non-negligible amount of money on project development at the first site reserved, and must provide documentation proving that this first site is not viable for solar project development. The Joint Retailers supply a number of reasons that a site may become non-viable for solar project installation. These reasons include but are not limited to: engineering failures (lack of structural support, discovery of asbestos, uncertainty regarding roof materials or condition at time of reservation), local permitting issues and force majeure. These and other reasons are often beyond the control of the solar customer, and it is reasonable to allow some flexibility in the CSI Program for committed customers who face unexpected problems.
3. Applicants must provide documentation and demonstrate to the Program Administrators that the second site, to which the application will be moved, is viable for solar project development. This requirement increases the probability that the reserved project will actually be installed, and decreases the probability that the project will drop out.
4. For new applications received on and after the date of this Resolution, site transfers must be sought within 180 days of initial reservation. For these applications, transfers sought after 180 days from initial reservation will not be granted. This limits the total amount of time between reservation and installation when transfers occur to within 24 months for commercial projects (180 days for the first site, 12 months plus one 6 month extension for the second site) for new applications. Applications filed prior to this Resolution are eligible for transfer regardless of stage, provided they have not completed their first six-month extension.
5. Once a transfer has been confirmed, the project timeline resets and the project will be eligible for the full implementation time allowed to their project class (residential / commercial or government & non-profit) in the Handbook. The Commission recognizes that solar projects take several months to implement and may require extensive permitting, engineering studies and contract negotiations, and therefore it is only fair for the second site to have full project implementation time.

6. Reservations may only be transferred once, and must be transferred to another site within the same utility service territory. This limits the opportunity for customers with multiple sites to “game the system”, as they must perform some due diligence or risk losing their reservation altogether after one transfer. At the same time, it ensures that reservations originally reserved in a particular service territory remain in and are installed in that service territory.
7. Transferred reservations that increase overall capacity following the transfer are eligible to receive CSI incentives for additional capacity only at the current incentive levels in that service territory and subject to other Handbook provisions on system up-sizing. The original reservation cannot be changed with respect to the amount of capacity that is eligible for CSI incentives at the originally reserved incentive level. This means that if incentive levels decline between the time the initial reservation is reserved and when the transfer occurs, any capacity in excess of the initial reservation will be reserved at a lower incentive level, provided it is eligible.
8. Once a reservation is transferred, the application fee becomes non-refundable, regardless of the reason that the project does not proceed at the second site. This provides another disincentive for customers to hastily transfer their reservation to another site without first performing thorough site vetting.
9. Program Administrators must track reservation transfers in the database. They must identify transfers at both the first project site reserved and the second site to which the reservation is moved. Program Administrators will work with the Energy Division staff to develop a way to make reservation transfer data auditable, trackable and transparent to the public.

In accordance with these modifications, Section 4.3.2 is added to the CSI Program Handbook, and will read as follows:

“Section 4.3.2 Transfer of Reservation from one Site to Another

Applicants should contact their Program Administrator as soon as they realize a reservation transfer is necessary. A request to transfer a CSI reservation from one site to another within a single utility service territory may be considered in accordance with the following provisions:

1. For applications received before December 18, 2008, projects must be in either their first 12 months (for residential / commercial) or 18 months (for

government & non-profit) of project implementation time *or* in their first six month extension in order to be eligible for reservation transfer. Projects that have been cancelled or have withdrawn are ineligible for a retroactive reservation transfer.

2. For applications received on or after December 18, 2008, projects must seek a reservation transfer within 180 days of their initial reservation. Projects seeking a transfer after 180 days have passed are not eligible for a reservation transfer.
3. In order to transfer a reservation, applicants must demonstrate to their Program Administrator that they have spent a non-negligible amount of money on project development at the first site reserved, and must provide documentation proving that this first site is not viable for solar project development.
4. Applicants must provide documentation and demonstrate to their Program Administrator that the second site, to which the application will be moved, is viable for solar project development.
5. A reservation may only be transferred once.
6. Reservations can only be transferred to another site within the same Program Administrator service territory.
7. Transferred reservations that increase overall capacity following the transfer are eligible to receive CSI incentives for additional capacity only at the current incentive levels in that service territory and subject to other Handbook provisions on system up-sizing. The original reservation cannot be changed with respect to the amount of capacity that is eligible for CSI incentives. This means that if incentive levels decline between the time the initial reservation is reserved and when the transfer occurs, any capacity in excess of the initial reservation will be reserved at a lower incentive level, if it is eligible.
8. Once a transfer has been confirmed, the project timeline resets as per the date of the transfer and the project will be eligible for the full implementation time allowed to their project class (residential / commercial or government & non-profit) in the Handbook.
9. Once a reservation transfer has been confirmed, the application fee becomes non-refundable."

The Commission denies AL 3062-E and AL2131-E, as the issue of CSI Program dropouts does not require any programmatic changes at this time.

Energy Division has also reviewed AL 3062-E / AL 2131-E and protests to those Advice Letters. On July 14, 2008, Energy Division hosted a public workshop to review data on CSI Program dropouts. The data presented at this workshops show that while dropouts do occur, and they do affect the CSI Program, dropouts are not as common in the CSI Program as was the case in SGIP. Following a review of this data with stakeholders, and after post-workshop comments were submitted, it is clear that no immediate action needs to be taken at this time to change the Handbook, and no programmatic changes need to occur in order to affect future Program dropouts. In the workshop and post-workshop comments, parties agree that no immediate action is necessary to deter Program dropouts, as it is not clear that the CSI dropout rate is problematic. Energy Division continues to monitor this issue, and expects to hold another workshop on the topic in 2009. Therefore, the Commission rejects the changes suggested in PG&E AL 3062-E / SCE AL 2131-E, and chooses to monitor CSI Program dropouts and address the issue again in the future.

The Commission clarifies that panels added to an existing inverter are eligible for CSI incentives, with some conditions.

Finally, the Commission feels it is important to clarify in Section 2.2.1 of the Handbook that new panels added to an existing inverter that is already in service are eligible for CSI incentives if the system met Program requirements at the time of installation and was partially funded by the Program Administrators. Customers have regularly inquired as to the eligibility of new panels installed on an existing inverter, and the Commission believes it is prudent to clarify the Handbook language. The language proposed here conforms with all Commission decisions (which have been silent on this matter), as well as the California Energy Commission's *2008 Guidelines For California's Solar Electric Incentive Programs Pursuant To Senate Bill 1, Second Edition, (SB 1 Guidelines)* adopted on December 3, 2008. If necessary, the Commission directs the Program Administrators to clarify any further details on the practical implementation of this rule as additional Handbook language in a future CSI Program Handbook update.

This Resolution adds the following to Handbook Section 2.2.1:

“New panels added to an existing inverter that is already in service are eligible to receive a CSI incentive if the system met Program requirements at the time of

installation and was partially funded by the Program Administrators in accordance with SB1.”

COMMENTS

Public Utilities Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments on November 14, 2008.

Comments on this draft resolution were filed December 4, 2008, by PG&E, the Solar Alliance and CALSEIA.

PG&E, on behalf of the CSI Program Administrators, does not object to the draft resolution. Rather, PG&E suggests additional points of clarification for the resolution. First, PG&E suggests that requiring commercial reservations to be transferred by the Proof of Project Milestone stage is too short a time period, as the majority of fieldwork and analysis of the solar site have not been performed by this stage. Instead, PG&E suggests that transfers be sought within 180 days of initial reservation. PG&E also recommends that once a reservation has been transferred, the application fee becomes non-refundable, regardless of the reason that a project does not reach completion. Finally, PG&E notes that the California Energy Commission formally adopted its *2008 Guidelines For California's Solar Electric Incentive Programs Pursuant To Senate Bill 1, Second Edition, (SB 1 Guidelines)* on December 3, 2008, and in these *SB 1 Guidelines*, new panels added to an existing inverter are eligible to receive CSI incentives provided the system met Program requirements at the time of installation and was partially funded by the Program Administrators. PG&E requests that the draft resolution be revised to reflect these newly adopted *SB 1 Guidelines*.

The Solar Alliance filed comments in support of the draft resolution, and believes the resolution adequately addresses the issue of customers with multiple sites

“gaming” the CSI reservation system and submitting multiple applications without performing due diligence. The Solar Alliance, like PG&E, notes that the draft resolution is incompatible with the Energy Commission’s *SB 1 Guidelines*, and requests that the section of the resolution that makes new panels added to an existing inverter ineligible for CSI incentives be stricken from the resolution.

In its comments, CALSEIA reiterates its concern that allowing reservation transfers may cause single entities with multiple sites to “game” the system and reserve many projects without adequate vetting. CALSEIA strongly recommends that the Commission closely monitor the CSI Program following the institution of reservation transfers in order to accurately determine their programmatic consequences. Additionally, CALSEIA requests that reservation transfer requests be made public for a minimum of 15 business days before being granted in order to increase Program transparency. Finally, CALSEIA again notes that the draft resolution is not consistent with the Energy Commission’s *SB 1 Guidelines*, and requests that the section on adding new panels to an existing inverter be removed from the resolution and handled at another time, under a broader discussion of solar system expansion.

The Commission agrees with PG&E that 180 days from initial reservation is a more reasonable amount of time for customers to seek reservation transfers, and has modified the draft resolution to reflect this new timeframe. Additionally, the Commission agrees that once a reservation transfer has been confirmed, the application fee should become non-refundable as a way to further encourage adequate “due diligence” on the second site, and has modified the draft resolution to reflect this. In response to CALSEIA, in the draft resolution the Commission directed the Program Administrators to track reservation transfers in the Program database, and agrees that the issue must be closely monitored. The Commission strives to make CSI Program data transparent, and will continue to report to the public on important Program statistics, although the Commission chooses not to require 15 days’ public notice of reservation transfer applications at this time. Finally, the Commission recognizes that the draft resolution conflicted with the Energy Commission’s *SB 1 Guidelines* adopted on December 3, 2008, with respect to new panels added to existing inverters, and has modified the draft resolution to reflect that new panels added to existing inverters may be eligible for CSI incentives provided they meet the criteria set forth in the *SB 1 Guidelines*.

FINDINGS

1. D.06-08-028 directed the CSI Program Administrators to file an Advice Letter to make changes to the CSI Program Handbook.
2. D.07-05-007 directed the CSI Program Administrators to work with stakeholders and file an Advice Letter to suggest programmatic changes to address CSI Program dropouts.
3. On June 4, 2007, PG&E filed AL 3062-E and SCE filed AL 2131-E, each seeking changes to the Handbook to affect Program dropouts.
4. On August 8, 2008, PG&E filed AL 3311-E, seeking to change the Handbook to allow for CSI reservations to be transferred from one site to another.

THEREFORE IT IS ORDERED THAT:

1. The request of PG&E to change the CSI Program Handbook allow the transfer of a CSI reservation from one site to another as requested in Advice Letter AL 3311-E is approved with modifications, and the CSI Program Handbook is to be changed in accordance with the new Handbook language proposed herein.
2. The Program Administrators are directed to track the transfer of CSI reservations in the Program database.
3. The requests of PG&E and SCE to change the CSI Program Handbook to address Program dropouts as proposed in PG&E AL 3062-E / SCE AL 2131-E are denied.
4. The Handbook is also modified in order to clarify that solar panels added to an existing inverter are eligible for CSI incentives, with some conditions. The following language will be added to Section 2.2.1: "New panels added to an existing inverter that is already in service are eligible to receive a CSI incentive if the system met Program requirements at the time of installation and was partially funded by the Program Administrators in accordance with SB1."
5. If necessary, the Commission directs the Program Administrators to clarify any further details on the practical implementation of the adding new panels to an existing inverter rule as additional Program Handbook language in a future CSI Program Handbook update.

6. The Energy Division is ordered to revise the CSI Program Handbook to reflect the changes ordered herein and to reissue the revised Handbook as soon as possible.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on December 18, 2008; the following Commissioners voting favorably thereon:

/s/ Paul Clanon

Paul Clanon
Executive Director

MICHAEL R. PEEVEY
PRESIDENT
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners