

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: May 8, 2008

To: The Commission
(Meeting of May 15, 2008)

From: Pamela Loomis, Deputy Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: **SB 1460 (Wiggins) – Solar energy projects: rented residential property.
As Amended April 3, 2008**

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: SUPPORT WITH AMENDMENTS

SUMMARY OF BILL:

This bill would require the California Public Utilities Commission (“CPUC” or “Commission”) to develop a cost-effective program to facilitate the deployment of energy efficiency and solar in apartment buildings and similar residential complexes by July 1, 2009.

This bill would create new law [Public Utilities Code Section 2853].

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION:

Multi-tenant properties face a number of challenges in deploying demand side management technologies, including energy efficiency and solar distributed generation. According to AB 1460, 43% of the state’s residential units are rental properties. This is a considerable portion of the population. Additionally, according to the Building Owner’s and Management Association (BOMA), commercial building tenants account for up to 40% of all commercial energy consumption. Including these tenants as well as residential tenants in the proposed program may result in greater energy savings. The CPUC has not had a dedicated program providing both solar and energy efficiency measures to multi-tenant properties, as proposed in the bill. This bill would require the CPUC to create such a program for apartment buildings and similar residential complexes.

SUMMARY OF SUGGESTED AMENDMENTS:

This bill would require the commission ~~July 1, 2009 December 31, 2010~~, to develop a program to facilitate the deployment of ~~energy efficiency measures and solar energy projects~~ **demand side management technologies** for **all multi-tenant buildings and developments**. The commission would be required to prepare and submit a report on the program to the Legislature, by that date. The bill would require the commission to ensure that the program is cost effective for utility customers and to consider, in developing the program, whether synergies exist between its energy efficiency programs, **demand response programs, and distributed generation programs** of the California Solar Initiative and **the Self Generation Incentive Program and any other demand side management programs**, that, in the determination of the commission, can make ~~energy efficiency and solar investments~~ **demand side management technologies** cost effective for utility customers in **multi-tenant buildings and developments**.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 2853 is added to the Public Utilities Code, to read:
2853.

(a) The Legislature finds and declares both of the following:

(1) ~~Landlords Owners of apartment buildings and similar residential complexes that are individually metered or master-metered~~ **multi-tenant buildings and developments** have little financial incentive to implement reasonable and cost-effective **demand side management technologies**.

(2) Forty-three percent of this state's housing units are rented, indicating that many housing units and many Californians are unable to benefit from this state's programs to support energy efficiency, **demand response**, and the use of solar energy **and other distributed generation technologies**.

(b) By December 31, 2010, the commission shall do both of the following:

(1) Develop a program to facilitate the deployment of ~~energy efficiency measures and solar energy projects~~ **demand side management technologies** for ~~apartment buildings and similar rented residential complexes that are individually metered~~ **multi-tenant buildings and developments**.

(2) Prepare and submit a report to the Legislature on the program developed pursuant to paragraph (1).

(c) The commission shall ensure that the program developed pursuant to subdivision (b) is cost effective for utility customers.

(d) The commission shall consider, in developing the program pursuant to subdivision (b), whether synergies exist between its energy efficiency programs, **demand response programs, and distributed generation programs** of the California Solar Initiative and **the Self Generation Incentive Program and other demand side management programs**, including, but not limited to, the low-income provisions of the California Solar Initiative, that, in the determination of the commission, can make energy efficiency and solar investments cost effective for utility customers in **apartment buildings and similar rented residential complexes**.

DIVISION ANALYSIS (Energy Division):

- This bill unnecessarily limits the proposed program to “apartment buildings and similar residential complexes.” This definition is unclear and may not include certain other types of multi-tenant properties, including commercial buildings, that face the same challenges to deploying energy efficiency and solar. We recommend the bill be amended to include electric and gas customers in all commercial and residential multi-tenant buildings.
- AB 1460 would require the Commission to prepare and submit a report to the Legislature on the program proposed in this bill to facilitate the deployment of energy efficiency and solar in apartment buildings and similar residential complexes by July 1, 2009.
- It is unclear from this bill whether the proposed program would be limited only to individually metered buildings. Establishing such a limitation in statute would limit the CPUC’s authority to address other multi-tenant properties, which face similar challenges, even though they may not be individually metered. We recommend the bill be amended to clearly include individually metered and master metered buildings.
- This bill unnecessarily limits the scope of the proposed program to energy efficiency and solar. The CPUC is currently working to integrate the efforts of all of its demand side management programs. It would seem more appropriate if the program proposed in this bill also seek to integrate the full array of the CPUC’s demand side management programs such as other kinds of renewable distributed generation (wind, renewable fuel cells, biogas, etc.) and demand response. We recommend the bill be revised to include all demand side customer resources as described above.
- This bill would require a program to be in place by July 1, 2009, although it will likely have an effective date of July 1, 2009. We recommend the bill be revised to give the Commission at least 18 months from the effective date to implement the program. This problem has been well understood for decades, and yet it has not been solved. It is unlikely that the Commission could develop a solution to the problem in under six months.
- On September 6, 2007, the CPUC adopted a decision (D.07-09-004) allowing sub-metering of electricity in high-rise, multi tenant commercial buildings. While the decision will offer commercial building tenants a tool to improve their energy efficiency, the scope of the decision is limited in that it applies only to Pacific Gas & Electric’s service territory and only to certain commercial buildings. The new rule was a result of an agreement between PG&E and the BOMA.

- BOMA's California members alone manage 600 million square feet of office space with an estimated peak load demand of 3,500 to 4,000 megawatts. Up to 1,600 megawatts of demand is controlled directly by commercial building tenants, not owners or managers. A 20% demand reduction would yield about 320 megawatts of savings, the equivalent of the capacity of a mid-sized gas fired power plant.

PROGRAM BACKGROUND:

- SB 1460 would impact the California Solar Initiative and the CPUC's energy efficiency programs:
 - **California Solar Initiative (CSI)**

The CSI provides incentives for the installation of customer-sited solar generation systems. Although the CSI has not tracked data specific to multi-tenant buildings, anecdotally we know that very few solar systems have been installed on multi-tenant buildings. The fact that building owners are unable to recoup solar system investment costs from their tenants remains a challenge for the installation of solar in multi-tenant building situations.

Ten percent of the total budget for the CSI is set aside for low income programs, and half of that budget is specifically for the installation of solar in multifamily affordable housing. The Commission is currently considering proposals that seek to address the challenges of installing solar on multifamily buildings within the framework of implementing the CSI multifamily affordable housing program. The proposals under consideration would require making certain exemptions for multi-tenant buildings. Energy efficiency is also part of the consideration, since SB 1 requires the CSI to pursue all cost-effective energy efficiency measures. If successful, the recommendation pursued in the CSI multifamily affordable housing program could become a statewide model for solar on multi-tenant buildings (i.e. also non-affordable housing buildings).

AB 1460 is much broader than the CSI multifamily affordable housing program, and seeks to address all apartment buildings and similar residential complexes. While this bill states that the Commission shall consider the CSI low-income programs in designing the proposed program, it is not clear which would take precedence. The CSI low income multifamily program should begin later this year. The program proposed in this bill would not begin until July 1, 2009.

- **Energy Efficiency**
The CPUC's approach to energy efficiency encompasses multiple programs that are developed and implemented by the IOUs with Commission oversight and approval. This bill refers to the CPUC's "energy efficiency program," which does not account for the diversity of and practical implementation of the IOUs'

programs. The IOUs currently offer energy efficiency programs targeting multi-tenant buildings. This bill would require the CPUC to develop a program that offers both solar and energy efficiency measures to multi-tenant buildings. The CPUC currently requires the IOUs to submit portfolios of programs for Commission consideration, and the programs span a three-year time horizon. The IOUs are currently developing and seeking approval for their energy efficiency plans for the 2009-2011 program cycle. In CPUC Rulemaking (R.) 06-04-010, the CPUC is currently considering an integrated demand side management (IDSMS) strategy to better coordinate the efforts of the IOUs' energy efficiency, demand response and distributed generation programs, as part of the Statewide Strategic Plan and 2009-2011 program development. The requirements of this bill could support the implementation phase of the IDSMS strategy effort currently underway. The Commission is likely to approve the program portfolios at the end of 2008. Since the bill would not become effective until at least July 1, 2009, it may necessitate revisions to some of the IOUs' energy efficiency programs to accommodate the requirements of the bill.

- **Metering**

Addressing the challenges of deploying energy efficiency and solar distributed generation will require addressing current metering regulations which complicate the appropriate allocation of costs and benefits between tenants and building owners. There is a variety of different metering arrangements in multi-tenant buildings and developments in California, and a complex statute governing these.

Commercial and residential tenants have little incentive to invest in improving energy efficiency or installing onsite generation since such capital improvements would be largely left with the owner when the tenant leaves. Likewise, owners have little incentive to spend more on capital improvements for energy efficiency or onsite generation, as the energy savings typically accrue to tenants who are individually metered, and pay the energy bills. Building owners who are master metered may reap the benefits of capital improvements if they are willing to invest in them, yet in these cases incentives for tenants to actually conserve energy is minimized. Thus, there are numerous "split incentives" or even disincentives for the designers, builders, owners, and tenants.

These issues would have to be considered in the development of a program to facilitate energy efficiency and solar in multi-tenant properties. It is possible that the Commission would have to return to the legislature with proposed legislative amendments in order to remove barriers to the metering challenges that hamper this sector. Delaying the implementation of this bill is key to allowing the CPUC sufficient time to return to the legislature, if required.

LEGISLATIVE HISTORY:

The following bills are pending before the Legislature which seeks to address similar issues raised in SB 1460 through changes to the statute:

AB 2863 (Leno) would allow for the sale of electricity to multiple customers by third party owners of solar generating systems.

AB 2857 (Lieber) would seek to ensure that low income tenants in sub-metered buildings have access to the CPUC's CARE and low income energy efficiency programs.

The Energy Division feels that SB 1460 is the most comprehensive of the bills related to the challenges of installing solar and energy efficiency in multi-tenant buildings.

FISCAL IMPACT:

The cost to implement the requirements of SB 1460 would be \$421,000. It would require a dedicated staff team of four Public Utilities Regulatory Analysts – two senior analysts, PURA V; and two junior analysts, PURA III. The staff team would require extensive knowledge in energy efficiency and distributed generation. The development of the program would take place during one year. The bill states that the program would begin July 1, 2009. Once developed, the program will require ongoing staff resources to manage and oversee its implementation.

STATUS:

SB 1460 is currently on the Senate Appropriations Suspense File.

SUPPORT/OPPOSITION:

Support: Re'Colte Energy
The Utility Reform Network

Opposition: None on file.

STAFF CONTACTS:

DaVina Flemings Staff – Office of Governmental Affairs	dtf@cpuc.ca.gov (916) 324-5945
Sean Gallagher Director - Energy Division	shg@cpuc.ca.gov (415) 703-2059
Molly Sterkel Supervisor - Energy Division	mts@cpuc.ca.gov (415) 703-1873

Curtis Seymour css@cpuc.ca.gov
Staff - Energy Division, Distributed Generation (415) 703-5404

Lisa Paulo lp1@cpuc.ca.gov
Staff – Energy Division, Energy Efficiency 415-355-5495

Date: May 6, 2008

BILL LANGUAGE:

BILL NUMBER: SB 1460 AMENDED
BILL TEXT

AMENDED IN SENATE APRIL 3, 2008

INTRODUCED BY Senator Wiggins

FEBRUARY 21, 2008

An act to ~~amend Section 2851 of~~ add
Section 2853 to the Public Utilities Code, relating to solar
energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1460, as amended, Wiggins. Solar energy projects :
~~California Solar Initiative~~ rented
residential property .

Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations. A decision of the PUC adopted the California Solar Initiative. Existing law requires the PUC to undertake certain steps in implementing the California Solar Initiative ~~, including requiring time variant pricing for all ratepayers with a solar energy system, as specified. Under the initiative, the PUC is authorized to delay implementation of time variant pricing for ratepayers with a solar energy system, until the effective date of the rates established in the next general rate case of the state's 3 largest electrical corporations. If the commission delays implementation of time variant pricing, ratepayers required to take service under time variant pricing between January 1, 2007, and January 1, 2008, and that would otherwise qualify for flat rate pricing, are to be given the option to take service under flat rate or time variant pricing~~ .

~~This bill would make technical, nonsubstantive changes to these provisions.~~

This bill would require the commission, by July 1, 2009, to develop a program to facilitate the deployment of energy efficiency measures and solar energy projects for apartment buildings and similar rented residential complexes that are individually metered. The commission would be required to prepare and submit a report on the program to the Legislature, by that date. The bill would require the commission to ensure that the program is cost effective for utility customers and to consider, in developing the program, whether synergies exist between its energy efficiency program and the solar energy programs of the California Solar Initiative, that, in the determination of the commission, can make energy efficiency and solar investments cost effective for utility customers in apartment buildings and similar rented residential complexes.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~
yes . State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 2853 is added to the Public Utilities Code , to read:

2853. (a) The Legislature finds and declares both of the following:

(1) Landlords of apartment buildings and similar residential complexes that are individually metered or master-metered have little financial incentive to implement reasonable and cost-effective energy efficiency improvements and solar energy projects.

(2) Forty-three percent of this state's housing units are rented, indicating that many housing units and many Californians are unable to benefit from this state's programs to support energy efficiency and the use of solar energy.

(b) By July 1, 2009, the commission shall do both of the following:

(1) Develop a program to facilitate the deployment of energy efficiency measures and solar energy projects for apartment buildings and similar rented residential complexes that are individually metered.

(2) Prepare and submit a report to the Legislature on the program developed pursuant to paragraph (1).

(c) The commission shall ensure that the program developed pursuant to subdivision (b) is cost effective for utility customers.

(d) The commission shall consider, in developing the program pursuant to subdivision (b), whether synergies exist between its energy efficiency program and the solar energy programs of the California Solar Initiative, including, but not limited to, the low-income provisions of the California Solar Initiative, that, in the determination of the commission, can make energy efficiency and solar investments cost effective for utility customers in apartment buildings and similar rented residential complexes.

~~SECTION 1. Section 2851 of the Public Utilities Code is amended to read: All matter omitted in this version of the bill appears in the bill as introduced in the Senate, February 21, 2008. (JR11)~~