FILED
4-07-16
04:59 PM

**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 12-11-005 (November 8, 2012)

**RESPONSE OF GREEN CHARGE NETWORKS, LLC
TO THE PETITION FOR MODIFICATION
FROM MAAS ENERGY WORKS**

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April 7, 2016

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RESPONSE OF GREEN CHARGE NETWORKS TO THE PETITION FOR MODIFICATION FROM MAAS ENERGY WORKS

Green Charge Networks LLC (Green Charge, or GCN) hereby submits these Comments pursuant to the Rules of Practice and Procedure of the California Public Utilities Commission (Commission) in response to *Maas Energy Works, Inc's Petition for Modification of Decision 15-12-027 to Address Irregularities in 2016 Applications Received for the Self-Generation Incentive Program* (Petition), filed on March 8, 2016.

I. INTRODUCTION

Senate Bill (SB) 861 (June 20, 2014), in amending Section 379.6 of the California Public Utilities Code, extended the administration of the Self-Generation Incentive Program (SGIP) through January 1, 2021, and required amendments by the Public Utilities Commission (PUC) for program eligibility requirements, evaluation criteria, and various program processes. To mitigate potential delays in the program caused by these amendments, the Commission decided to release half of the 2016 funding before the program changes would be implemented. Among other requirements, D.15-12-027 ordered the Program Administrators (PAs) to "continue accepting new applications for incentives until 50% of their 2016 SGIP program funds are reserved…"[1]

[1] D.15-12-027, Ordering Paragraph 1.

On February 23, 2016, the first half of 2016 funding was made available through a first-come first-serve online portal application process. The results of this submission process--released by the PAs publicly on February 29, 2016--show a discernable anomaly associated with a single vendor. Specifically, this vendor was able to log into the system and submit applications for roughly two minutes before any other vendor was able to do so and, due to that "head start," amass 56 consecutive applications submitted before any other applicant or vendor was able to receive a single reservation.

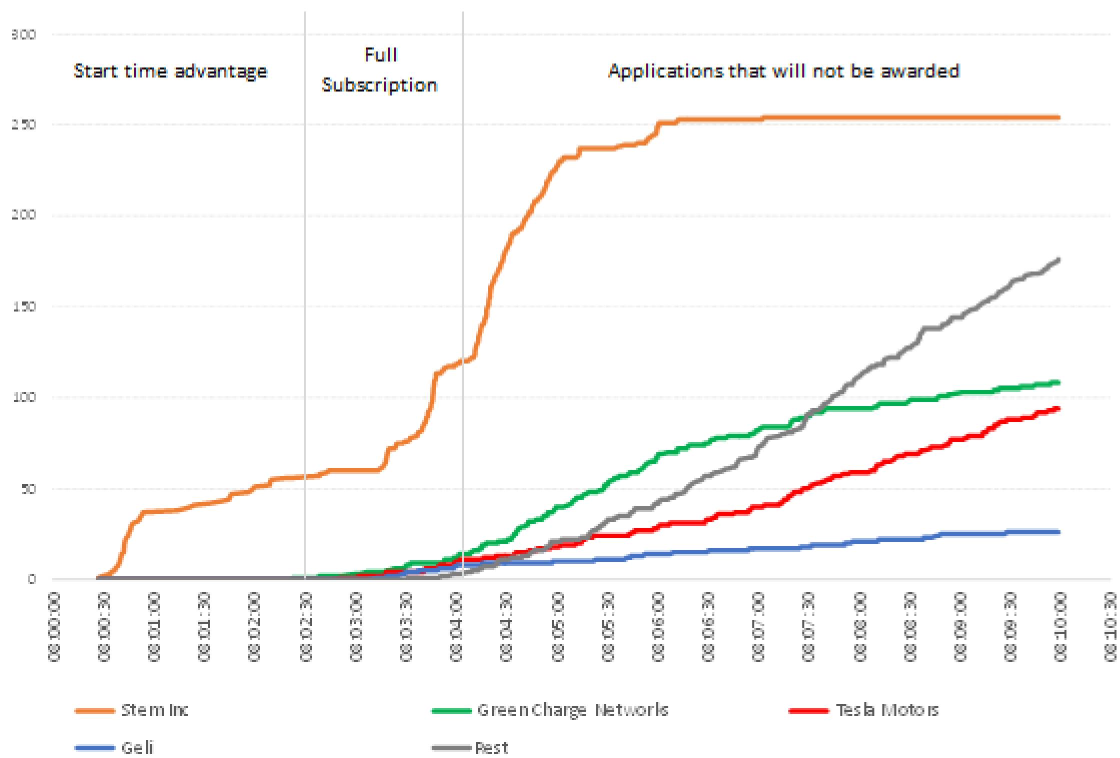
Maas Energy submitted a Petition for Modification (PFM) on March 8, 2016 to request that the Commission modify D.15-12-027 to require the release of technical information related to the February 23 program opening, to investigate irregularities, and to allow the PAs to revoke reservations if warranted by the irregularities. The CPUC subsequently held an all-party meeting on March 21, 2016 to discuss the results of the solicitation and discuss potential avenues for correction. These comments are being submitted to provide additional recommendations for correcting the anomalies associated with the February 23, 2016 opening.

II. GREEN CHARGE COMMENTS

Green Charge thanks the Commission, the Program Administrators, and Energy Solutions for their efforts to ensure a thorough and transparent process toward a fair and equitable program absent of gaming. Our comments below seek to move the program forward with urgency. As a California developer of customer-sited energy storage solutions in California, we urge the Commission to consider the timing and urgency of distributing funds in making its decision, in particular, because some of these customers have waited upwards of one year to move forward with their projects.

a. THE COMMISSION'S DECISION MUST ADDRESS POTENTIAL GAMING

The 2016 SGIP Program officially opened on Tuesday, February 23, 2016 at 8:00AM PST with approximately $44M in available funding. The 2016 Program transitioned to an online application process, where the Platform was overseen by the SGIP Program Administrators and developed by Energy Solutions. Within minutes of the Platform opening, the Program was fully subscribed; indeed, in the first 10 minutes alone, 694 applications had been submitted requesting over $187M to deploy in excess of 170 MW. By the end of the day, total requests were in excess of 4.6 times available funding. The graph below shows the number of applications submitted in the first 10 minutes of the program opening.



In particular, there are two anomalies highlighted in the above chart associated with a single vendor as compared to data relating to the other vendors' submissions (including that of Green Charge).

1. One vendor was able to enter the system and submit applications a full one (1) minute and 56 seconds earlier than the rest of the industry. Where multiple vendors were all attempting to login to the system at the exact same time, this advantage is statistically improbable. Further, this vendor was able to amass a total of 56 applications submitted in this window—again, before any other vendor was able to enter the system. "Luck" cannot account for this, rather, either malicious activity or an inadvertent exploitation of a system loophole accounted for this discrepancy. *Notably, as shown above, multiple other vendors entered the system within seconds of each other--proving that these other "fast" vendors used substantially similar approaches to the application process without automation or gaming.*
2. Once the "window opened," the same vendor was able to submit applications at a substantially higher rate than all other vendors, in particular, in the first 5 minutes of program opening. This vendor was able to submit 81 of the first 100 competitive applications and 73% of all submissions within the first five minutes. Where automation is not allowed or used, this advantage in the rate of applications over the rest of the industry can only be explained by significantly more people submitting applications for this vendor—a number which would have to be substantially higher than the number of applicants by all other vendors combined, which was not the case.

Green Charge understands that there may be gray areas in defining the exact cause of these anomalies. Accordingly, we propose two potential resolutions that are just and reasonable, depending on the circumstances.

First, if there was true malicious activity in the process or on the system that allowed for this prioritization, all applications associated with those vendor(s) should be rejected. This is reasonable, as limited funds should not be allocated to vendors that intentionally circumvent a fair and equitable process and it is prohibited by program rules. The Terms of Use for the Online Application Database expressly prohibit "any robot, spider, or other automatic device, process or means to access…any portion of the Site or the Platform." The 2016 SGIP Handbook similarly states that "infractions are any actions that intentionally circumvent program policy or have the intent to do so." If these statistical anomalies are the product of such circumvention efforts, applications tied to those efforts should be considered in violation of Program and Site rules and, therefore, be rejected. On March 21, 2016, the CPUC held a Workshop to discuss these anomalies, including a presentation by Energy Solutions to discuss, among other things, web server data logs associated with vendor submissions. *Energy Solutions noted that the project Submit button was "pinged" before the button itself was enabled and visible to the human eye.*[2] *This clearly indicates the use of automation; vendors associated with this activity have committed an infraction of program rules, and should, therefore, suffer the appropriate consequences.*

If a system loophole was inadvertently exploited beyond the spirit of reasonable and acceptable competition of the SGIP program, any applications associated with that activity should be statistically normalized per average metrics across the industry. There are prudent and reasonable measures that can be taken to ensure that this loophole can be mitigated so as to not advantage any vendors that overstepped the program's boundaries. Specifically, the applications

[2] As intentionally designed and indicated by the PAs ahead of time, the SGIP online submission platform was closed on the evening of February 22, and could not be accessed again until the program officially opened on the morning of February 23 (at 8:00AM). During this time, vendors were not able to login to the online submission platform, and no vendor was able to access the platform. In particular, the project Submit button (which is the final "click" required to submit an application) was not a feature of the platform on February 22, and had never been visible on the webpage until the platform opened at 8:00AM on February 23. Thus, Energy Solutions' comment indicates that a vendor(s) sent a request to the server to submit an application(s) before the Submit button was ever visible to the human eye. This can only be accomplished through a bot or other automated code.

should be normalized to other application submissions. Green Charge recommends normalizing per the following metrics:

1. Applications normalized (shifted) to an average starting time where other vendors entered the system. This normalization would remove the loophole that allowed one vendor to enter the system a full 1 minute and 56 seconds before all other vendors.
2. Applications normalized to the average rate of applications per applicant username (e.g., applications per username per second). This normalization would remove the loophole that allowed vendor(s) to benefit from a substantially higher application acceptance rate. Normalizing based on username appropriately recognizes that a single person/username is only able to submit applications at a given rate. It should apply that average rate to such vendors' applications.

Green Charge believes the above measures to be reasonable and prudent in identifying data anomalies associated with the distribution of millions of dollars in funding, and taking appropriate actions to correct any wrongdoings.

b. APPLICATIONS NOT ASSOCIATED WITH POTENTIAL GAMING SHOULD BE FUNDED IMMEDIATELY

The energy storage industry is growing at staggering rates. In the US, deployments of energy storage grew by nearly 250% in 2015, where behind-the-meter systems accounted for substantial growth. With California being the leading market, it is clear that SGIP is a driving force behind a burgeoning market for energy storage. The industry is primed for growth. Additional delays in the industry's primary driver can substantially deter industry growth and serve to derail incredible progress that has been made. We respectfully plead that the Commission and the Energy Division (ED) not slow the industry down with continued delays.

The 829 AES applications submitted on February 23, 2016 requesting $133M to develop 103 MW of projects represent a 47% increase over all of 2015 — all in a single day. Unfortunately, SGIP has been on hold now for over a year in some PA territories, leaving the customer-sited energy storage at a standstill. Green Charge's own customers have waited over a year--with a signed contract, signed financing, and ready to install in the ground--though awaiting SGIP reservations. These customers include school districts, cities/counties, manufacturers, and retail stores, located throughout California including in disadvantaged communities. These customers will save millions of dollars in energy spend once these systems are installed.

Green Charge therefore urges the CPUC to immediately fund applications timely received that are not suspect and so are not in dispute, to try and address the urgency described above. These projects cannot continue to be halted with uncertainty and withheld funding. Where there is certainty that no gaming was present, there is no basis to withhold funding. We urge the ED and the Commission to immediately release funding to these applications and these projects.

c. GOING FORWARD, THE COMMISSION SHOULD ADOPT A CSI-LIKE STEPDOWN STRUCTURE TO PROVIDE CERTAINTY TOWARD CONTINUING TO DEVELOP THE ENERGY STORAGE INDUSTRY

As the Energy Division (ED) develops its approach to a revised Program structure, we urge the ED to consider the incredible growth and momentum that the industry is experiencing. In light of these most recent statistics, we urge the ED to ensure that the Program structure that is to be implemented will mitigate application rushes, eliminate start/stops of funding, and ensure continuity in funding availability to continue to be the single largest driver of this energy storage industry.

We believe the following initiatives should be implemented to ensure continuity in funding across multiple projects, and to continue to develop the energy storage industry:

1. Implement a CSI-like structure whereby funding is available in continuity--versus in start/stop application windows--that will provide reasonable certainty to developers and investors of projects. Other mechanisms (e.g., auctions, single-day openings), while each having merit, do not provide the certainty and fluidity that is needed to protect developers and investors in a nascent industry;
2. Direct the PAs to make funding available in 2016 based on all current and future collections authorized by SB 861, to ensure continuity of funding the proposed CSI-like structure;
3. Reduce the initial $/kW rebate level slightly--to as low as $1.00/kW before any bonuses--to spread funding across additional projects; and
4. As is currently the practice, ensure that rebate levels ($/kW) for projects leveraging the Federal Investment Tax Credit (ITC) continue to be reduced proportional to amounts received through the ITC, to further spread funding across additional projects and not provide windfalls to a few certain developers with specific business models ready to realize these windfalls.

The above measures are reasonable, actionable, and can be accomplished within the current regulatory construct of the Energy Division and of the SGIP Program. Implementing these measures will provide needed certainty to developers and investors, ensuring that the SGIP program continues to drive the energy storage industry toward a completely market-oriented construct.

III. CONCLUSION

Green Charge Networks appreciates the opportunity to provide this response to the Petition for Modification and urges the Commission to adopt the recommendations herein.

Respectfully submitted this April 7, 2016 at Sacramento, California,

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