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 (Filed November 8, 2012)

COMMENTS OF GRID ALTERNATIVES ON PROPOSED DECISION ADDRESSING PETITION FOR MODIFICATION OF DECISION (D.) 19-09-027 AND D.20-01-021

GRID Alternatives
Zainab Badi
1171 Ocean Ave., Suite 200
Oakland, CA 94608
Telephone: (310) 735-9769
Facsimile: (510) 225-2585
Email: zbadi@gridalternatives.org
Workforce Policy Project Manager

GRID Alternatives
Elise Hunter
1171 Ocean Ave., Suite 200
Oakland, CA 94608
Telephone: (510) 338-9546
Facsimile: (510) 225-2585
Email: ehunter@gridalternatives.org
Policy & Regulatory Affairs Director

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I. INTRODUCTION

In accordance with Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission), GRID Alternatives (GRID) submits the following comments on the Proposed Decision (PD) titled *Decision Addressing Petition for Modification of Decision (D.) 19-09-027 and D.20-01-021*, issued on June 15, 2020.

GRID is a direct service provider with a mission of making renewable energy technology and job training opportunities accessible to under-resourced communities. GRID is the Program Administrator (PA) of leading low-income solar programs statewide, including the Single Family Affordable Solar Homes (SASH) program since 2009, the Single Family Solar Homes for Disadvantaged Communities Program (DAC-SASH) since 2019, and the Low-Income Weatherization Program (LIWP) for single-family solar since 2014. GRID is part of a team of nonprofits administering the Solar on Multifamily Affordable Housing (SOMAH) program since 2018. Additionally, GRID has actively engaged in R. 12-11-005 and has contributed comments to the design of the SGIP Equity Budget and Equity Resilience Budget.

GRID's comments focus on the modifications to the eligibility requirements for residences in California Indian Country (Indian Country). Through our National Tribal Program, GRID has worked since 2010 to help tribal communities across the country achieve their renewable energy goals. Given our extensive experience working with tribal communities to achieve energy resiliency GRID is particularly concerned about a barrier to participation created by this PD for tribal members living in Indian Country. We respectfully offer the following comments.

II. GRID RECOMMENDS UTILIZING THE SAME INCOME ELIGIBILITY REQUIREMENT FOR SINGLE-FAMILY EQUITY BUDGET PROJECTS IN INDIAN COUNTRY AS THOSE OUTSIDE INDIAN COUNTRY

GRID opposes requiring residents of single-family homes in Indian Country to demonstrate eligibility for California Alternate Rates for Energy (CARE) in order to be eligible for Equity Budget incentives. This requirement would create a more restrictive threshold for eligibility for tribal communities living on Indian Country than the one that currently exists for all other applicants to Equity Budget incentive. Currently, single-family residents whose household income is at or below 80 percent of the area median income (AMI) are eligible for Equity Budget incentives.[1] GRID believes that this is an appropriate income threshold. The CARE income guidelines are based on 200 percent of Federal Poverty Level (FPL)[2] which, for most areas in California, requires a lower income level for eligibility than 80 percent AMI. To illustrate this point, GRID attaches Appendix 1, with a chart comparing 200 percent of FPL and 80 percent of AMI, broken out by county. Requiring residents of Indian Country to meet CARE income guidelines would unfairly and inequitably subject tribal participants to a more restrictive income requirement than the one currently used in the SGIP Program for Equity Budget incentives. To address this issue GRID recommends that instead of using CARE eligibility as a prerequisite to Equity Budget eligibility for households in Indian Country, that the Commission apply the same 80 percent AMI threshold that is currently used within the SGIP Equity Programs.

Tribal communities have limited access to utility-based energy efficiency and renewable energy programs, and along with other rural communities tend to pay a higher portion of their income on energy.[3] There is limited participation in energy upgrade programs among tribal communities due to lack of resources to evaluate program requirements and offerings[4], and using the CARE income threshold will further limit participation of tribes in the SGIP Equity programs. Additionally, an inter-agency study found that tribes face increased wildfire frequency and have varying levels of preparedness and abilities to cope with extreme events.[5] Given that

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[1] SGIP Handbook, p. 58
[2] CPUC. CARE/FERA- Fact Sheet
[3] California Energy Commission Low-Income Barriers Study, p.3
[4] *Ibid*, p.48
[5] U.S. Climate Resilience Toolkit- Tribal Nations. https://toolkit.climate.gov/topics/tribal-nations

tribal communities are already predisposed to greater climate risks, it is important that they have access to the technologies they need to remain resilient in the event of climate emergencies and power shut-offs. Creating more stringent income requirements for a highly vulnerable population will reinforce the barriers they face to achieving resiliency and participating in state energy programs.

One of the Commission's objectives in establishing the Equity Budget is "to ensure that low-income customers, and non-profit or public sector organizations in disadvantaged or low-income communities have access to energy storage".[6] GRID believes that allowing households in Indian Country to demonstrate that their income is 80 percent of AMI would align with this objective and avoid creating an unequal, two-tiered eligibility threshold for Indian Country applicants and those outside Indian Country. Additionally, consistent income eligibility requirements in the Equity Budget incentive will make it easier for SGIP PAs to implement the program by minimizing administrative procedures related to income verification.

III. GRID RECOMMENDS UTILIZING THE SAME INCOME ELIGIBILITY REQUIREMENT FOR MULTI-FAMILY EQUITY BUDGET PROJECTS IN INDIAN COUNTRY AS THOSE OUTSIDE INDIAN COUNTRY

GRID opposes requiring owners of multi-family buildings in Indian Country to demonstrate that 80 percent of households are at or below 200 percent of federal poverty guidelines.[7] GRID does not believe this requirement is a reasonable proxy for SGIP eligibility requirements as it differs from the one currently used for multi-family residential incentives under the Equity Budget.

Similar to the argument against using the proposed CARE requirement for single-family households in Indian Country, the proposed multi-family eligibility requirements would also create a different income threshold for multi-family residents in Indian Country than the one that is already being used within the SGIP Equity Budget for all other applicants. Currently for the SGIP Equity Budget, multi-family properties wherein 80 percent of households earn at or below 60 percent of AMI are eligible for Equity Budget incentives.[8] This income threshold is also utilized in the Solar of Multifamily Affordable Housing (SOMAH) Program,[9] allowing for

[6] D. 17-10-004, p.6
[7] PD, p.14
[8] SGIP April 2020 Handbook, p.33
[9] D.17-12-022, p.10

increased cohesion among different low-income incentive programs intended to increase access for vulnerable communities. GRID recommends that the Commission continue to allow multi-family properties in which at least 80 percent of households earn at or below 60 percent of AMI to be eligible for Equity Budget incentives. This change would make income thresholds consistent for all applicants, instead of creating a different and more stringent requirement for Indian Country households. For the reasons mentioned in Section II, GRID believes that using the same income requirements for multi-family Equity Budget projects in Indian Country as those outside of Indian Country align with the intent of the Equity Budget and the objectives of the Commission to serve low-income, disadvantaged communities.

IV. THE HOUSEHOLD INCOME REQUIREMENT OF 80 PERCENT OF AMI UPHOLDS THE INTENT OF THE SGIP EQUITY BUDGET

In these comments, GRID advocates for aligning the SGIP Equity Budget household income requirements used in Indian Country with the household income requirements in effect for the rest of the state. That single-family household income requirement for the SGIP Equity Budget is 80 percent of AMI, aligning with the definition of "lower income households" in Public Utilities Code (P.U. Code) 2852.

D.17-10-004 clearly describes the Commission's intent that the SGIP Equity Budget will serve low-income residential customers, to utilize income criteria for this purpose, and to limit eligibility to "lower income households."[10] In D.17-10-004, the Commission concludes that

[10] "The Commission makes this programmatic change on our own motion with the objective that these investments will…***ensure that low-income customers,*** and non-profit or public sector organizations in disadvantaged or low-income communities have access to energy storage resources incentivized through SGIP." (D.17-10-004 at p.6, emphasis added)
"In order to ensure that the distribution of the SGIP Equity Budget funds is more geographically even, and to include low-income customers not currently captured by the CalEnviroScreen, it is reasonable to expand geographic eligibility for the Equity Budget beyond the statewide top 25% most affected census tracts as defined by CalEnviroScreen. We do so in two ways…and ***by allowing "low-income residential customers"*** to access the SGIP Equity Budget regardless of where they happen to reside." D.17-10-004 at p. 12-13, emphasis added.
"In comments, CalSEIA argues that the Commission should ensure that customers living in low-income single-family homes, regardless of location, have access to the Equity Budget. This is a reasonable addition to the definition of low-income residential housing as codified by AB 693 that we adopt above, as it would ensure that ***low-income residential customers that happen to live in single-family homes*** rather than multi-family dwellings also have access to SGIP Equity Budget funds. Therefore, an individual customer living in a low-income residence, as described in subparagraph (C) of paragraph (3)

"low-income residential housing should be defined in the same way as section 2852 of the Public Utilities Code, as refined by this decision."[11] Public Utilities Code Section 2852 uses "lower income household(s)" in defining both multi- and single-family "low-income residential housing," which "have the same meanings as in those set forth in Chapter 2 (commencing with Section 50050) of Part 1 of Division 31 of the Health and Safety Code."[12] Paragraph (a) of Section 50079.5 of the Health and Safety Code states that "'Lower income households' means persons and families whose income does not exceed the qualifying limits for lower income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937. The limits shall be published by the department in the California Code of Regulations as soon as possible after adoption by the Secretary of Housing and Urban Development. In the event the federal standards are discontinued, the department shall, by regulation, establish income limits for lower income households for all geographic areas of the state at 80 percent of area median income, adjusted for family size and revised annually."[13] 42 U.S. Code § 1437a(b)(2)(A) of the United State Housing Act is established that "the term 'low-income families' means those families whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families."[14]

The Commission's additional stated intent in D.17-10-004 was to align the SGIP Equity Budget single family household eligibility thresholds with the Single-Family Affordable Solar Homes (SASH) program, and the multifamily eligibility thresholds with the Solar on Multifamily Affordable Housing (SOMAH) program.[15] Since 2015, the SASH program requires

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of subdivision (a) of § 2852 of the Public Utilities Code, also meets the definition of low-income residential customer for the purpose of the SGIP Equity Budget." D.17-10-004 at 14, emphasis added.
[11] D.17-10-004 at 30, emphasis added.
[12] P.U. Code 2852, Section (a)(1)
[13] California Health and Safety Code, Section 50050 Chapter 2 et seq., Section 50079.5 (a)
[14] The term "low-income families" means those families whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes." 42 U.S. Code § 1437a(b)(2)(A), emphasis added.
[15] GRID Alternatives and CalSEIA recommend that the SGIP Equity Budget use the eligibility criteria established for other energy equity programs under the Commission's jurisdiction, most notably the AB 693 program (Eggman, Stats. 2015, ch. 582), the Multifamily Affordable Solar Housing program, and the ***Single-Family Affordable Solar Housing program*** [sic]...Consistent eligibility criteria where practicable

an individual single-family household income requirement of 80 % of AMI based upon Public Utilities Code 2852 definition of "lower income households" ***and*** requires actual or presumed household deed or resale restrictions.[16]

The SGIP PAs correctly adopted both the single-family household income requirement of 80 % of AMI and the presumed or actual deed or resale requirement from D.17-10-004 in the 2017 Self-Generation Incentive Program Handbook, which were previously approved by the Commission and have been carried over, unchanged, into the initial 2020 Handbook.[17] The 2017 SGIP Handbook through the initial 2020 Handbook required that applicants demonstrate that they do not exceed 80% area median income by providing household income documentation in the form of federal income tax returns for single family projects. This is not included as a requirement for multi-family projects, presumably because household income is already incorporated in the required low-income housing documentation that must be provided by the applicant.

In the April 15, 2020 Joint Advice Letter (No. 110-E) submitted by the SGIP PAs that was approved by the Commission on June 29, 2020, removed the requirement that single-family housing applicants demonstrate that they do not exceed 80% AMI by providing household income documentation in the form of federal income tax returns, leaving the actual or presumed resale restriction described in P.U. Code 2852(a)(C)(3) as the only income requirement. For the reasons stated above, this removal does not uphold the intent of D.17-10-004 for the SGIP Equity Budget to serve low-income customers. This removal leaves open a risky programmatic "loophole" where households of any income level living within a presumed resale restriction

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are reasonable and can simplify program participation. We adopt an eligibility framework for the SGIP Equity Budget ***based on existing policies*** that utilize geographic, housing type, and income criteria" D.17-10-004, p.9-10

[16] SASH Program Handbook, p.7, See "Applicant Eligibility Section 4.2.1: https://gridalternatives.org/sites/default/files/SASH%202.0_Handbook%20Update_FINAL.pdf; See also D15-01-027, p.53, January 30, 2015. "Section 2852 provides guidelines on low-income property eligibility standards for participation in SASH and MASH."

[17] See current 2020 SGIP Handbook and 2019 SGIP Handbook for reference, Section 5.4, subsection 6, requiring proof of income qualification of 80% of AMI or below, and requiring "proof of P.U. Code Section 2842 compliance" which is an actual or presumed resale requirement on the home. For multifamily properties, this section requires a deed restriction or regulatory agreement, as well as a cover sheet that outlines P.U. Code 2852 compliance.

area[18] may qualify for the SGIP Equity Budget. If wealthy households can qualify for the SGIP Equity Budget (and, via "income" the SGIP Equity Resiliency Budget) simply by their presence in a presumed resale area, the SGIP Equity programs run the risk of not serving their intended populations and communities. In GRID's experience as the PA of low-income solar programs for more than a decade, low-income funding must be dedicated and protected, lest customers with greater resources and more means will reserve that funding first.

GRID strongly urges the Commission and the SGIP PAs to reinstate the single-family individual household income requirement of 80% of AMI in the SGIP Equity Budget, in alignment with the intention of D.17-10-004 and with the SASH program. Single-family customers within Indian country should be subject to the same income eligibility requirement as all other single-family customers participating in the SGIP Equity Budget: 80% of AMI or below.

V. GRID SUPPORTS REMOVING THE DEED AND RESALE RESTRICTION REQUIREMENT FOR EQUITY BUDGET PROJECTS IN INDIAN COUNTRY

GRID supports the removal of the requirement that customers in Indian Country reside in deed or resale-restricted housing to be eligible for Equity Budget incentives.[19] As stated in both the PD and CALSSA's original PFM, federally-recognized Indian Lands cannot be deed restricted.[20] Thus, such an eligibility requirement for Indian Country residences would effectively eliminate the ability of tribal members to participate in the Equity Budget.[21] We believe that removing this language is a necessary step in ensuring that households in Indian Country can access storage technologies and increase resiliency on tribal lands. We emphatically support the Commission's removal of this requirement for Indian Country households.

VI. GRID SUPPORTS MAKING EQUITY RESILIENCY BUDGET INCENTIVES MORE ACCESSIBLE TO CRITICAL FACILITIES

[18] Defined as Decision 15-01-027's presumed resale restrictions within the SASH program, such as those found in federally-designated Empowerment Zones, Enterprise Communities, certain Neighborhood Revitalization Areas, Targeted Employment Areas, and Qualified Census Tracts.
[19] PD, p.11
[20] PD, p.9
[21] Assuming that both the deed restriction requirement and the individual household income limits apply.

Grid supports automatic eligibility for Equity Resilience Budget incentives for homeless shelters, food banks, and independent livings centers in High Fire Threat Districts (HFTDs) or areas where there have been two or more PSPS events.[22] This modification aligns with the intent of the Equity Resiliency Budget to benefit critical service facilities.[23] We believe that this decision will remove barriers for entities that serve some of the state's most vulnerable populations. As entities on the frontline of service provision, critical service facilities will need to remain operational during emergencies and power outages, especially during the current pandemic.

VII. CONCLUSION

In conclusion, GRID supports much of the Commission's modifications in the PD. However, we believe that the proposed income thresholds will create inconsistent and unequal requirements between projects in Indian Country and those outside it. It is critical that barriers to participation are removed for vulnerable communities and GRID believes that implementing our recommendations will increase participation in SGIP programs among tribal members. GRID thanks the Commission and stakeholders for considering these comments.

Respectfully submitted,

___/S/___*Zainab Badi*_

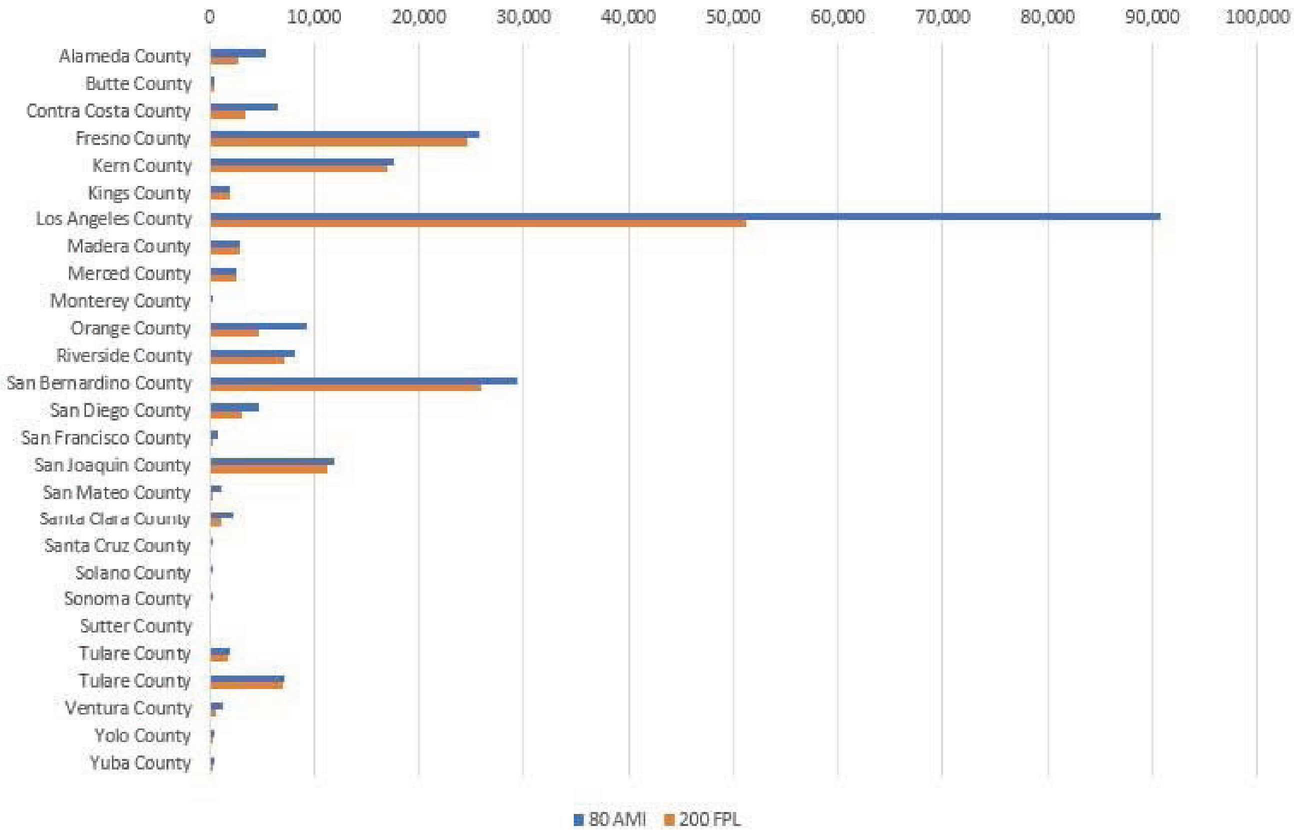
GRID Alternatives
Zainab Badi
1171 Ocean Ave, Suite 200
Oakland, CA 94608
Telephone: (310) 735-9769
Facsimile: (510) 225-2585
Email: zbadi@gridalternatives.org
Workforce Policy Project Manager

___/S/___*Elise Hunter*_

GRID Alternatives
Elise Hunter
1171 Ocean Ave. Suite 200
Oakland, CA 94608
Telephone: (510) 338-9546
Facsimile: (510) 225-2585
Email: ehunter@gridalternatives.org
Policy & Regulatory Affairs Director

[22] PD, p.3
[23] D.19-09-027, p.4

Appendix 1: Comparison of Households Meeting CARE Income Requirements vs. 80 Percent AMI Requirements[24]



[24] Source: Department of Energy (DOE) Low-Income Energy Affordability Data (LEAD) Tool, filtered by county and queried by both income thresholds. Queried in April 2020, as this chart originally appeared in GRID's Petition to Modify Decision 18-06-027 in R.14-07002/A.16-07-015, on April 24, 2020. https://www.energy.gov/eere/slsc/maps/lead-tool