STATE OF CALIFORNIA GAVIN NEWSOM, *Governor*

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

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TO PARTIES OF RECORD IN RULEMAKING 20-05-012:

This is the proposed decision of Commissioner Clifford Rechtschaffen. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's October 8, 2020 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

/s/ ANNE E. SIMON_________________

Anne E. Simon
Chief Administrative Law Judge

AES:avs

Attachment

Decision **PROPOSED DECISION OF COMMISSIONER RECHTSCHAFFEN**
(Mailed 9/3/2020)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding Policies, Procedures and Rules for the Self-Generation Incentive Program and Related Issues.	Rulemaking 20-05-012

DECISION REVISING AND CLARIFYING THE EQUITY RESILIENCY BUDGET ELECTRIC WELL PUMP CUSTOMER ELIGIBLITY REQUIREMENTS ADOPTED IN DECISION 20-01-021

Summary

This decision revises and clarifies eligibility requirements adopted in Decision (D.) 20-01-021 for Self-Generation Incentive Program (SGIP) equity resiliency budget customers that rely on an electric well pump for their water supply. Residential customers relying on an electric well pump for their water supply that reside in a Tier 3 or Tier 2 High Fire Threat District or who have experienced two or more discrete Public Safety Power Shutoff events are currently eligible for equity resiliency budget incentives regardless of income.

This decision revises D.20-01-021 to require equity resiliency budget electric well pump customers to also demonstrate a single family household income no greater than 80 percent of area median income or that a multi-family building is either located in a disadvantaged community or demonstrates that at least 80 percent of building households have incomes at or below 60 percent of area median income. This decision is effective immediately upon Commission adoption. The revisions to D.20-01-021 adopted in this decision apply to all equity resiliency budget applications that are submitted after the date of Commission adoption of this decision and that have been submitted but do not yet have incentives reserved as of the date of Commission adoption of this decision.

This decision clarifies requirements adopted in D.20-01-021 to specify that equity resiliency electric well pump applicants must provide documentation or an attestation stating that the storage installation site is a primary residence occupied by a homeowner or tenant and must provide an attestation that the residence is not provided water by a municipal or private utility. These clarifications apply to all electric well pump applications. Revisions and clarifications to D.20-01-021 are provided in Attachment A to this decision.

The decision directs SGIP Program Administrators to file a Joint Tier 2 advice letter within 20 days of adoption of this decision proposing changes to the SGIP Handbook to implement the adopted revisions and clarifications.

This proceeding remains open.

1. Background

In Decision (D.) 19-09-027 and D.20-01-021 the Commission significantly revised the Self-Generation Incentive Program (SGIP). D.19-09-027 as modified by D.20-01-021 establishes an equity resiliency budget limited to residential and non-residential customers located in Tier 2 or Tier 3 High Fire Threat Districts (HFTDs) or that have been subject two or more discrete Public Safety Power Shutoffs (PSPS) events prior to applying for SGIP incentives that meet additional eligibility requirements.

The additional eligibility requirements for residential equity resiliency budget customers adopted in D.19-09-027 and D.20-01-021 are that the customer must: (a) be eligible for the equity budget; (b) have incentives reserved in the Single Family Affordable Solar Homes program (SASH) or the SASH for disadvantaged communities (DAC-SASH) programs; (c) be eligible for the medical baseline program as defined in D.86087, 80 CPUC 182; (d) have notified their utility of serious illness or condition that could become life threatening if electricity is disconnected, as defined in D.12-03-054; or, (e) rely on an electric pump well for their water supply.[1] Any retail electric or gas distribution class of customer (industrial, agricultural, commercial or residential) of Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E), or Southern California Gas (SoCalGas) is eligible to be the storage installation site and receive SGIP incentives. D.19-09-027 and D.20-01-021 together allocate approximately $613 million to equity resiliency budget incentives between 2020 and 2025, equal to 63 percent of total SGIP incentive funds.

[1] For non-residential customers, the additional equity resiliency budget eligibility requirements adopted in D.19-09-027 and D.20-01-021 are that the customer must be located in a Tier 2 or Tier 3 HFTD or have had their electricity shut off during two or more discrete PSPS events, and must provide critical facilities or infrastructure to at least one community eligible for the equity budget and located in a Tier 2 or Tier 3 HFTD or whose electricity was shut off during two or more discrete PSPS events.

As adopted by the Commission over several decisions, some residential equity resiliency budget customers are subject to income eligibility requirements and some are not.[2] Single family residential customers using eligibility pathways (a) and (b) above must generally demonstrate a household income not exceeding 80 percent of area median income (AMI). Additional locational and income requirements pertain to residential equity budget customers using the equity resiliency budget eligibility pathway (a). Most residential equity budget customers, for instance, must reside in deed or resale restricted housing.[3]

The Commission in D.19-09-027 and D.20-01-021 did not require residential equity resiliency budget customers using eligibility pathways (c) – (e) to meet income eligibility requirements.

Regarding customers eligible for the equity resiliency budget via pathways (c) and (d), the Commission found in D.19-09-027 that:

> Limiting the inclusion of medical baseline customers or customers that have notified their utility of a life-threatening illness in the definition of residential customers with critical resiliency needs to customers living in a single family home subject to resale restrictions or in multi-family deed restricted

[2] D.17-10-004, D.19-09-027, D.20-01-021, and D.20-07-015.

[3] D.17-10-004 requires single family residential equity budget customers to also reside in a residence subject to resale restrictions or an equity sharing agreement pursuant to Public Utilities Code Section 2852. D.20-07-015 exempts single family residential equity budget eligible customers located in California Indian Country from this requirement. D.17-10-004 restricts residential multi-family equity budget eligibility to buildings that are deed restricted and that are either be located in a disadvantaged community (DAC) as defined for SGIP-purposes or that demonstrate that at least 80 percent of building households have incomes at or below 60 percent of AMI as defined in Section 2852. D.15-01-027 restricts participation in SASH to customers provided electric service by PG&E, SCE or SDG&E that own and occupy their homes. D.18-06-027 additionally requires DAC-SASH participants to reside in a DAC as defined for DAC-SASH purposes and to meet the income eligibility requirements in place for the California Alternate Rates for Energy (CARE) or Family Electric Rate Assistance (FERA) programs rather than an 80 percent AMI requirement.

> housing would be too restrictive and would excessively limit participation in the new equity resiliency budget.[4]

Regarding customers eligible via pathway (e), the Commission found in D.20-01-021 that:

> The October 2019 PSPS events highlighted challenges for rural residents relying on electric pump wells for water supplies; and,
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> Defining households relying on electric pump wells for water supplies as customers with critical resiliency needs, if they reside in Tier 2 or Tier 3 HFTDs or if they are customers whose electricity was shut off during two or more discrete PSPS events prior to the date of application for SGIP incentives, helps address such customers' critical drinking water, sanitation and fire response needs.[5]

The Commission closed Rulemaking (R.) 12-11-005 *Order Instituting Rulemaking Regarding Policies, Procedures and Rules for the California Solar Initiative, the Self-Generation Incentive Program and Other Distributed Generation Issues* on February 6, 2020 and opened R.20-05-012 *Order Instituting Rulemaking Regarding Policies, Procedures and Rules for the Self-Generation Incentive Program and Related Issues* on May 28, 2020. The assigned Administrative Law Judge (ALJ) held a pre-hearing conference in R.20-05-012 on July 29, 2020 and an Assigned Commissioner's Scoping Memo and Ruling (Scoping Memo) was issued on August 17, 2020.

The Scoping Memo included a question regarding potential revisions to the equity resiliency budget residential customer eligibility requirements adopted in D.19-09-027 and D.20-01-021 and appended a memorandum from

[4] D.19-09-027 at Findings of Fact 11.

[5] D.20-01-021 at Conclusions of Law 44 and 45.

Commission staff regarding electric well pump customer demand for incentives.[6] PG&E, SCE, Sunrun Inc., the Public Advocates' Office, the Rural County Representatives of California and The Utility Reform Network filed comments on the Scoping Memo question on August 21, 2020.

2. Jurisdiction

Public Utilities Code Section 379.6 established the SGIP program in 2001 in response to Assembly Bill (AB) 970 (Ducheny, Stats. 2000, Ch. 329).[7] Since 2001, the Legislature has refined and extended the SGIP numerous times.[8]

3. Issues Before the Commission

This decision addresses the following issues included in the Scoping Memo:

- Should the Commission consider adopting an income limit or other restrictions for residential equity resiliency budget customers not eligible for the equity budget pursuant to D.19-09-027 and D.20-01-021 and D.20-07-015?
- Should the Commission consider adopting an income limit or other restrictions for some subset of residential equity resiliency budget customers such as those with eligibility based on reliance on an electric pump water well for water supply?

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[6] Scoping Memo, question (a), and Attachment A, August 17, 2020.

[7] Hereafter all references to code are to the Public Utilities Code unless otherwise indicated.

[8] AB 1685 (Leno, 2003), AB 2778 (Lieber, 2006) and Senate Bill (SB) 412 (Kehoe, 2009) collectively shifted SGIP's focus from peak demand reduction towards reducing criteria pollutants and greenhouse gas (GHG) emissions. SB 861 and AB 1478 authorized SGIP collections through 2019 and administration through 2020 and required a number of other changes. AB 1637 (Low, 2016) authorized the Commission to double annual collections through 2019 as compared to calendar year 2008. SB 700 (Wiener, 2018), authorized the Commission to extend annual ratepayer collections of up to $166 million through 2024 and administration through 2025. AB 1144 (Friedman, 2019) added Section 379.9 and directed the Commission to allocate a minimum of 10 percent of SGIP 2020 funds and to low-income customers and critical services impacted by widespread wildfires and electric grid de-energizations.

- If so, what eligibility requirements should apply?

4. Discussion

This decision revises D.20-01-021 to adopt income eligibility requirements for residential customers eligible for the equity resiliency budget based on their reliance on an electric well pump for their water supply. We revise D.20-01-021 to require residential single-family equity resiliency electric well pump customers to demonstrate an annual household income no greater than 80 percent of AMI. Multi-family buildings using the electric well pump eligibility pathway— which we expect to rarely or never occur—must be located in a disadvantaged community as defined in D.17-10-004 or must demonstrate that at least 80 percent of building households have incomes no greater than 60 percent of area median income. Residences or buildings using the equity resiliency budget electric well pump pathway for eligibility purposes are not required to be subject to deed or resale restrictions. The revisions to D.20-01-021 adopted in this decision apply to all equity resiliency budget applications that are submitted after the date of Commission adoption of this decision and applications that have been submitted but do not yet have incentives reserved as of the date of Commission adoption of this decision.

Additionally, to ensure that the residence truly "relies" on an electric well pump for its water supply, we clarify here requirements adopted in D.20-01-021. We specify that equity resiliency electric well pump applicants: (a) must provide documentation or an attestation stating that the storage installation site is a primary residence occupied by a homeowner or tenant; and, (b) must provide an attestation that the residence is not provided water by a municipal or private utility. These two clarifications apply to all electric well pump applications.

Data provided by Commission staff and appended to the Scoping Memo demonstrate that demand for SGIP equity resiliency budget incentives from electric well pump customers comprises a significant portion of current demand. The staff memorandum states that as of August 11, 2020, customers relying on electric well pumps for their water supply comprise over half of all residential equity resiliency budget applications and over a third (approximately 34 percent) of combined residential and non-residential equity resiliency budget incentive applications on a statewide basis. In contrast, applications submitted as of the same date relying on the medical vulnerability of the customer as their source of eligibility comprised 31 percent of residential equity resiliency budget applications and less than 20 percent of total statewide applications.[9]

Applications from customers relying on electric well pumps comprise a much higher than expected percentage of equity resiliency budget applications to date. If current trends continue, incentive awards to electric well pump equity resiliency customers threaten to severely limit the amount incentive funds available to the many other types of eligible residential and non-residential customers. Requiring electric well pump customers to meet the same income eligibility restrictions required of most other equity resiliency budget residential customers levels the playing field and helps ensure that other types of customers with critical resiliency needs have the opportunity to use equity resiliency budget funds. Requiring a demonstration of financial need of electric well pump customers also reflects guidance in AB 1144 to prioritize funding to eligible customers with both financial and critical resiliency needs.[10]

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[9] Scoping Memo, Attachment A, Memorandum from Deputy Director Edward Randolph, August 17, 2020 at 1.

[10] Public Utilities Code § 379.9(b)(2).

The revisions to D.20-01-021 adopted here are similar to those adopted in D.20-07-015 regarding California Indian Country residential equity budget customers. D.20-07-015 requires California Indian Country residents to meet the AMI income qualification eligibility requirements adopted for residential equity budget customers in D.17-10-004. However, D.20-07-015 does not require California Indian Country residents to reside in housing subject to deed or resale restrictions because housing in California Indian Country is generally not subject to such restrictions. Similarly, we believe that residences relying on an electric well pump for their water supply are unlikely to be subject to deed or resale restrictions and this decision does not require this.

D.20-01-021 created eligibility for residences relying on electric well pumps for water supplies that are the primary residence of the owner or tenant.[11] Where a residence is a second home or vacation rental, it is not relied on by the "household." Moreover, the decision's stated intent was to assist "rural residents" to obtain water supplies during a PSPS event or power outage.[12] We clarify the requirements previously adopted in D.20-01-021 to specify that electric well pump equity resiliency budget customers: (a) must provide documentation or an attestation stating that the storage installation site is a primary residence occupied by either the homeowner or tenants; and, (b) must provide an attestation that the residence is not provided water by a municipal or private utility. Clarifying the requirements adopted in D.20-01-021 in this way ensures that only customers truly dependent on an electric well pump for their daily

[11] D.20-01-021 at 45, Finding of Fact 44 and 45.

[12] *Id.*

living needs may access equity resiliency budget incentives and assists SGIP Program Administrators (PAs) in administering our adopted requirements.

The income eligibility threshold requirements adopted in this decision to revise D.20-01-021 apply to all equity resiliency budget applications that are submitted after the date of Commission adoption of this decision, and applications and that have been submitted but do not yet have incentives reserved, as of the date of Commission adoption of this decision. Any electric well pump applications that have incentives reserved as of the date of Commission adoption of this decision that are cancelled by SGIP PAs and are then resubmitted must comply with the revised requirements adopted in this decision.

We share staff's concern and their desire to "avoid a rush of applications" by electric well pump customers before any new eligibility rule is adopted, as discussed in the staff memorandum.[13] Requiring the revisions to D.20-01-021 adopted in this decision to apply to all equity resiliency budget applications that are submitted after the date of Commission adoption of this decision and applications that have been submitted but do not yet have incentives reserved as of the date of Commission adoption of this decision will promote the desired allocation of limited equity resiliency incentive funds among eligible customers.

We do not revise requirements for equity resiliency budget customers using eligibility pathways (c) and (d) as summarized above, i.e. customers eligible for the equity resiliency budget because they have enrolled in a medical baseline program as defined in D.86087, 80 CPUC 182 or because they have notified their utility of serious illness or condition that could become life

[13] Scoping Memo, Attachment A, Memorandum from Deputy Director Edward Randolph, at 3, August 17, 2020.

threatening if electricity is disconnected.[14] We face competing considerations for medically vulnerable customers during the COVID-19 pandemic and prefer not to impose additional restrictions on such customers at this time. Additionally, current participation data does not indicate that incentives awards for medically vulnerable customers are likely to severely undercut the amount of funding available for other eligible equity resiliency budget customers as is the case for electric well pump customers.

We do not modify SGIP's longstanding practice of using AMI to demonstrate income eligibility in favor of adopting a CARE or Energy Savings Assistance (ESA) income eligibility requirement as recommended by some parties. This is in part because the COVID-19 pandemic has resulted in modifications to the CARE program such that households are permitted to delay demonstrating income eligibility for up to several years.[15] Given the amount of SGIP incentives that eligible equity resiliency budget customers may receive, it is reasonable to require demonstration of income eligibility at the time of application for SGIP incentives. Further, we see no reason to apply a different income threshold to customers relying on electric well pumps as compared to other equity resiliency and equity budget customers. Doing so would complicate program administration and is not necessary as we expect ample demand to arise for equity resiliency budget incentives over the next five years from other eligible residential and non-residential customers. For these same reasons, we do not adopt a sliding scale for electric well pump incentives.

[14] D.12-03-054; *see* also D.19-09-027 at 24.

[15] Resolution M-4842 at 5, adopted April 16, 2020.

Any possible slowdown in incentive applications resulting from the revisions and clarifications adopted in this decision regarding equity resiliency electric well pump customers is outweighed by the risk that incentive funds could become unavailable to other types of eligible customers if current application trends continue. Government agencies and other types of eligible equity resiliency budget non-residential and institutional customers need much more time to develop and submit proposals than do residential customers. Non-residential customers eligible for the equity resiliency budget are all required to provide critical facilities or infrastructure to their surrounding communities during wildfires or PSPS events and it is critical that equity resiliency budget funds remain accessible for these types of eligible customers. In addition, this Commission approved targeted outreach to PG&E's medically vulnerable and other categories of eligible equity resiliency budget customers in Resolution E-5086, adopted July 16, 2020, and we expect demand for equity resiliency funds to increase shortly as a result.

6. Advice Letter Submittal

PG&E, SCE, SoCalGas and the Center for Sustainable Energy (CSE) (collectively SGIP PAs) shall file a Joint Tier 2 advice letter modifying the SGIP Handbook to implement our adopted revisions and clarifications to D.20-01-021 no later than 20 days from Commission adoption of this decision.

7. Comments on Proposed Decision

The proposed decision of Commissioner Rechtschaffen in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on ____________________, and reply comments were filed on ____________________ by ____________________.

8. Assignment of Proceeding

Clifford Rechtschaffen is the assigned Commissioner and Cathleen A. Fogel is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. Data provided by Commission staff demonstrate that as of August 11, 2020, customers relying on electric well pumps for their water supply comprise over half of all residential equity resiliency budget applications and over a third (approximately 34 percent) of combined residential and non-residential equity resiliency budget incentive applications on a statewide basis.

2. Applications from customers relying on electric well pumps comprise a much higher than expected percentage of equity resiliency budget applications to date and, if current trends continue, incentive awards to electric well pump customers threaten to severely limit the amount of equity resiliency incentive funds available to the many other types of eligible residential and non-residential customers.

3. Requiring electric well pump customers to meet the same income eligibility restrictions required of most other residential equity resiliency budget customers levels the playing field and helps ensure that other types of eligible customers with critical resiliency needs have the opportunity to access equity resiliency budget incentives.

4. Requiring a demonstration of financial need by electric well pump customers reflects guidance in AB 1144 to prioritize funding to eligible customers with both financial and critical resiliency needs.

5. D.20-07-015 requires California Indian Country residents to meet the AMI income qualification eligibility requirements adopted for residential equity

budget customers in D.17-10-004 but does not require California Indian Country residents to reside in housing subject to deed or resale restrictions because housing in California Indian Country is generally not subject to such restrictions.

6. Residences relying on an electric well pump for their water supply are unlikely to be subject to deed or resale restrictions or an equity sharing agreement.

7. D.20-01-021 created eligibility for residences relying on electric well pumps for water supplies that are primary residences of the owner or tenant. Where a residence is a second home or vacation rental, it is not relied on by the "household." Moreover, our stated intent in D.20-01-021 was to assist "rural residents" obtain water supplies during a PSPS event or power outage.

8. Clarifying the requirements adopted in D.20-01-021 to specify that electric well pump equity resiliency budget customers: (a) must provide documentation or an attestation stating that the storage installation site is a primary residence occupied by either the homeowner or tenants; and, (b) must provide an attestation stating that the residence is not provided water by a municipal or private utility, ensures that only customers truly dependent on an electric well pump for their daily living needs access equity resiliency budget incentives and assists SGIP Program Administrators in administering the requirements.

9. Requiring the revisions to D.20-01-021 adopted in this decision to apply to all equity resiliency budget applications that are submitted after the date of Commission adoption of this decision, and applications that have been submitted but do not yet have incentives reserved as of the date of Commission adoption of this decision, will promote the desired allocation of limited equity resiliency funds among eligible customers.

Conclusions of Law

1. The Commission should revise D.20-01-021 to require residential single family equity resiliency electric well pump customers to demonstrate an annual household income of no greater than 80 percent of AMI and residential multi-family buildings to demonstrate they are either located in a disadvantaged community as defined by SGIP or that at least 80 percent of building households have incomes at or below 60 percent of AMI.

2. The Commission should require all equity resiliency budget applications using reliance on an electric well pump that are submitted after the date of Commission adoption of this decision, and applications that have been submitted but do not yet have incentives reserved as of the date of Commission adoption of this decision, to comply with the revisions to D.20-01-021 adopted in this decision.

3. The Commission should require any electric well pump applications that have incentives reserved as of the date of Commission adoption of this decision that are cancelled by an SGIP PA for any reason and are resubmitted to comply with the revisions to D.20-01-021 adopted in this decision.

4. The Commission should clarify the requirements adopted in D.20-01-021 to specify that single family residences or multi-family buildings applying for equity resiliency budget incentives using the electric well pump pathway must: (a) provide documentation or an attestation stating that the storage installation site is a primary residence occupied by either a homeowner or tenants; and (b) provide an attestation stating that the residence is not provided water by a municipal or private utility.

5. The Commission should require SGIP PAs to apply the two clarifications to D.20-01-021 summarized in Conclusion of Law 4 to all electric well pump applications.

O R D E R

IT IS ORDERED that:

1. The revisions to Decision 20-01-021 summarized in Conclusions of Law 1 through 3 are adopted.

2. The clarifications to Decision 20-01-021 summarized in Conclusions of Law 4 and 5 are adopted.

3. Pacific Gas and Electric Company, Southern California Edison Company, Southern California Gas Company and the Center for Sustainable Energy (collectively "SGIP Program Administrators[GS1]") shall submit a Joint Tier 2 Advice Letter modifying the SGIP Handbook to implement the revisions and clarifications adopted in this decision as summarized in Conclusions of Law 1 - 5 no later than 20 days from Commission adoption of this decision. The SGIP Program Administrators are authorized and directed to apply the revisions and clarifications adopted in this decision to applications as directed in this decision even before the Handbook modifications are finalized.

4. Decision 20-01-021 is revised and clarified as indicated in Attachment A of this decision.

5. Rulemaking 20-05-012 remains open.

This order is effective today.

Dated ______________________________, at San Francisco, California

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ATTACHMENT A