Date of Issuance: June 5, 2020

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION RESOLUTION E-5054
May 28, 2020

RESOLUTION

Resolution E-5054. Approval of the Center for Sustainable Energy's (CSE) Proposed Revisions to the Solar On Multifamily Affordable Housing (SOMAH) Program Handbook.

PROPOSED OUTCOME:

- Approves the Center for Sustainable Energy's proposed revisions to the SOMAH Program Handbook to limit participation of a photovoltaic (PV) project to either the SOMAH Program or the MASH Program.

SAFETY CONSIDERATIONS:

- There is no impact on safety.

ESTIMATED COST:

- There are no additional costs.

By CSE Advice Letter 105-E filed on December 16, 2019.

SUMMARY

This Resolution approves proposed changes to the SOMAH Program Handbook to limit participation of a photovoltaic (PV) project to either the SOMAH Program or the Multifamily Affordable Solar Homes (MASH) Program. With the inclusion of the approved modifications to the SOMAH Program Handbook adopted herein, we establish the SOMAH Program Handbook Second Edition.

BACKGROUND

Assembly Bill (AB) 693 (Eggman), Stats. 2015, ch. 582, established the Multifamily Affordable Housing Solar Roofs Program, which reserves up to $100,000,000 annually in funding from shares of greenhouse gas allowance (GHG) auction proceeds from Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), Southern California Edison Company (SCE), Liberty Utilities Company, and PacifiCorp (collectively, the investor owned utilities or IOUs). The program provides incentives for the installation of solar distributed generation projects sited on existing multifamily affordable housing.

The MASH Program provides solar incentives on qualifying affordable housing multifamily dwellings. Prior to the creation of SOMAH, the CPUC extended the MASH Program in 2015, pursuant to AB 217 (Bradford, 2013), in D.15-01-027. In that Decision, the CPUC adopted a capacity target of 35 MW for the new MASH Program.

The SOMAH program was established by the Commission in D.17-12-022 (the SOMAH Decision). Pursuant to that decision, a team consisting of the Center for Sustainable Energy (CSE), GRID Alternatives (GRID), the Association for Energy Affordability (AEA), and the California Housing Partnership Corporation (CHPC) was selected as the statewide program administrator (PA) following a competitive solicitation process. This team of nonprofit organizations provides a host of no cost services to maximize program participation and community benefit. These services include comprehensive technical and financial planning assistance for property owners and contractors, tenant education resources and job training opportunities.

The SOMAH Decision directed the statewide PA, once selected, to submit a Tier 3 Advice Letter (AL) with a proposed SOMAH Program Handbook. Pursuant to this direction, GRID, on behalf of the SOMAH PA team submitted GRID Advice Letter (AL) 11-E on October 1, 2018. The filing included a proposed SOMAH Program Handbook. On April 2, 2019 AL 11-E was approved via resolution E-4987.

The SOMAH Decision also directed that after the SOMAH Program Handbook was adopted, the PA may propose program adjustments to it via a Tier 2 Advice Letter.

The SOMAH Program Handbook is used by a wide variety of end-users including, but not limited to, developers, applicants, potential program participants, administrators, utilities and Energy Division (ED) staff. The SOMAH Handbook, acting as the program 'rule-book', provides written standards and serves as a program resource outlining the policies and procedures for the program.

On July 1, 2019, the SOMAH program officially launched and began accepting incentive applications. At that time, several project applications were received by the SOMAH PA for projects also leveraging incentives through the MASH Program. Due to differences in program requirements between the SOMAH and MASH Programs, such as workforce development and job training requirements, the SOMAH PA notified ED and the MASH PAs to determine how best to handle any divergences between the two programs. After notification of these projects, ED investigated the matter and issued a letter to the SOMAH PA on November 14, 2019. That letter stated that a solar project may only participate in one, but not both, of the MASH and SOMAH Programs and thus could not receive an incentive from both programs.

ED's letter to the SOMAH PA noted that the CPUC is directed under statute (Public Utilities Code § 913.7, 913.8, 2851 and 2870) to provide the Legislature with an annual assessment of both MASH and SOMAH program performance. As part of these reporting requirements, the letter stated that the CPUC must provide the Legislature with accurate program metrics linked to the implementation of these programs.[1] Therefore, allowing a solar project to receive incentives from both the MASH Program and the SOMAH Program would inhibit precise fiscal accounting and accurate attribution of solar generation capacity allocated to each program. ED determined that should the commingling of incentives from both programs be permitted, the CPUC would be unable to conclude whether the programs are on track to meet the cumulative installation goal of at least 335 MW for MASH (35 MW) and SOMAH (300+ MW).

[1]Among other details, PU Code 913.8, requires the reporting of the SOMAH Program's total electrical system benefits, the electrical generating capacity of each qualifying renewable energy system and the dollar value of the award(s) linked to those systems. Similarly, PU Code 913.7 requires reporting "the [CSI MASH Program's] electrical generating capacity of the installed solar energy systems", "total electrical system benefits", and other program details.

The ED letter further states that both the MASH and SOMAH Programs abide by the program handbooks that govern the rules, processes, policies, and procedures for each program. While separate, these handbooks (and programs) do not operate or exist in isolation. ED reviewed the *MASH Program Handbook Second Edition* (Section 3.3) (MASH Handbook) and determined that the MASH Handbook correctly addresses the issue of MASH projects that seek other incentives for the same PV system. The MASH Handbook states that for those "projects that receive 'other incentives' for the same generating equipment that are funded by California investor-owned utility ratepayers (e.g., utility or California Energy Commission public goods charge programs), the MASH incentive is discounted by the amount of the 'other incentive.'"[2] While this program rule is enforceable in situations where MASH incentives have not yet been dispersed, ED identified that there is not a clear process by which to 'claw-back' or adjust incentives which have already been paid.

To ensure that both programs comply with CPUC Decisions, statute, and adopted program handbooks, ED's letter determined that a PV project may only receive incentives under one, but not both, programs.

In the November 14, 2019 letter, ED directed the SOMAH PA to:

- Cancel SOMAH incentive applications for projects that have already received CSI MASH incentives and return application fees;
- Notify any SOMAH applicant identified as having an active CSI MASH application that in order to retain their SOMAH reservation, they must provide documentation indicating that their corresponding MASH reservations have been withdrawn or

[2] See Page 35 of the MASH Program Handbook Second Edition (Section 3.3), retrievable here: https://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/Utilities_and_Industries/Energy/Energy_Programs/Demand_Side_Management/Customer_Gen_and_Storage/MASH%20Handbook%202nd%20Edition_Final.pdf

otherwise cancelled within 15 days of notification, or their SOMAH application will be cancelled and application fees returned; and
- Submit a Tier 2 AL to ED revising the SOMAH Program Handbook to align with ED direction and findings.

On December 11, 2019, CSE emailed a letter to ED's Deputy Executive Director for Energy and Climate Policy/Director requesting to place a temporary hold on, rather than cancel, all identified SOMAH projects that have applied for both MASH and SOMAH Program incentives until after disposition of the issue. On December 12, 2019, CSE received a response from ED stating that it was amenable to placing identified projects into an indefinite suspension status until the issue was formally disposed via the AL process.

On December 16, 2019, in response to direction provided by ED, CSE filed AL 105-E to update the SOMAH Program Handbook with modifications that include explicit language clarifying that solar projects that have previously received a MASH Program incentive are ineligible to receive SOMAH Program incentives for the same system.

The AL updates SOMAH Program Handbook Section 2.3.1 "New Equipment, Not Pilot or Demonstration Systems" to include a line that "Equipment that has received incentives from the Multifamily Affordable Solar Housing (MASH) program is not eligible to receive SOMAH incentives." The AL further modifies SOMAH Program Handbook Section 3 "SOMAH Incentive Structure" to explicitly prohibit the use of MASH and SOMAH incentives for the same system.

NOTICE

Notice of AL CSE 105-E was made by publication in the Commission's Daily Calendar. CSE states that a copy of the Advice Letter was mailed and distributed in accordance with Section 4 of General Order 96-B.

PROTESTS, RESPONSES, AND REPLY

On January 3, 2020, Sunrun Inc. ("Sunrun"), filed a timely protest to CSE AL 105-E. On January 6, 2020, the Public Advocates Office at the CPUC (CalPA) filed a timely response supporting the AL filing.

CSE replied to the Protest and Response to CSE Advice Letter 105-E on January 13, 2020.

The following is a detailed summary of the issues raised in the protest and reply.

Sunrun's Protest of the SOMAH Program Handbook AL

Sunrun's protest alleges that the AL's proposed Handbook change is not warranted, as the issue of combining MASH and SOMAH incentives was "thoroughly vetted in the record and authorized as part of the Commission's implementation of the program." The protest argues that the Advice Letter process is not the appropriate venue to institute a "retroactive and fundamental change to program eligibility requirements."

The protest asserts that the rationale behind ED's determination that the combining of both incentives would inhibit the precise fiscal accounting and accurate attribution of solar generation capacity resulting from participation in either program is faulty. Sunrun further claims that SOMAH is not funded by ratepayers as the program's funding comes via IOU greenhouse gas (GHG) allowance proceeds.

Sunrun's protest documents the adverse impacts the Handbook changes would have on affected affordable housing sponsors and tenants.

The CPUC Public Advocates Office (CalPA) response to the SOMAH Program Handbook AL

CalPA's response supports the proposed handbook changes, arguing that the similarity in program objectives and successive nature of SOMAH's foundation after MASH's sunsetting indicate that the programs should be used in succession instead of concurrently for the same PV projects. The response notes that Public Utilities (PU) Code § 451 requires that all proposed utility rates and services must be both just and reasonable. CalPA argues that allowing ratepayer money to be used to fund the same projects twice, through two separate Commission programs, is duplicative and contrary to the mandate PU Code § 451.

CalPA's response supports the determination made in the November 14, 2019 ED letter to the SOMAH PA. The response argues that the CPUC should prevent the combined usage of SOMAH and MASH for the same PV projects to avoid creating obstacles to ED's program tracking, implementation, and reporting. The protest supports the proposed SOMAH Handbook revisions and finds the updates necessary for ED to accurately assess and report on SOMAH and MASH program achievements.

Lastly, CalPA's response refutes Sunrun's protest claims that SOMAH's funding is distinct from ratepayer funding. The response argues that per California Code of Regulations § 95892(d)(3) and 95893(d)(3), unused IOU auction proceeds must be returned to ratepayers. As such, CalPA argues that SOMAH's funding is ostensibly ratepayer funding – suggesting that absent the program, such funding would be returned to ratepayers via the biannual climate credit.

CSE's Reply to the Protest and Response

On January 13, 2020, CSE filed a timely reply to the protest and response. The reply summarized the content of the protest and response and reiterated CSE's request for the Commission to provide necessary direction to the SOMAH PA in approving the AL as filed or providing additional direction to CSE via a nonstandard disposition letter or Resolution.

DISCUSSION

In reviewing the proposed Handbook changes described in the Background section above, we find that the Handbook changes are appropriate and necessary. The following sections address the disposition of the protest and response.

i. No Commission Authorization for MASH and SOMAH Incentive Commingling

The SOMAH PA's AL accurately documents the timeline and context by which the issue of incentive commingling came to the attention of Energy Division. On July 1, 2019, (the opening date for the SOMAH Program) applications were received by the SOMAH PA for projects also leveraging incentives through the MASH Program. As SOMAH and MASH have different program requirements regarding workforce development and job training, the SOMAH PA notified ED and the MASH PAs to determine how best to handle any divergences between the two programs.

At that time, ED investigated the identified projects, reviewed the governing statute, and conducted a thorough review of the record in the development and formal adoption of the SOMAH Handbook in Resolution E-4987. The review had a particular focus on the issue of commingling of MASH and SOMAH incentives. The results of that review are summarized below.

In reviewing the SOMAH Decision, the only point in which SOMAH incentives and their interaction with external program funding is discussed is when the Decision determines that the SOMAH program's incentive levels shall *decrease* should a project receive either the Investment Tax Credit (ITC) or the Low Income Housing Tax Credit (LIHTC).[3] There is no discussion of potential interaction between SOMAH and MASH incentives.
On June 27, 2018, ED circulated a notice to parties of the Net Energy Metering proceeding (Rulemaking (R.)14-07-002), Energy Savings Assistance Program proceeding (Application (A.)14-11-007) and General Energy Efficiency proceeding (Rulemaking (R.)13-11-005), and other interested parties, with a link to the draft of the SOMAH Handbook and directions on how interested stakeholders could provide direct written feedback to the draft.

[3] See Decision D.17-12-022 page 41.

On July 12, 2018, the SOMAH PA facilitated a SOMAH Program Handbook workshop. The SOMAH PA presented on the draft Handbook contents largely focusing on programmatic differences between the SOMAH and MASH Programs. Participant questions centered on the timing of the program implementation plan filing and subsequent Commission approval, and the program's energy efficiency requirements. Additional topics of discussion included the program's multiple bid requirements, timeline for project level bids, and SOMAH PA technical assistance role. Following the workshop, stakeholders were asked to submit written comments on the draft Handbook.

No comments regarding the commingling of MASH and SOMAH funds were raised during this workshop. Of the over 300 written comments received by the SOMAH PA on the draft Handbook, only one comment discussed incentive stacking. The comment, submitted jointly by the California Solar & Storage Association, Everyday Energy, the MASH Coalition, Community Advancement, and Promise Energy, sought clarification that the Handbook include a sentence to Section 3.3 reading: "ITC and LIHTC are not considered to be additional incentives." The comment did not raise the issue of allowing the commingling of MASH and SOMAH incentives for the same PV project.

Similarly, after reviewing the record of comments following the October 1, 2018 submittal of GRID AL 11-E, which contained the initial SOMAH Handbook, there were no party comments or protests that raised the issue of commingling MASH and SOMAH incentives.

Contrary to claims raised in the Sunrun protest, the issue of authorizing the combining of MASH and SOMAH incentives for a single PV project was not thoroughly vetted in the record, nor was it authorized as part of the Commission's implementation of the program.
It is within this context that the SOMAH PA submitted AL 105-E for clarification.

ii. <u>The AL adheres to guidance provided in D.17-12-022 regarding SOMAH Handbook updates</u>

Sunrun's protest argues that Rulemaking R.14-07-002, rather than the AL review process, is the appropriate venue to address the clarification sought in AL 105-E.

The protest cites PU Code § 2870(j)(1), as the established mechanism for the Commission to review and, if necessary, make significant changes in the SOMAH Program. That section states, "Every three years, the commission shall evaluate the program's expenditures, commitments, uncommitted balances, future demands, performance, and outcomes and shall make any necessary adjustments to the program to ensure the goals of the program are being met."

While the proceeding is the forum in which to make wholesale program changes or to make weighty decisions regarding statute or other large-scale policy determinations, D.17-12-022 provided clear direction by which the SOMAH PA could make minor program modifications to the SOMAH Program. In D.17-12-022, the Commission unambiguously stated: "Once the SOMAH Program Handbook is adopted, the PA may propose program adjustments to the Program Handbook via a Tier 2 Advice Letter."

Noting the narrow scope of the issue at hand, the proposed Handbook changes in AL 105-E are focused and limited to the SOMAH and MASH incentive commingling issue. The AL's proposed update to the Handbook is limited to clarify that projects that have received a MASH Program incentive are ineligible to participate in the SOMAH Program. Thus, the remedy sought by the SOMAH PA is appropriate to the AL process. As such, the SOMAH PA is acting in compliance with Commission D.17-12-022 by submitting a filing to make the limited and targeted proposed program clarifications.

iii. GHG auction proceeds must be used for ratepayer benefit.

CalPA's response cited California Code of Regulations § 95892(d)(3) and 95893(d)(3), summarizing the finding that unused IOU GHG auction proceeds must be returned to ratepayers. Absent the SOMAH program, such auction proceeds would be returned to ratepayers via the biannual climate credit. Additionally, that same code section clearly states that "allowance value, including any allocated allowance auction proceeds, obtained by an electrical distribution utility *must be used for the primary benefit of retail electricity ratepayers* of each electrical distribution utility, consistent with the goals of AB 32, and *may not be used for the primary benefit of entities or persons other than such ratepayers* [emphasis added]."

CalPA is correct in their response – with regard to their use as clean energy program incentives, IOU GHG auction proceeds , while not collected in rates and distinguishable from funds collected in rates, must be treated like ratepayer provided funding for the SOMAH program. Consistent with CalPA's description of auction proceeds above, the SOMAH funds must also be attributable to the distribution utility customers from which the funds were collected. Thus, the Commission must be able to track SOMAH benefits by utility area. PU Code Section 2870(j)(1) provides that if there is insufficient participation in the program, that "the commission may credit uncommitted funds back to ratepayers…" Thus, we are not swayed by Sunrun's claims that SOMAH is not funded by ratepayers.

Sunrun's protest also argues that D.17-12-022 explicitly contemplated actions to promote the combination of SOMAH incentives with other incentives. Citing dicta which states: "In order to maximize the effectiveness of services provided under this program, the PA will develop and propose methods to coordinate with other clean energy programs in order to ensure that properties receiving SOMAH incentives are aware of and can access other sources of services and funding *for which they may be eligible* [emphasis added]."[4]

In reconfirming that GHG auction proceeds must be used to benefit ratepayers, we find that the direction in D.17-12-022 holds true – MASH is not an eligible program for which a SOMAH project can leverage funding. Similarly, when we review the MASH Handbook, we find that MASH for "projects that receive 'other incentives' for the same generating equipment that are funded by California investor-owned utility ratepayers (e.g., utility or California Energy Commission public goods charge programs), the MASH incentive is *discounted* [emphasis added] by the amount of the "other incentive.'" With this direction, we conclude that our findings align with the external program leveraging rules established in the MASH program.

[4] See Decision D.17-12-022 Page 27.

We do not disagree with Sunrun's protest claims that allowing incentives to be combined for a PV project could encourage program participation in either MASH or SOMAH. It is obvious that providing an incentive framework that could lead to fully subsidized solar installations would be attractive to potential participants. However, allowing such a practice for SOMAH would run counter to both D.17-12-022 and the *MASH Program Handbook Second Edition*. Both of these governing documents paid special attention to the structure of incentives and clearly sought to *reduce* each program's incentives when taking into account other funding sources.

As outlined above, the MASH program *reduces* incentives should another ratepayer funded program be leveraged. D.17-12-022 similarly *reduced* SOMAH incentives when contemplating leveraging other funding sources. That Decision states: "In order to meet the requirement of AB 693 that our incentive levels take into account the availability of other incentives and credits, we adopt an incentive structure that *reduces* [emphasis added] the incentive level by 30% if the project receives either the Investment Tax Credit (ITC) or the Low Income Housing Tax Credit (LIHTC), and 50% if the project receives both benefits."

It is with this context and record that we further determine Sunrun's claim that MASH and SOMAH incentive stacking as "authorized as part of the Commission’s implementation of the program" is misaligned with Commission policy. Further, since we have determined GHG auction proceeds must be treated and accounted for similar to ratepayer funding for clean energy programs, we reject the protest’s assertion that both funding sources can be used concurrently. To do otherwise would hinder the Commission’s ability to attribute the benefits of the SOMAH Program to the distribution utility customers from which the GHG auction proceed are associated.

iv. The Commission Must Not Be Inhibited in its Accurate Accounting and Reporting for MASH and SOMAH to the Legislature.

Sunrun claims that commingling MASH and SOMAH incentives advances both programs' installation goals and is thus accretive and not dilutive. Unfortunately, this argument sidesteps the fundamental concerns about the impact of providing dual ratepayer incentives for the same PV project on program accounting and reporting.

ED's letter concisely argues that the Commission, as part of its oversight authority for the SOMAH and MASH programs, is bound by statute to provide the Legislature with an annual assessment of both the MASH and SOMAH programs' performance. As part of these reporting requirements, the CPUC must provide the Legislature with accurate program metrics linked to the implementation of these programs. Allowing a PV project to receive incentives from both the CSI MASH Program and the SOMAH Program would inhibit the precise fiscal accounting and accurate attribution of solar generation capacity resulting from participation in either program. The CPUC would be unable to conclude whether we are achieving the cumulative, new installation goal of at least 335 MW for MASH (35 MW) and SOMAH (300+ MW).

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 20-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 20-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 April 23, 2020, Brightline Defense (Brightline), the Public Advocates Office at the CPUC (CalPA), the California Solar and Storage Association (CalSSA), the California Environmental Justice Alliance (CEJA), Sunrun Inc. (Sunrun), and San Diego Gas & Electric Company (SDG&E) filed timely comments to Draft Resolution E-5054. Comments from Brightline, CalSSA, CEJA and Sunrun do not support the outcome of the draft resolution. Alternately, CalPA and SDG&E express support for the draft resolution.

In comments, Brightline, CalSSA, CEJA and Sunrun object to the draft resolution's designation of greenhouse gas (GHG) allowance proceeds as ratepayer funds. Brightline asserts that SOMAH funds are not ratepayer funds because the money was "set aside by the legislature" to fund the program. CEJA's comments argue that GHG funds are not equivalent to ratepayer funds since 1) GHG funds are not directly collected from ratepayers as part of the utilities' revenue requirements, 2) any uncommitted SOMAH funds are not required to be returned to ratepayers, and 3) allocated funds may be used to reduce GHG emissions. CalSSA's comments assert that since the utilities' GHG auction schema was developed by the California Air Resources Board "under the broad authority delegated to it by Assembly Bill (AB) 32," the "auction funds are not collected from ratepayers per se" and are not equivalent to ratepayer funds in the "traditional sense." Sunrun's comments similarly assert that unlike other clean energy programs that are funded through surcharges on utility customers' bills, SOMAH program funds are derived directly from GHG auction proceeds and are set aside by statute to fund the SOMAH Program.

Changes were made to the body of the Resolution to reflect that while SOMAH funding has not been collected in rates, the SOMAH program must be used for the benefit of ratepayers and attributable to the distribution utility customers from which the GHG auction proceeds were collected. The record and (as CEJA's comments aptly cite) guidance given per Cal. Code Reg. § 95892 is clear – "allocated auction proceeds must be used to reduce greenhouse gas emissions **or returned to ratepayers** (emphasis added)." Further, the Decision and statute that established the SOMAH Program, D.17-12-022 and PU Code 2870 respectively, provide us equally clear direction on the treatment and character of these funds. Those sources of authority specify that should the Commission find reason to do so, "the commission may credit uncommitted funds **back to ratepayers** pursuant to PU Section 748.5 (emphasis added)." This direction is unequivocal - the ultimate beneficiaries of these GHG funds *are* ratepayers. Therefore, the treatment of these funds must be similar to the treatment of other ratepayer dollars. We therefore reject comments seeking to differentiate these funding sources as irrelevant.

Comments further claim that those SOMAH projects that have sought funding from both MASH and SOMAH have unique 'complexities' that would make them

infeasible if both funding sources were not leveraged. Brightline's comments state that this "particular combination of incentives makes certain projects feasible that otherwise would not be." Similarly, Sunrun argues that their 25 projects identified as subject of the Handbook update and draft resolution are "more complex than typical projects and, as a result, the cost to build a tenant-benefitting system without requiring tenants to pay for the electricity was prohibitive and would not have been financed but for the ability to combine SOMAH and MASH incentives."
The comments reiterate earlier statements that the 25 Sunrun projects that have sought MASH and SOMAH incentive funds are inherently different from the nearly 550 completed MASH projects or the nearly 300 other SOMAH Program applicants. Unfortunately, no commenter provided actionable information on which to base such claims. The comments do not provide any project-level finance data or other detailed specifics of the projects in question. Without that information, we cannot substantiate the validity or accuracy of the claims. Since we cannot independently confirm why the 25 projects require the use of both program incentives because the comments failed to provide supportive evidence, we reject these comments as unsubstantiated.

Additional comments from CalSSA, Brightline and Sunrun claim that the ability to combine incentives from the MASH and SOMAH program for the same PV project was "well established" in the SOMAH Program. Brightline argues that this ability has been "present from the outset of the proceeding" and CalSSA suggests that "parties that intended to participate in SOMAH simply relied on the more general provision that SOMAH projects could combine incentives from a variety of other sources."

Sunrun's comments go further, stating that the "combining incentives from other programs was *expressly permitted* in the SOMAH program from the outset (emphasis added)" and that such incentive comingling "has been a discussion point throughout the entire proceeding." Sunrun points to other affirmations, such as the SOMAH Program's online application portal's "dedicated check-box which allows applicants to indicate whether the project will also be using incentives from other programs, including the MASH program." Sunrun also points to a program form entitled "System Information and Incentive Calculation" that includes a dedicated line item providing for other incentives, including

MASH and the Department of Community Services and Development's Low Income Weatherization Program (LIWP).

CalSSA's comments point more to the ambiguity of issue and may be correct in its speculation "that stakeholders intending to develop SOMAH projects [with MASH program funds] simply took this option for granted" or that specific developers "relied on the more general provision that SOMAH projects could combine incentives from a variety of other sources."

Just as in the MASH Program, we reiterate, the SOMAH Handbook ultimately acts as the program 'rule-book' in which written standards serve as a program resource that outline the policies and procedures for the program. Regardless of motivations or the assumptions of a single developer, our careful review and reconstruction of the formal record that shaped the SOMAH Program Handbook (or the SOMAH Program) clearly show – the issue of commingling SOMAH and MASH program funds was never addressed in the proceeding until issuance of the Advice Letter subject to this draft resolution. We therefore reject any claims that MASH and SOMAH comingling were expressly permitted by the Commission.

Sunrun and CalSSA provide additional comments discussing Energy Division's concerns on the feasibility of providing accurate accounting and reporting of budgets and outcomes for projects that receive both MASH and SOMAH program incentives. Both groups suggest that Energy Division could simply "prorate[e] the quantity of solar constructed according to the proportion of funding from each program" or "allocate credit to MASH and SOMAH for projects that combine funds in proportion to the amount of funds received from each program." It is not clear that these proposals are technically feasible or will meet the high bar for reporting on the use of allowance auction proceeds entrusted to CPUC for the benefit of ratepayers to the Legislature. We reject these recommendations without prejudice, as they would need to be vetted in a formal proceeding.

Sunrun's comments make additional claims. Specifically, Sunrun argues that the issue of combining SOMAH and MASH incentives will "soon be moot" citing that the MASH program is sunsetting in 2021, that demand for remaining MASH funding is low, and that no new MASH applications propose to combine MASH and SOMAH on the same PV system. We disagree that this issue is moot. The MASH program is statutorily authorized until December 31, 2021. While the practice of comingling MASH and SOMAH funds appears limited to the identified projects, it is not unreasonable to believe that had this issue not been raised to the level of original Advice Letter filing, such practice could have extended into the latest reopening of Southern California Edison's MASH program on March 2, 2020 or into Pacific Gas and Electric Company's prospective reopening of its MASH program.

Additionally, Sunrun's comments suggest that, should identified projects now solely rely upon MASH incentives to cover the cost of installing a PV system, the funding gap may require rents to be raised to cover these costs. We wish to directly address the implication that this resolution will cause increased rent for low Income renters. It is possible that for a few of the projects in question – which were initiated using MASH incentives before the SOMAH program had begun – MASH incentives alone will not cover the entire system cost as was predicted by Sunrun. That tenants in MASH projects would share some of the costs of the project – but still be better off than they would have been without it – was anticipated and accepted by the Commission when the MASH program was created or reauthorized. However, this does not mean rents must now increase for the projects in question. Below we discuss options that the SOMAH PA and Sunrun should pursue to avoid this result.

We agree with CalPA's comments that suggest, for those projects that have not yet received MASH funding, the SOMAH PA can provide these projects technical and financial assistance "at no cost" to "ensure a viable pathway towards financing the PV systems." We direct the SOMAH PA to engage with the applicant and the affordable housing host to provide all reasonable possible financial technical assistance available. Any qualifying suspended SOMAH projects should make full use of the financial technical assistance expertise of the SOMAH PA to bring these projects to fruition.

Finally, and to the point of avoiding improper costs to renters, we reiterate that both SOMAH and MASH program rules[5] protect tenants from the burden of paying for a property owner's decision to go solar and ensure that all tenants will benefit from the project. This resolution does not change these requirements nor absolve developers and hosts from complying with them. MASH requires recipients to demonstrate that at least 50% of the economic benefits will be reserved for tenants through the life of the system. To ensure compliance with MASH program rules that tenants must economically benefit from participating in the program, we emphasize that as part of the scope of future program evaluations[6] will verify that for those identified MASH projects that have sought SOMAH incentives, tenants are receiving demonstrable benefits from their participation in the program. The evaluation should closely scrutinize the program records to evaluate whether the applicant made a demonstrable effort to pursue other financial structures for these projects to ensure tenants still received the required benefit. The evaluation should examine whether and how the Host Customer complied with the MASH Affidavit Ensuring Minimum 50% of Economic Tenant Benefit of Allocated Solar Energy System Generation to Lower Income Households[7] for these projects, and specifically whether and how any additional financing was secured or sought after the effective date of this resolution.

FINDINGS

1. Assembly Bill (AB) 693 (Eggman), Stats. 2015, ch. 582, established the Solar on Multifamily Affordable Housing (SOMAH) Program to provide upfront incentives to install 300 megawatts (MW) of new solar generation on multifamily affordable housing in the service territories of IOUs by 2030.
2. In 2015, pursuant to AB 217 (Bradford, 2013), the California Public Utilities Commission (CPUC) extended the California Solar Initiative (CSI)

---

[5] See Decision D.15-01-027 pages 40-41.

[6] See Decision D.15-01-027 pages 61, and Decision D.17-12-022.

[7] Ibid, Appendix E.

Multifamily Affordable Solar Housing (MASH) program in D.15-01-027. The CPUC adopted a capacity target of 35 MW for the new MASH Program.

3. On December 22, 2017, the CPUC issued Decision (D.)17-12-022 (the SOMAH Decision).
4. In the SOMAH Decision, the only point in which SOMAH incentives and their interaction with external program funding is discussed is when the Decision determines that the SOMAH program's incentive levels shall *decrease* should a project receive either the Investment Tax Credit (ITC) or the Low Income Housing Tax Credit (LIHTC).
5. The SOMAH Decision directed the statewide program administrator (PA), once selected, to submit a Tier 3 Advice Letter (AL) with a proposed SOMAH Program Handbook.
6. D.17-12-022 provided clear direction that, via a Tier 2 AL, the SOMAH PA could make minor program modifications to the SOMAH Program Handbook.
7. On June 27, 2018, the Energy Division (ED) circulated a notice to interested parties a link to the draft SOMAH Handbook and directions on how interested stakeholders could provide direct written comments and input on the draft.
8. On July 12, 2018, the SOMAH PA facilitated a SOMAH Program Handbook workshop.
9. No comments were raised regarding the commingling of MASH and SOMAH funds during the workshop or in the over 300 informal written comments received on the draft Handbook.
10. On behalf of the SOMAH PA team, GRID Alternatives' submitted the SOMAH Program Handbook in Advice Letter 11-E on October 1, 2018.
11. No formal comments regarding the commingling of MASH and SOMAH funds were submitted in response or protest to GRID AL 11-E.
12. No comments regarding the commingling of MASH and SOMAH funds were submitted in response to Draft Resolution E-4987.
13. On April 2, 2019 the Handbook AL was approved via resolution E-4987.
14. On July 1, 2019, the SOMAH program officially launched, opening to incentive applications. At that time, several project applications were received for projects also leveraging incentives through the MASH Program.

15. ED issued a letter to the SOMAH PA on November 14, 2019 that directed the SOMAH PA to:
    - Cancel those SOMAH incentive applications that have already received MASH incentives and return application fees;
    - Notify any SOMAH applicant identified as having an active MASH application that in order to retain their SOMAH reservation, they must provide documentation indicating that their corresponding MASH reservations have been withdrawn or otherwise cancelled within 15 days of notification, or their SOMAH application will be cancelled and application fees returned; and
    - Submit a Tier 2 Advice Letter to ED revising the SOMAH Program Handbook to align with ED direction.
16. On December 16, 2019, in response to direction provided by ED, on behalf of the SOMAH PA team, the Center for Sustainable Energy (CSE) filed AL 105-E to update the SOMAH Program Handbook with modifications to provide explicit language clarifying that PV projects that have previously received a MASH Program incentive are ineligible to receive SOMAH Program incentives for the same system.
17. The issue of authorizing the combining of MASH and SOMAH incentives for a single PV project was not thoroughly vetted in the record nor was it authorized as part of the Commission's implementation of the program.
18. The proposed Handbook changes in AL 105-E are focused and limited to the SOMAH/MASH stacking issue.
19. The AL process is the appropriate venue make minor program modifications to the SOMAH Program as specified in D.17-12-022.
20. In regard to their use as clean energy program incentives, IOU GHG auction proceeds must be used for ratepayer benefit.
21. The MASH Handbook states that for those "projects that receive 'other incentives' for the same generating equipment that are funded by California investor-owned utility ratepayers (e.g., utility or California Energy Commission public goods charge programs), the MASH incentive is discounted by the amount of the 'other incentive.'"
22. MASH program stipulations on the use of other ratepayer program incentives extend to SOMAH incentives.
23. The SOMAH Decision and the *MASH Program Handbook Second Edition* paid special attention to the structure of incentives. Both clearly sought to

reduce each program's incentives when taking into account other funding sources.

24. Allowing a PV project to receive incentives from both the CSI MASH Program and the SOMAH Program would inhibit the CPUC's precise fiscal accounting and accurate attribution of solar generation capacity resulting from participation in either program.

THEREFORE IT IS ORDERED THAT:

1. The Solar on Multifamily Affordable Housing Handbook revisions proposed in CSE Advice Letter 105-E are approved.
2. With the inclusion of the approved modifications made in this Resolution, we establish the Solar on Multifamily Affordable Housing Program Handbook Program Handbook Second Edition.
3. Within 15 days of issuance of this Resolution, the Solar on Multifamily Affordable Housing Program Administrator will cancel those Solar on Multifamily Affordable Housing incentive applications that have already received Multifamily Affordable Solar Housing incentives and return application fees.
4. Within 15 days of issuance of this Resolution, the Solar on Multifamily Affordable Housing (SOMAH) Program Administrator will notify any SOMAH applicant identified as having an active Multifamily Affordable Solar Housing (MASH) application that in order to retain their SOMAH Program reservation, they must provide documentation indicating that their corresponding MASH reservations have been withdrawn or otherwise cancelled within 15 days of notification, or their SOMAH Program application will be cancelled and application fees returned.
5. The Solar on Multifamily Affordable Housing (SOMAH) Program Administrator will inform those projects that have an active Multifamily Affordable Solar Housing (MASH) application that the SOMAH program's no-cost technical assistance provided by the SOMAH Program Administrator is available help these applicants make informed decisions about the most viable financing pathway for their solar project.

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 May 28, 2020 the following Commissioners voting favorably thereon:

/s ALICE STEBBINS
ALICE STEBBINS
Executive Director

MARYBEL BATJER
President
LIANE M. RANDOLPH
MARTHA GUZMAN ACEVES
CLIFFORD RECHTSCHAFFEN
GENEVIEVE SHIROMA
Commissioners