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.

ADMINISTRATIVE LAW JUDGE’S RULING REQUESTING ADDITIONAL COMMENTS ON THE PROGRAM MODIFICATION REQUESTS AND GRANTING MOTION FOR CONFIDENTIALITY

On April 4, 2008, the assigned Commissioner in this proceeding issued a ruling soliciting comments from interested parties on the recommendations of the Self-Generation Incentive Program Working Group (SGIP Working Group)\(^1\) and the Energy Division to add several eligible technologies under the SGIP. One of the new technologies under consideration by the SGIP Working Group is advanced energy storage (AES) by StrateGen Consulting LLC and VRB Power Systems Inc. (VRB). There is not unanimous support from the SGIP Working Group to add AES into SGIP. The Energy Division also does not recommend adding AES into SGIP as a stand-alone technology,\(^2\) but does recommend to

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\(^1\) Decision (D.) 03-08-013 defined the SGIP Working Group as the self-generation program administrators, working with the Energy Division. D.03-08-013 also noted that, consistent with the directions in D.01-03-073, San Diego Gas & Electric Company, although not a program administrator, is a member of the SGIP Working Group.

\(^2\) Energy Division’s recommendation is based on Public Utilities Code Section 379.6(b), which states that only wind technologies and fuel cells are eligible to receive incentives in SGIP.
increase the incentives, at all levels, by $2/watt if AES is coupled with wind or fuel cell.

On April 21, 2008, VRB filed comments to the ruling stating its disagreement with the $2/watt recommended incentive for AES. VRB advocates a $3/watt incentive instead. On April 28, 2008, VRB filed reply comments providing additional detail explaining the $3/watt incentive level recommendation.\(^3\) VRB’s reply includes an Exhibit A, and Attachments 1 and 2. Exhibit A is the declaration of Tim Hennessy, the Chief Executive officer and Chairman of the Board for VRB. Attachment 1 contains financial analysis results, and Attachment 2 is filed under seal as discussed below.

The information presented in VRB’s reply comments is new. Because this information was not available when the parties submitted comments, all parties should be afforded an opportunity to respond to it now. Parties may comment on VRB’s reply by July 11, 2008. The scope of the comments should be limited to the new issues in VRB’s reply only. Comments outside this limited scope will not be considered.

**Motion for Confidentiality**

Concurrent with its reply comments, VRB filed a motion requesting confidential treatment of Attachment 2 of Exhibit A of its reply comments. VRB requests the information contained in its motion should be protected under Public Utilities Code Section 454.5(g) and General order 66-C. According to VRB, Attachment 2 contains costs and pricing data associated with VRB products, which are “market sensitive information” and would place VRB at an “unfair

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\(^3\) See Reply Comments of VRB, Public Version, April 28, 2008.
business disadvantage” if revealed. VRB also claims that the information qualify as “trade secret” under Government Code Section 6254.7(d). VRB claims the information is commercially sensitive and extremely confidential in nature and its publication would subject VRB to competitive disadvantage with respect to other advanced energy storage manufacturers and also negatively affect VRB’s commercial relationship with suppliers and funding institutions.4

There is no opposition to this motion. We have granted similar requests for confidential treatment of commercially sensitive business data, and will do so here as well. The information involves cost and pricing data that are commercially sensitive information and would place VRB at a disadvantage if revealed to competitors.

IT IS RULED that:

1. Parties may comment by July 11, 2008, on VRB Power System’s (VRB) reply comments filed on April 28, 2008.

2. VRB’s April 28, 2008 motion for confidentiality is granted to the extent set forth below.

3. Attachment 2 of Exhibit A of reply comments of VRB Power Systems Inc. shall be placed under seal for two years from the date of the ruling, through and including July 2, 2010, and during that period shall not be made accessible or disclosed to anyone other than Commission staff except on the further order or ruling of the Commission, the assigned Commissioner, the assigned Administrative Law Judge (ALJ), or the ALJ then designated as the Law and Motion Judge.

4 See VRB’s motion for leave to file confidential material under seal and for protective order, April 28, 2008.
4. If VRB believes that further protection is needed after July 2, 2010, it may file a motion stating the justification for further withholding the document from public inspection, or for such other relief as the Commission rules may then provide. This motion shall explain with specificity why the designated document still needs protection in light of the passage of time involved. A copy of this ruling shall also be attached to the motion. The motion shall be filed at least 30 days before the expiration of this protective order.

Dated July 1, 2008, at San Francisco, California.

/s/ MARYAM EBKE
Maryam Ebke
Administrative Law Judge
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I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document’s acceptance for filing, I will cause a hard copy of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the hard copy of the filed document is current as of today’s date.

Dated July 1, 2008, at San Francisco, California.

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