Decision 06-07-028 July 20, 2006

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 06-03-004 (Filed March 2, 2006)

OPINION MODIFYING DECISION 06-01-024 TO INCREASE SYSTEM SIZE ELIGIBILITY

This decision modifies Decision (D.) 06-01-024 regarding the maximum size of solar projects eligible to receive incentives through the Commission's Self Generation Incentive Program (SGIP) and the California Solar Initiative (CSI). The Commission makes this modification in advance of other Phase I issues in this rulemaking because it has learned the size limit adopted in D.06-01-024 is negatively impacting the solar photovoltaic (PV) market by unnecessarily constraining how SGIP project applicants size their systems.

Background

For several years, the Commission's SGIP has provided incentive payments to customers who install distributed generation (DG) systems, including solar facilities.[1] Originally, the Commission provided incentive

[1] The Commission pays incentives to eligible DG systems through the SGIP in 2006. Eligible DG systems include solar photovoltaic, wind turbines, fuel cells, and renewable and non-renewable micro-turbines, internal combustion engines, and gas turbines. Starting in 2007, the Commission will pay incentives to solar projects through the CSI, while payments to DG projects other than solar will continue through the SGIP.

payments to solar facilities, as long as the systems were sized no larger than 200% of peak demand.

In D.06-01-024, the Commission reduced the size of solar facilities eligible to receive incentives through the SGIP and CSI. The Commission had witnessed an over-subscription for solar incentives in some utility service areas relative to available funds and was concerned with preserving program funding for more participants. In addition, the Commission wanted to avoid paying incentives to over-sized systems. Thus, it reasoned it was not prudent to pay incentives for capacity exceeding the on-site peak load. Capacity above peak load requirements might result in surplus power that would go unused and would not be eligible to receive net energy metering credits. Therefore, in D.06-01-024, the Commission reduced eligible system size for solar facilities to 100% of historic peak load, beginning with SGIP applications submitted after the date of the order, January 12, 2006. (D.06-01-024, p. 15.)

Following the change in system size eligibility requirements, Energy Division staff learned in February and March 2006 that the new limit of 100% of peak load had the unintended consequence of penalizing some 2006 SGIP solar project applicants by reducing net energy metering credits on an annual basis. Utility net metering programs allow renewable DG systems producing excess electricity at any point during the day to deliver this electricity to the local utility. In essence, the customer's utility meter spins backward gaining a credit for the customer at the retail power rate. This credit is applied to the customer's energy bill creating an additional incentive for customers to invest in renewable DG.

Increase in System Size Cap

In a proposal issued for comment on April 25, 2006, staff reviewed current system size data from a sample of 2006 SGIP solar project applications.[2] The data indicated that sizing solar projects based on 100% of annual historical usage allows customers greater flexibility in sizing their DG facilities, reflects the sites' actual usage, and still prevents potential over-sizing of systems relative to annual energy use. Based on that analysis, Energy Division staff proposed changing the solar project size cap from 100% of peak load to 100% of annual historical usage and asked parties to comment on whether the change in the size cap should apply to non-solar SGIP applications as well.

Comments from numerous solar industry representatives, namely ASPv, PV Now, The California Solar Energy Industries Association, and Sun Light & Power Company (Sunlight), agree with the staff recommendation to allow solar projects sized up to 100% of historical usage. They maintain the sizing limit based on 100% of peak load did not allow customers to size their systems appropriately to offset their annual energy use through net metering. Specifically, Sun Light states that a limit based on 100% of peak demand is not appropriate for solar DG projects that may produce power only during a limited number of hours per day. It claims that a system sized only for peak demand will never be large enough to offset the customer's total energy usage. These parties further maintain that allowing customers greater flexibility to size

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[2] Administrative Law Judge's (ALJ) Ruling Requesting Comment on Staff Proposal, April 25, 2006, and Attachment entitled "CPUC Energy Division Proposal," Section 2.5, pages 26-27.

systems larger than 100% of peak load is critical in meeting CSI megawatt (MW) targets.

The program administrators of current SGIP incentive programs were not unanimous in their views. Pacific Gas and Electric Company (PG&E) and the San Diego Regional Energy Office (SDREO) agreed with the staff proposal to change the solar project size cap. SDREO recommends non-solar system sizes be addressed later in this proceeding with all other non-solar issues. Further, SDREO suggests that if a facility has a capital improvement plan or other documentation of future load growth, it should be able to size its system with that expansion in mind rather than historic usage. San Diego Gas and Electric Company and Southern California Gas Company (SDG&E/SoCalGas) support retaining the current limit based on 100% of peak demand because they contend the sizing requirement should be consistent for solar and non-solar DG technologies. Southern California Edison Company (SCE) supports returning to a 200% of peak demand standard for systems larger than 30 kilowatts. SCE does not support a sizing standard based on expected annual energy output because it will require program administrators to estimate the likely solar generation from a customer's system.

Discussion

After further review, we conclude that the system size requirement for solar facilities adopted in D.06-01-024 is too restrictive to allow customers to meet all or most of their annual electricity requirements from their solar project. If we allow customers to size systems based on 100% of annual historical usage, we avoid being too restrictive in our sizing requirements and we allow customers to size systems larger than a 100% peak load restriction. Historic site usage information is readily available for existing structures, may be estimated for new buildings, and should not present a burden to program administrators. The goal of our SGIP and CSI programs is to facilitate the installation of large amounts of on-peak electricity generation from DG facilities. We do not want to inadvertently restrict the size of solar facilities, thus forcing the installation of twice as many smaller solar projects to meet our MW goals. Therefore, we adopt the staff proposal to revise the system size requirement for solar projects from 100% of peak load to 100% of annual historical usage, based on the previous 12 months usage data.[3]

SDREO suggests we not restrict customers to sizing based on historical usage, but allow customers to size facilities larger if they can document expansion plans. The current SGIP program handbook already contains detailed language concerning the sizing of systems for future load growth. Nothing in today's decision modifying the system size requirement modifies the existing program handbook language. The program administrators should continue to process applications involving future load growth in the manner described in the current program handbook.

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[3] In comments on the draft decision, the SGIP program administrators request the Commission clarify the formula for maximum system capacity. Golden Sierra also comments regarding capacity factors for this calculation. The comments improperly raise new issues and facts regarding formulas and capacity factors that were never previously discussed in the record on this issue. Commission Rule 77.3 requires comments be limited to factual, technical or legal errors in the draft decision. New factual information cannot be included in comments. If the formula for system size calculations was critical, parties should have raised this earlier. We assume this level of detail is contained within the SGIP program handbook, which the decision does not alter other than to direct a change from 100% peak load to 100% annual historical usage. We see no need to provide further specificity on formulas within this order.

The system sizing requirements adopted in this order shall apply to all solar project applications received under the 2006 SGIP rules as well as future SGIP solar and CSI projects. The program administrators should accept amended 2006 applications from customers who want to install solar facilities larger than D.06-01-024 had allowed.[4] The system size change does not apply to projects on the SGIP waiting list as of December 2005, and the change does not impact system size requirements for non-solar SGIP applications. Indeed, when the Commission changed the system size requirement in D.06-01-024, the change only applied to solar applications. The sizing requirements for non-solar applications were not modified by D.06-01-024 and there is no basis for modifying them in this order.

In comments on the draft decision, the SGIP program administrators contend allowing customers to amend previously filed applications and increase their system sizes based on the new sizing requirements may have the effect of reducing or eliminating incentive funds already allocated to other projects. They suggest any incremental system size adjustments be treated as new supplemental applications subject to availability of funds. This would essentially treat any size changes as new applications.

In response to these comments, we will require program administrators to send a letter, within five days from the date of this order, to all SGIP solar applicants with 2006 conditional reservations advising them they have 30 days from the date of the letter to file amended applications to increase their system size. If the administrators are concerned that amended applications will cause

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[4] If project sizes decrease with this new requirement, the program administrators should allow a one-time exception to allow already filed projects to proceed.

them to reach the 50 MW "trigger" for an incentive reduction from $2.80 per watt to $2.50 per watt, as described in D.06-05-025, they can choose to withhold issuing new conditional reservations during this 30-day period. Furthermore, we clarify that program administrators should manage incentive funds based on the order of the original filing date of incentive applications (i.e., the order in which original applications were entered into the system), on a first-come, first-served basis. This means that any amended applications received during this 30-day period should have access to incentive funds in the order of the timing of their original application. This may cause a later application to get "bumped down" to a lower incentive level. We are aware of this unfortunate potential, but are adamant that projects that wish to resize should not face a lower incentive level because we have now determined our initial sizing requirement was inadequate. The order of original application timing should determine access to incentive funds, and not the date of amendment.

Comments on Draft Decision

The draft decision of ALJ Dorothy Duda was mailed in accordance with Public Utilities Code Section 311(g)(1) and Rule 77.7 of the Rules of Practice and Procedure. Comments and/or replies were filed by Americans for Solar Power (ASPv), Californians for Renewable Energy (CARE), Golden Sierra Power, SDREO, and the SGIP Program Administrators. The order has been revised in response to comments.

Assignment of Proceeding

President Michael R. Peevey is the Assigned Commissioner and Dorothy Duda is the assigned ALJ in this matter.

Findings of Fact

1. In D.06-01-024, the Commission reduced the maximum size of solar facilities eligible to receive incentive payments under the SGIP and the CSI programs to 100% of historic peak load.

2. The solar system size limit adopted in D.06-01-024 restricts the ability of some 2006 SGIP project applicants to size their systems to offset their annual energy use through net metering.

Conclusions of Law

1. If solar facilities are sized based on 100% of annual historical usage, this sizing criterion allows customers to maximize the proportion of their power requirements met by solar facilities, reflects the sites' actual usage, and still prevents potential over-sizing of systems.

2. System size eligibility requirements for solar facilities should be modified from 100% of peak load to 100% of annual historical usage, based on the previous 12 months customer usage.

3. The new size requirement should apply to all 2006 SGIP solar applicants as well as future SGIP solar and CSI projects. The program administrators should allow 2006 SGIP solar applicants to amend their applications to meet this modified sizing requirement.

4. The program administrators should continue to process applications involving future load growth in the manner described in the current SGIP program handbook.

5. Projects that wish to amend their applications and resize based on the new sizing requirements should not face a lower incentive level.

6. The order of original application timing should determine access to incentive funds, and not the date of amendment within the allowed 30-day amendment period.

O R D E R

IT IS ORDERED that:

1. Decision 06-01-024 is modified to change the maximum solar system size eligible for incentives under the Commission's Self-Generation Incentive Program (SGIP) and California Solar Initiative (CSI) from 100% of historical peak load to 100% of historical annual usage, based on customer usage data from the previous 12 months.
2. The new system sizing requirements shall apply to all 2006 SGIP solar applicants as well as future SGIP solar and CSI projects.
3. Applications involving future load growth shall be processed in the manner described in the current SGIP program handbook.
4. Within five days from the date of this order, Program Administrators (PAs) shall send a letter to SGIP solar applicants with conditional reservations advising them they have 30 days from the date of the letter to file amended applications to increase their system size. PAs may refrain from processing new applications during the 30-day amendment period.
5. PAs shall manage incentive funds, within this 30-day period, based on the order of the original filing date of incentive applications (i.e., the order in which original applications were entered into the system), on a first-come, first-served basis.

This order is effective today.

Dated July 20, 2006, at San Francisco, California.

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
Commissioners