Decision 09-01-013 January 29, 2009

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 08-03-008 (Filed March 13, 2008)

DECISION ADOPTING SELF-GENERATION INCENTIVE PROGRAM BUDGET FOR 2009 AND OTHER OPERATION DETAILS FOR 2009 THROUGH 2011

Summary

This decision adopts a budget of $83 million for the Commission's Self Generation Incentive Program (SGIP) in 2009. The SGIP budget for 2010 and 2011 will be set later in 2009 after the Commission performs further review of prior years' unspent SGIP funds and program participation rates. Other aspects of SGIP operation, including the administrative budget, budget allocations between the utilities, and allocation of funds between renewable and non-renewable projects, will continue unchanged based on previous Commission guidance. Finally, the decision directs San Diego Gas & Electric Company to extend its contract with the California Center for Sustainable Energy for SGIP administration in the San Diego area through December 31, 2011.

Background

The Commission established the SGIP in 2001 to provide incentives to businesses and individuals who invest in distributed generation (DG), i.e., generation installed on the customer's side of the utility meter that provides electricity for a portion or all of that customer's electric load. (*See* Decision (D.) 01-03-073.) The program is available to customers of Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E) and Southern California Gas Company (SoCalGas). The program is administered by these same utilities, except that the California Center for Sustainable Energy (CCSE) administers the program in SDG&E's service territory.

Since its inception in 2001, the Commission's SGIP has resulted in over 1200 completed and on-line distributed generation projects within the territories of the four utilities, and the four utilities have paid approximately $488 million in incentives to these completed projects.[1]

The SGIP budget was initially $125 million per year, with cost responsibility allocated across the four energy utilities noted above. With the creation of the California Solar Initiative (CSI) in 2006, the Commission redirected the portion of the SGIP budget supporting solar incentives to the CSI program. (*See* D.06-01-024.) As a result, the SGIP budget was reduced to $83 million per year for 2007 and 2008 to reflect that solar incentives are now funded through CSI. (*See* D.06-12-033 and D.08-01-029.)

Also in 2006, Assembly Bill 2778[2] amended Pub. Util. Code § 379.6 to limit program eligibility for SGIP incentives to qualifying wind and fuel cell distributed generation technologies, beginning January 1, 2008 through January 1, 2012.

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[1] *See "CPUC Self-Generation Incentive Program, Seventh Year Impact Evaluation,"* prepared by Itron, Inc., September 2008.

[2] Chapter 617, Statutes of 2006.

In a ruling of September 10, 2008, the assigned Administrative Law Judge (ALJ) asked parties to comment on the SGIP budget, details of the continuing operation of SGIP through December 31, 2011, and whether CCSE should continue in its role of administrator for SGIP in the SDG&E territory. Comments were filed on September 30, 2008, by the California Clean DG Coalition (CCDC), CCSE, the National Association of Energy Service Companies (NAESCO), PG&E, SCE, jointly by SoCalGas and SDG&E, The Utility Reform Network (TURN), and UTC Power. Replies were filed on October 7, 2008, by the Commission's Division of Ratepayer Advocates (DRA), PG&E, SCE, SoCalGas/SDG&E, TURN, and jointly by Bloom Energy and Fuel Cell Energy (Bloom/FCE).

SGIP Budget and Program Operation issues

The Commission must decide whether to direct the Program Administrators to continue to operate the SGIP through 2011 with essentially the same program parameters as prior years. Parties were asked to comment on continuation of SGIP in accordance with previous Commission direction regarding the annual budget, the carry over of unspent funds, and other program implementation details.

The comments by the parties indicate general consensus regarding the details of the continued operation of SGIP through 2011 with the main debate, or area of disagreement, involving the level of the annual budget and the use of carryover funding for this program. Given the consensus on most operational issues, we will first provide direction to the Program Administrators to continue to implement SGIP in accordance with all previous direction from the Commission, including but not limited to budget allocations between the four energy utilities in the same percentages as in 2008, a 10% administrative budget, and allocation of funds between renewable and non-renewable projects.

We now turn to the debate concerning the annual budget and carryover funding. NAESCO, CCDC, CCSE, PG&E, SoCalGas/SDG&E, UTC, and Bloom/FCE all support the budget of $83 million, along with provisions for carryover of unspent funds to future program years. NAESCO supports the carryover to maintain a reserve fund for use during times of extraordinary or unanticipated demand. UTC Power contends that confidence in the availability of SGIP funding from year to year is essential to customers considering clean energy investments, particularly because the customer decision process for fuel cell investments is generally longer than one year. CCDC and CCSE request that the Commission allow flexibility to increase the SGIP budget if the Legislature modifies the eligible SGIP technologies beyond wind and fuel cells. PG&E supports continuation of the program budget at $83 million as an interim measure for 2009, until the Commission can review the use of carryover funds for projects in the 1 megawatt (MW) to 3 MW range, as allowed by D.08-04-049.

SCE supports the continued operation of SGIP through 2011, but it requests flexibility to return SGIP overcollections to ratepayers. SCE explains that it expects an overcollection of $110 million in its SGIP memorandum account by the end of 2008, due to carryover of unspent funds from prior year's budgets. SCE requests an advice letter process to reduce or delay SGIP collections while current over-collected funds are used to fund the program operation. SoCalGas/SDG&E support SCE's suggestion for a mechanism to provide flexibility and allow the utilities to suspend SGIP collections, if justified based on program demand.[3] PG&E states it does not have a large overcollection because it

[3] SoCalGas/SDG&E provide no information on whether either utility has an overcollection of SGIP funds.

has not actually collected from ratepayers its entire authorized budget from 2001 to the present. PG&E supports the carryover of unspent funds but asks for clarification whether it should carryover budget dollars or dollars actually collected from ratepayers.[4]

TURN opposes continuing the current budget level of $83 million without a thorough review of program demand. It argues that if the Commission can meet all program obligations while collecting less money from ratepayers, it should do so now. TURN echoes PG&E's comment that the Commission review SGIP budget and eligibility criteria towards the end of 2009, when more information on the demand for carryover funds is available. TURN contends the Commission should gather additional program data on unspent funds from prior budget years, the ratemaking treatment of SGIP revenues, and the status of applications, and wait until the end of 2009 to determine the long-term SGIP budget. SCE disagrees with TURN on the need for further proceedings and data gathering before setting the SGIP budget.

DRA questions why excess funds are accumulating in the SGIP, and whether this is due to lack of demand, technology limitations, or lack of program marketing. DRA supports the concept of truing up the memorandum accounts on an annual basis if balances exceed a Commission determined minimum balance. DRA agrees a positive balance should be kept in the account for the cyclical fluctuations in program demand, but that there should be a limit to the

[4] From 2001 to 2005, "PG&E spent more on SGIP incentives than it collected from ratepayers, and it has not yet trued up that difference, since in more recent years, it has collected more than it has spent." (PG&E Comments, 9/30/08, p. 3.) PG&E notes the amounts should be trued up "so ratepayers pay no more and no less than the amounts spent on this program." (*Ibid.*)

carryover. DRA suggests the Commission adopt an annual true-up a process similar to the one for energy efficiency shareholder incentive claims, as adopted in D.07-09-043.

Discussion

There are three main issues the Commission must decide at this time. First, we must decide what budget level to authorize for SGIP for 2009, 2010, and 2011. Second, we must address whether to continue the practice of allowing unspent funds to be carried over to current budget years. Third, we should address SCE's request for flexibility in its collections so that it can use its current overcollection to fund current program activities.

On the first issue, we find merit to continuing the SGIP budget at the $83 million level for 2009, but we will gather further information before deciding on the proper budget level for 2010 and 2011. We have only recently authorized in D.08-04-049 the payment of SGIP incentives up to 3 MW, instead of the prior limit of 1 MW. In addition, the Commission recently expanded SGIP in D.08-11-044 to allow payment of incentives to advanced energy storage systems that are coupled with eligible SGIP technologies. We should not reduce the program budget until we can gauge the demand for these incentives. We should continue the program at the current funding level to provide market participants certainty when deciding whether to apply for these funds.

The 2009 budget shall be allocated across the utilities as follows:

SGIP Budget for 2009

Investor-Owned Utility	Percentage	2009 SGIP Budget (in millions)
PG&E	44%	$36
SCE	34%	$28
SDG&E	13%	$11
SoCalGas	9%	$8
TOTAL	**100%**	**$83**

We find it is premature to establish a budget for 2010 and 2011. As TURN and DRA suggest, we should assess the participation rate and demand for SGIP funds before establishing a future program budget. We agree with TURN that more information is needed on unspent funds, the ratemaking treatment of SGIP revenues, and the status of applications. We will direct the SGIP program administrators to provide this information, as discussed further below, so we can make future decisions for this program. We also need to retain budget flexibility in the event pending or contemplated legislation alters the technologies eligible for this program. There have been recent legislative proposals on this issue, and we expect further consideration of these proposals in 2009.

The second issue is unspent funds from prior budget years. We will continue the practice of allowing the program administrators to carryover these funds to their 2009 budget. In other words, if a program administrator did not spend its entire authorized budget in prior program years, it can augment its current budget by this amount. As we stated in D.08-01-029, this carryover includes unspent funds from non-PV applications that have dropped out or withdrawn. Unspent SGIP funds from PV applications prior to January 1, 2007 were either transferred to CSI on December 31, 2006, as directed in D.06-12-033, or should be transferred to CSI in the manner described in D.06-12-033 if and when these older PV applications drop out. (See D.06-12-033, pp. 33-34, and D.08-01-029, p. 7.)

Again, because of our recent decision in D.08-04-049 to fund incentives up to 3 MW, and in D.08-11-044 to pay incentives to advanced energy storage, we may see increased demand for the incentives and we want carryover funds to be available for this purpose in 2009. This will also allow us to gather information on the unspent funds from prior years and demand for the funds in 2009, to assess whether to continue this practice for 2010 and 2011.

The third issue is the utilities' requests for flexibility in how they collect SGIP funds from ratepayers. We discern from the comments that the utilities are not necessarily handling collections and accounting for SGIP in a consistent manner. It appears SCE collects its authorized budget annually regardless of demand for the program, and it now has approximately $110 million in unspent funds. Conversely, PG&E has apparently only collected from ratepayers after the fact based on the funds it committed each program year. At some point, however, PG&E switched to collecting its authorized budget annually. It is also unclear how much money each utility has amassed in carryover funds, either those funds it has collected from ratepayers but not spent, or funds that were budgeted but never collected. We need a better understanding of the authorized budget each utility has actually spent in each program year.

It is important to distinguish the authorized budget for SGIP from ratepayer collections. We have authorized an SGIP budget amount for each program year. It is up to the utilities either to collect it in advance from ratepayers or fund the money themselves and get reimbursed through ratepayer collections after the fact. It does not appear that previous SGIP decisions specified how the utilities were to handle this. Previous Commission orders authorized the carryover of unspent funds, but did not specify whether this was carryover of the authorized budget or carryover of money collected but not spent. It was also not clear if the practice of carrying over unspent funds would augment the budget in any given year, or merely offset the need to collect the current year's budget from ratepayers.

We clarify that we are authorizing the carryover of unspent budgeted amounts from prior program years to the 2009 SGIP budget, and this is meant to augment the current year's budget. We will gather information on the exact amounts of funds spent in each prior program year, determine the amount of cumulative carryover, and then determine whether we should continue to authorize the spending of this carryover budget for 2010 and 2011.

SCE, SDG&E/SoCalGas, and TURN urge us to return unspent funds to ratepayers, or suspend collection of future funds. We will not return unspent funds at this time because the demand for funding for projects up to 3 MW and advanced energy storage is unknown at this time. We do not know how much of the carryover funding from prior years will be needed in 2009, and it is unclear if some of this overcollection is actually reserved for specific projects that are not yet completed. Several parties remind us that DG investment decisions can take a long time. We agree that the market for DG investments needs some certainty about the amount of funds available for incentives. To decrease the funding source while customers may still be contemplating an investment could exacerbate market uncertainty. Nevertheless, we will allow SCE the flexibility to use its current overcollection to fund its 2009 SGIP budget rather than SCE collecting additional funds from its ratepayers at this time. SCE's carryover is large enough to fund its 2009 budget of $28 million and still have funds left for projects up to 3 MW or advanced energy storage, if needed. If demand for SGIP incentives in SCE's territory increases dramatically in 2009, SCE may need to collect its $28 million budget for 2009 at a later date.

Part of the reason there is uncertainty about carryover funds is due to the fact that there are incomplete projects from prior years for which funds are reserved. We are aware that in some cases, there are PV projects from 2006 or earlier, prior to the start of CSI in 2007, which have funds reserved under SGIP but have applied for extensions to keep their application in the system. The same is true for certain DG projects that applied in 2006 and 2007, before the program was limited to wind and fuel cell technologies as of January 1, 2008. The practice of granting extensions ties up budget funds, sometimes at outdated and higher incentive rates, and makes it difficult to assess the current budget picture for the program.

We will direct the SGIP administrators to provide information on all pending SGIP applications so we can understand the scope and dollar amounts related to projects that have been receiving such extensions. By this order, we notify the SGIP administrators that all pending applications for projects filed in 2006 or earlier must be completed and paid or rejected by December 31, 2009. After December 31, 2009, pending applications for incomplete PV projects may reapply under CSI, and pending applications for DG projects that are not based on wind or fuel cell technologies and were filed prior to January 1, 2007, will be rejected.

In summary, the SGIP shall continue to operate through 2011, and program administrators should follow the directions previously given by this Commission in all regards, including but not limited to the administrative budget, funding allocations, and allocation of funds between renewable and non-renewable projects. We adopt a budget for 2009 of $83 million. We direct the utilities[5] to each file in this proceeding, no later than June 1, 2009, the following information (current to May 1, 2009) for each calendar year they have operated the SGIP, beginning in 2001:

- Authorized Budget
- Dollar amount of incentive applications (i.e., the amount of the budget "reserved")
- Dollar amount of SGIP budget collected from ratepayers
- Dollar amount paid to completed projects
- Unspent Budget (carryover)
- Status of pending applications (i.e., date filed, dollar amount, reason for extension)
- Dollar amount of SGIP carryover funds transferred to CSI on 12/31/06 or thereafter.

Program Administration Issues

In D.01-03-073, the Commission designated CCSE (formerly known as the San Diego Regional Energy Office) as program administrator for SGIP in the SDG&E territory. At that time, the Commission reasoned this would allow the Commission to explore non-utility program administration on a limited basis. (D.01-03-073, p. 17.) In D.04-12-045, the Commission directed SDG&E to extend its administrative contract with CCSE through 2007. (D.04-12-045, p. 19.) Although the Commission extended CCSE's role as administrator, the Commission discussed reevaluation of the SGIP administrative structure if funding continued past 2007. The decision notes an expected September 2006 comparative assessment report on program administration to aid in that

[5] SDG&E should coordinate with its program administrator, CCSE, to make this filing.

reevaluation. (*Id.*) In D.08-01-049, the Commission directed SDG&E to extend CCSE's contract for SGIP administration through 2008.

The SGIP Program Administrator Comparative Assessment Report (Report) was filed in April 2007.[6] The Report states that "the differences between program administrators are nuances of strengths and weaknesses rather than questions of capability or incapability." (Report, p. 2.) Our review of the Report indicates that CCSE's administration of SGIP compared favorably in many respects to that of its utility counterparts.[7] We also note the report shows that CCSE outperformed its counterparts in certain marketing and outreach activities, such as promoting SGIP case studies, counseling prospective applicants on appropriate system sizing, and its website, which the report described as the most comprehensive of all the program administrators. (*Id.*, p. 70.) The report also discusses improved coordination between CCSE and SDG&E, which has resulted in improved administrative efficiency since the first Comparative Assessment was filed in September 2003. (*Id.*)

In response to the ALJ's ruling, no party opposed CCSE's continued role as program administrator. CCSE expressed its willingness to continue in the role and highlights efforts it has made to be an efficient and effective administrator, using less than 60% of its potential administrative budget to promote installation of more than 37 MW of clean distributed generation. SDG&E stated that although it would prefer to be the program administrator in its territory, it

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[6] The Report, prepared by Summit Blue, can be found at: http://sdreo.org/uploads/SGIP_M&E_PA_Comparative_Assessment_Report_April_25_2007.pdf.

[7] See the Report's discussion of administrative cost (pp. 42-43), application processing time (p. 40), and applicant experience (p. 59).

appears reasonable to allow CCSE to continue as program administrator at this time. SDG&E states it looks forward to a continued partnership with CCSE to ensure customers are able to access and benefit from SGIP. NAESCO supports CCSE as program administrator, as long as the Commission continually monitors the performance of the administrators. SCE states it is not opposed to the extension of CCSE's contract.

From our review of the Comparative Assessment Report and the statements of the parties, we find it reasonable to allow CCSE to continue to administer SGIP in the SDG&E territory. Therefore, we direct SDG&E to extend its contract with CCSE for SGIP Program Administration in the SDG&E territory through December 31, 2011.

Comments on Proposed Decision

The proposed decision of President Michael R. Peevey 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 by Bloom Energy, CCDC, CCSE, PG&E, and SCE. There were no reply comments. The comments generally support the proposed decision as written. The only modification based on the comments is to direct the utilities to file SGIP information one month earlier on June 1, 2009 rather than June 30, 2009, as suggested by PG&E.

Assignment of Proceeding

President Michael R. Peevey is the assigned Commissioner and Dorothy J. Duda is the assigned ALJ for this portion of the proceeding.

Findings of Fact

1. In D.08-04-049, the Commission authorized SGIP incentives up to 3 MW.
2. SCE has an SGIP overcollection of approximately $110 million.

3. DG investment decisions can take a long time.

4. There are incomplete SGIP projects from prior years for which budget funds are reserved.

5. The Commission designated CCSE as SGIP administrator in the SDG&E territory, through 2008.

6. The SGIP Program Administrator Comparative Assessment Report indicates CCSE's administration compares favorably to its utility counterparts.

Conclusions of Law

1. The SGIP administrators should continue to implement SGIP in accordance with all previous Commission direction, including but not limited to budget allocations, administrative budget, and allocation of funds between renewable and non-renewable projects.

2. A SGIP budget for 2009 of $83 million, allocated across the four utilities in the same percentages as in 2008, is reasonable.

3. The program administrators should continue to carryover unspent non-PV authorized budgets from prior program years to their 2009 budgets. Unspent funds related to PV applications that drop out should transfer to CSI as directed in D.06-12-033.

4. The Commission requires further information on program participation and unspent funds before it can set the SGIP budget for 2010 and 2011 or decide whether to return unspent funds.

5. SCE may use its overcollection to fund its 2009 SGIP Budget.

6. All pending SGIP applications filed in 2006 or earlier must be completed and paid, or else rejected, by December 31, 2009.

7. It is reasonable to allow CCSE to continue to administer SGIP in the SDG&E territory.

O R D E R

IT IS ORDERED that:

1. The Self Generation Incentive Program (SGIP) budget for 2009 is $83 million, as set forth in this order.

2. Southern California Edison Company (SCE) may use the overcollection in its SGIP memorandum account to fund its 2009 SGIP Budget, rather than collect additional funds from its ratepayers.

3. Pacific Gas and Electric Company, SCE, Southern California Gas Company and San Diego Gas & Electric Company (SDG&E), in cooperation with the California Center for Sustainable Energy (CCSE), shall file in this proceeding, no later than June 1, 2009, the following information (current as of May 1, 2009) for each calendar year they have operated the SGIP, beginning in 2001:

- Authorized Budget
- Dollar amount of incentive applications (i.e., the amount of the budget "reserved")
- Dollar amount of SGIP budget collected from ratepayers
- Dollar amount paid to completed projects
- Unspent Budget (carryover)
- Status of pending applications (i.e., date filed, dollar amount, reason for extension)
- Dollar amount of SGIP carryover funds transferred to the California Solar Initiative on December 31, 2006 or thereafter.

4. SDG&E shall extend its contract with CCSE for SGIP administration through December 31, 2011.

5. For good cause, the assigned Commissioner or Administrative Law Judge may modify the due dates set forth in this decision.

6. Rulemaking 08-03-008 remains open

This order is effective today.

Dated January 29, 2009, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners