

**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)

**SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER  
AND ADMINISTRATIVE LAW JUDGE**

**I. Summary**

This ruling addresses the scope of the proceeding, sets forth the procedural schedule, assigns a principal hearing officer, and finalizes the categorization of this proceeding. This ruling follows a prehearing conference (PHC) held on March 23, 2006, pursuant to Rules 6(a) and 6.3 of the Commission's Rules of Practice and Procedure (Rules).

**II. Background**

In Rulemaking (R.) 06-03-004, the Commission initiated a new rulemaking to continue its work from earlier rulemakings to develop rules and procedures for the California Solar Initiative (CSI) and the Self-Generation Incentive Program (SGIP), and general policies surrounding distributed generation (DG). This new rulemaking, which we will refer to as the "CSI/DG OIR," evolves from and builds on the work in three previous Commission rulemakings where the Commission has made substantial effort to stimulate development of DG projects and technologies by providing financial and other incentives to project

developers. The background of the Commission's work is set forth in the text of R.06-03-004.

In the Commission's prior DG rulemaking, R.04-03-017, the California Energy Commission (CEC) staff participated as collaborative State Agency staff. We expect they will continue to act in a similar capacity in this proceeding.

### **III. Scope of Proceeding**

The preliminary scoping memo contained in R.06-03-004 describes five issue areas that will be considered in the course of the rulemaking. These five areas are 1) cost-benefit analyses, 2) SGIP rules and management, 3) CSI program rules and policies, 4) participation by small multi-jurisdictional utilities, and 5) treatment of DG output for the renewables portfolio standard (RPS). At the March 23, 2006 PHC, parties discussed the priorities within these five issue areas, as well as additional subjects the Commission might want to consider within the scope of this proceeding.

With the aid of the parties' comments at the PHC, we now refine the scope and schedule for this proceeding and give greater detail regarding the topics we intend to cover in each issue area. We will address the issues in this case in three phases. Phase I will generally involve issues requiring immediate resolution to implement the CSI in 2007. Phase II will address additional CSI and DG issues including cost-benefit analyses and treatment of DG output for the RPS. Phase III will handle issues relating to SGIP Management and participation by small utilities. We now provide a more detailed description of the scope of the work in each of these phases.

#### **A. Phase I**

In Phase I, we shall resolve eight program issues relating to the CSI that the Commission must address as part of its commitment to fund \$2.5 billion in

solar incentives over the next ten years. Several issues must be handled quickly for implementation to begin in 2007. These issues are:

1. **Performance-Based Incentives** – review and consider tailoring the structure of incentives to recognize solar system performance and to differentiate incentives based on customer classes.
2. **Incentive Adjustment Mechanism** – review appropriate trigger mechanism and methodology for considering market factors in adjustments to incentive levels over the course of the CSI program.
3. **Federal Tax Incentives** – review whether ratepayer-funded incentives should be adjusted based on federal tax credits.
4. **Solar Technologies other than Photovoltaics** – review eligible technologies and incentive levels, including solar thermal technologies.
5. **Energy Efficiency Standards** – assess whether and how to encourage or require energy efficiency improvements as an eligibility requirement to receive solar incentives.
6. **Program Administration** – review CSI budget allocation<sup>1</sup> issues and determine incentive payment procedures, data collection and reporting requirements, and how to implement third-party administration for residential retrofit and small-sized solar systems under CSI.
7. **Solar System Metering** – examine what types of metering are necessary and for what purposes.
8. **System Size Cap** – address possible revisions to this cap as it applies to system size and net metering benefits.

---

<sup>1</sup> By “budget allocation,” we refer to the budgeting of CSI funds across various customer, solar system sizes, and utility service area options.

9. **Program Handbook** – revise SGIP and CEC’s Emerging Renewal Program (ERP) handbooks to reflect CSI program details for 2007 onward.

The actual schedule for accomplishing the items listed above is set forth in a later section of this ruling. The work related to the Program Handbook will not begin until the Commission first adopts an order relating to the first eight Phase I issues. In D.06-01-024, the Commission stated its intent to use the existing SGIP manual as the foundation for the CSI Program Handbook.

(D.06-01-024, p. 35.) It may also prove useful to build on the existing handbook from the CEC’s ERP program. There are undoubtedly improvements to those existing handbooks that parties will want to propose in developing the CSI Handbook. It may be efficient for interested parties to meet and confer now, prior to the Energy Division workshop discussed below, to identify many of those improvements so that once a Commission order is adopted, the work quickly can proceed to incorporate new CSI policies along with improvements to the existing handbooks.

Following a decision on Phase I issues, Energy Division will convene a workshop to discuss handbook revisions and create subgroups to work on various sections of the handbook. It may be prudent to consider separate handbooks for different segments of the CSI program, e.g., non-residential/residential or small system/large system. The workshop efforts will produce a CSI handbook, or handbooks, that will then be circulated for comment. We envision that an ALJ ruling will approve the final program handbook(s).

At the PHC, PV Now<sup>2</sup> urged that the Commission begin handbook work immediately, prior to a Phase I decision. We find it prudent to wait for resolution of the issues in Phase I and believe that handbook development, building off the existing handbooks, should take no more than one or two months of concentrated effort once the Commission has resolved Phase I issues. This allows parties to focus on constructive comments on the substance of the Phase I issues, before turning to handbook development.

As part of Phase I, we have included review of the trigger mechanism for adjusting incentive levels over the life of the CSI program. The staff proposal for Phase I program design will recommend an approach for this issue. If parties respond to the staff proposal with detailed and complex alternatives, it may be necessary to delay this issue to Phase II so as not to delay a decision on other Phase I issues. In that event, any decision on revising the trigger mechanism would be postponed until the first or second quarter of 2007.

## **B. Phase II**

In Phase II of this proceeding, the Commission will address remaining issues relating to CSI program rules and policies, the treatment of DG for RPS purposes, and cost-benefit analyses for customer DG installations.

Remaining issues relating to the CSI program are:

1. **Incentives or Financing Assistance for Low Income Projects** – how to promote solar projects on affordable housing and in low income or other communities by determining the most effective form of financing assistance in tandem with or as an alternative to other forms of incentives for these target groups.

---

<sup>2</sup> PV Now is a national solar industry advocacy group comprised of manufacturers in the solar PV energy industry.

2. **Marketing and Outreach** – develop protocols for using CSI funds to inform potential customers and developers of program opportunities.
3. **Research, Development and Demonstration (RD&D)** – explore how to fund solar-related RD&D to promote cost effective use of CSI funds and market development of the best technologies.
4. **Program Evaluation** – assess program effectiveness, including the San Diego Regional Energy Office pilot Solar Water Heating Program.

With regard to financing assistance and/or incentives for placing solar systems in affordable housing and low-income communities, we intend to consider program design elements that consider the specific development and financing mechanisms used in the affordable housing marketplace so as to maximize the productivity of funds budgeted for this purpose. With this goal in mind, we will work with the Commission's Public Advisor to expand our outreach and involve a broad sector of the affordable housing community in developing our policies on this issue. In addition, we plan to schedule a joint workshop with the CEC and interested affordable housing stakeholders and communities who are involved both with the Commission's larger scale and focus on existing housing, as well as new construction targeted by the CEC's Solar on New Homes program. This workshop will coordinate the efforts of the two agencies and incorporate the input of experts in housing finance and development. We may hold this workshop ahead of other Phase II issues to match the CEC's timeline on defining affordable housing incentives for new residential construction.

Issues surrounding the treatment of DG output for the renewable portfolios were initially addressed in D.05-05-011. In that order, the Commission addressed a controversy regarding whether and how DG should be counted as

part of utility portfolios for purposes of the RPS. That decision concludes that the owner of renewable DG facilities owns the renewable energy credits (RECs) associated with the generation of electricity from those facilities. (D.05-05-011, p. 1.) The order further finds: “Renewable energy credits from eligible renewable DG facilities cannot be counted for purposes of the RPS program until issues relating to subsidies and measurement are resolved...” (D.05-05-011, Ordering Paragraph 5.) The Commission then clearly directs that issues relating to subsidies and measurement will be addressed in the Commission’s DG Rulemaking 04-03-017. (Id., Ordering Paragraph 6.) This proceeding is the successor docket to R.04-03-017.

At the PHC on March 23, several parties expressed the desire for the Commission to address all RPS issues in the RPS rulemaking (R.04-04-026 or its successors, as well as R.06-02-012) rather than in this rulemaking, contending there would be less confusion if all RPS issues were taken up in one proceeding. PV Now maintains the treatment of DG for RPS should not be considered until after the “generic issue of RECs for RPS compliance” is addressed in R.06-02-012.

We see no reason to alter the course set forth in D.05-05-011 for the Commission to take up DG-related RPS issues in this docket. Parties have had adequate notice the issue would be heard in this proceeding and the service list for this case encompasses those parties most interested and knowledgeable in DG topics. While PV Now would prefer we delay consideration of DG measurement and subsidy issues in favor of resolving generic RPS REC issues first, we see an array of RPS issues across related proceedings including REC trading, current RPS compliance, and the treatment of DG for all RPS purposes. While the issues on one level are interrelated, we find they can be taken up and addressed separately. The DG measurement and subsidy issues must be resolved first before any action can be contemplated to allocate RPS credit to

applicable DG facilities. After DG measurement and subsidy issues are resolved, the Commission can address general RPS compliance issues in the RPS OIRs. Issues relating to REC trading can also be addressed in the RPS OIRs after DG measurement and subsidy issues are finalized in this proceeding. We preliminarily schedule hearings for this issue because parties at the PHC suggest there may be factual disputes involving the benefits provided by various kinds of utility incentives versus the costs paid by the customers themselves.

With regard to cost-benefit analyses, the Commission will establish a way of measuring the cost and benefits of DG projects. The Commission began its work on this issue in R.04-03-017 and the record of that inquiry has been incorporated into this proceeding. As described in R.06-03-004, the Commission intends to coordinate its DG cost-benefit work with findings from the avoided cost rulemaking (R.04-04-025) and the energy efficiency proceedings (R.01-08-028 and related). In Phase II of this proceeding, parties will be given the opportunity for further comment on modifications to the proposed cost-benefit decision that was issued in September 2005.

### **C. Phase III**

Phase III of this rulemaking will handle issues surrounding SGIP Rules and Management, participation by small multi-jurisdictional utilities in the CSI program, and net metering for community choice aggregators (CCA).

As stated in R.06-03-004, the Commission will determine whether to extend the SGIP which is currently set to sunset at the end of 2007. In addition, the scope of this case will review the exact nature of SGIP continuation, including funding levels, timeframe, incentive amounts, and eligible technologies. We understand that several pending SGIP program modification requests remain to be resolved, and ongoing interconnection issues will also need to be reviewed. If



time allows, we may propose a method in Phase I for resolving program modification requests more quickly.

In Phase III, the Commission will ask for proposals on how to include small regulated utilities in the CSI program. Additionally, the issue of whether CCAs and their customers who install renewable energy would qualify for net metering will be addressed. The net metering issue was initially raised in the CCA rulemaking, R.03-10-003. In D.05-12-041, the Commission stated that the DG Rulemaking, R.04-03-017, was the appropriate venue for deciding the issue. As this proceeding is the successor docket to the DG Rulemaking, the issue will be heard here in Phase III.

#### **D. Issues Not Within the Scope**

Although we have described an ambitious list of issues to occupy us over three phases in this proceeding, parties raised even more issues at the PHC beyond those listed in the preliminary scoping memo. We appreciate the participation of the parties in suggesting additional issues, but it is simply not possible in the timeframe allotted to this proceeding to resolve every potential issue related to distributed generation and solar incentives. Specifically, a number of parties suggested the Commission consider cost allocation for CSI program costs, prevailing wage issues, and program data collection and reporting.

We decline to review cost allocation, i.e., how we collect CSI funds from various ratepayer classes, because the Commission previously stated it would not change allocations but would address them in each utility's general rate case or rate design window. (D.06-01-024, p. 19.)

At the PHC, the Consumer Federation asked that the issue of whether solar developers pay prevailing wages be included in the scope of the case. This issue was raised too late to be considered on the record developed for

D.06-01-024. The Commission addressed this issue in R.03-09-006 and its subsequent appeal and will not include it within the scope of this case.

The request by PV Now for enhancements to program data collection and reporting is not fully explained. We expect that some of PV Now's suggestions in this area may come forth in comments on specific issues related to CSI Program Rules and Policies and Handbook modifications to be addressed in Phase I.

Finally, the California Clean DG Coalition requests that the Commission revisit exemptions to standby charges for certain DG customers as part of the cost-benefit subject area. In D.01-07-027, the Commission developed comprehensive standby rate policies and found that standby rates and DG costs and benefits were issues that should be addressed separately. Further, in D.03-04-060, the Commission allowed temporary standby rate exemptions for certain DG customers to remain in effect until new standby rates could be adopted in each utility's general rate case. General rate cases were filed in 2003, new standby rates were subsequently adopted, and exemptions from standby charges were resolved therein. We will not revisit the issue in this proceeding.

#### **IV. Schedule**

##### **A. Phase I**

##### **CSI Program Rules and Policies:**

Workshop on Performance Based Incentives and Federal Tax Incentives	March 16, 2006 <sup>3</sup>
Ruling with Staff Proposal on issues 1-8	Week of April 24
Workshop to answer questions on Staff Proposal	May 4
Written Comments on Staff Proposal	May 15
Reply Comments	May 26
Draft Decision	July 25

**Program Handbook Development:**

Workshop and initiation of subsequent working group activities to propose Handbook revisions	15 days after Phase I decision adopted by Commission
Ruling with Proposed Revisions	45-60 days after workshop
Written Comments on Proposed Revisions	15 days after ruling
Reply Comments	10 days after comments
Ruling Adopting Handbook	20 days after reply comments

**B. Phase II****CSI Program Additional Rules and Policies, Issues 1-4:**

Workshops on: <ul style="list-style-type: none"> <li>• Financing Assistance/Incentives for Affordable Housing/Low Income Communities;</li> <li>• Marketing and Outreach;</li> <li>• RD&amp;D; and</li> <li>• Program Evaluation</li> </ul>	May occur in May/June 2006 as a joint workshop with CEC  To be scheduled in July and August 2006
Follow-up Workshops	As needed in September/October 2006
Ruling issues with Staff Proposal on Phase II issues	Fourth quarter 2006
Written Comments on Staff Proposal	To be determined
Reply Comments	To be determined
Proposed Decision on Phase II issues	First or second quarter of 2007

**Treatment of DG Output for RPS Purposes:**

PHC to discuss hearings on DG for RPS	June 26
Testimony	July 17
Reply Testimony	July 31
Hearings	August 14-15
Briefs	September 1
Reply Briefs	September 11
Proposed Decision on DG for RPS	November 14

### **Cost/Benefit Analyses**

Ruling soliciting further comments	Third or fourth quarter 2006
Comments	To be determined
Reply Comments	To be determined
Proposed Decision on cost/benefit	Second or third quarter 2007

### **C. Phase III**

This phase will address SGIP Management and participation by small multi-jurisdictional utilities. A detailed schedule for Phase III will be issued once the Commission has achieved significant progress in Phases I and II. Based on the schedules for Phase II above, it does not appear the Commission or the parties will be able to turn their resources toward Phase III issues until at least the first quarter of 2007. Resolution of issues in Phase III may take up to 12 months.

The schedules above indicate that the timeframe for resolution of the issues within the scope of this proceeding is expected to exceed 18 months from the initiation of this rulemaking. Given the large scope of work and the reasons set forth above, we anticipate the proceeding will extend to 24 months from the issuance date of the rulemaking, thus concluding by March 2, 2008. (See Pub. Util. Code § 1701.5.)

## **V. Category of Proceeding**

This ruling confirms the Commission's preliminary finding in R.06-03-004 that the category for this proceeding is ratesetting and that hearings are necessary. This ruling, only as to category, is appealable under the procedures in Rule 6.4. The *ex parte* rules as set forth in Rule 7(c) of the Commission's Rules of Practice and Procedure apply to this proceeding.

## **VI. Principal Hearing Officer**

Pursuant to Pub. Util. Code § 1701.3, ALJ Duda is designated as the principal hearing officer in this rulemaking.

## **VII. Service List and Electronic Distribution of Pleadings**

The current service list for this proceeding is attached to this ruling. A current service list is also available on the Commission's web page, [www.cpuc.ca.gov](http://www.cpuc.ca.gov). To access the service list, choose "online documents" from the column on the left of the web page, then scroll to "go to the service list index page." The service list for this proceeding can be located in the "Index of Service Lists" by scrolling to the rulemaking number.

Parties should follow Rule 2.3.1 regarding electronic service of documents. The electronic addresses of all parties to the proceeding can be found in the comma-delimited file. From the index of service lists, choose the rulemaking number and click on "download comma-delimited file."

## **VIII. Intervenor Compensation**

The prehearing conference in this matter was held on March 23, 2006. Pursuant to Pub. Util. Code § 1804(a)(1), a customer who intends to seek an award of compensation shall file and serve a notice of intent to claim compensation not later than April 24, 2006.

Therefore, **IT IS RULED** that:

1. The scope of this rulemaking is set forth in this ruling.

2. The schedule of this proceeding is set forth in this ruling.
3. This ruling confirms the categorization of this proceeding as ratesetting and hearings are necessary. This ruling, only as to category, is appealable under the procedures in Rule 6.4.
4. The *ex parte* rules as set forth in Rule 7(c) of the Commission's Rules of Practice and Procedure apply to this rulemaking.
5. Administrative Law Judge Duda is the principal hearing officer in this rulemaking.
6. The official service list is attached to this ruling. Parties should serve all filings on parties listed on the service list, including those identified as "State Service." Parties are not required to serve those individuals listed under "Information Only." In addition, parties should adhere to the electronic service protocols set forth in Rule 2.3.1.
7. Pursuant to Pub. Util. Code § 1804(a)(1), a customer who intends to seek an award of compensation in this rulemaking shall file and serve a notice of intent to claim compensation not later than April 24, 2006.

Dated April 25, 2006, at San Francisco, California.

/s/ MICHAEL R. PEEVEY

Michael R. Peevey  
Assigned Commissioner

/s/ DOROTHY J. DUDA

Dorothy J. Duda  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge on all parties of record in this proceeding or their attorneys of record.

Dated April 25, 2006, at San Francisco, California.

/s/ ELIZABETH LEWIS  
Elizabeth Lewis

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

\*\*\*\*\*

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.