

**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 12-11-005
(File November 8, 2012)

**OPENING COMMENTS OF PACIFIC GAS AND ELECTRIC COMPANY (U 39 E) ON
THE PROPOSED DECISION GRANTING IN PART A PETITION FOR MODIFICATION
REGARDING THE ADMINISTRATION BUDGET FOR THE CALIFORNIA SOLAR
INITIATIVE**

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I. INTRODUCTION

Pacific Gas and Electric Company (PG&E) provides these opening comments on the *Proposed Decision Granting in Part a Petition for Modification Regarding the Administration Budget for the California Solar Initiative*, released on September 3, 2013 (PD or Proposed Decision). As the California Solar Initiative (CSI) program reaches a successful conclusion there are some modifications needed to provide for a smooth close by the CSI Program Administrators (PAs) including PG&E, Southern California Edison Company (SCE) and the California Center for Sustainable Energy (CCSE)^{1/}. However, some provisions of the PD, particularly those calling for retroactive changes in labor and legal cost accounting, should be modified. In the comments that follow, PG&E discusses the following items in more detail:

- PG&E supports the PD provision allowing CCSE to combine their administrative and Marketing and Outreach (M&O) budget and granting PG&E and Southern California Edison (SCE) the flexibility to decide whether or not to do so.

^{1/} CCSE administers the CSI Program in San Diego Gas & Electric Company's (SDG&E's) service territory.

- PG&E supports the PD’s conclusion that costs incurred by the development and implementation of virtual net metering (VNM) prior to July 31, 2012 should continue to be charged to the CSI budget but requests confirmation that the PD provides flexibility to transfer pre-July 31, 2012 costs between the CSI General Market (GM) and the CSI Multi-Family Affordable Solar Housing (MASH) budgets.
- PG&E requests that “fringe labor charges” and “legal costs” be defined more precisely and that any changes in accounting for these items are prospective only.

II. DISCUSSION

A. PG&E Supports Providing the CSI PAs with Discretion to Combine Administrative and M&O Budgets

PG&E supports the Commission providing PG&E and SCE with discretion to combine the CSI GM administrative and M&O budgets.^{2/} The increased flexibility will allow PG&E to allocate dollars in areas where it is needed most. PG&E’s CSI GM program has made significant progress towards meeting its combined residential and non-residential goal of 764.8 MW of installed capacity.^{3/} As the CSI GM program sunsets the need for a separate M&O budget may not be necessary. Instead, combining the M&O budget with the administrative budget will allow PG&E to better manage post-CSI activities that may arise and address any administrative budget deficiencies.

B. Costs Incurred for the Development and Implementation of VNM Prior to July 31st 2012, Should be Permitted to be Charged to the CSI General Market Budget or the CSI MASH Budget

The Commission established the MASH program and the VNM tariff for low-income customers and later expanded VNM eligibility to other customer classes. The Commission directed the CSI PAs to recover VNM development and implementation costs from the CSI General Market administrative budget.^{4/} Conclusion of Law 5 of the PD provides that costs incurred for the development and implementation of VNM prior to July 31, 2012 may be charged

^{2/} PD’s revised CSI GM program budget, Table 2 combines M&O budget (GM and Thermal Electric) with Program administration budget, p.15

^{3/} Data as of September 16, 2013 PG&E has met 107% of its installed residential MW goal and 77% of its installed non-residential goal, www.californiasolarstatistics.org.

^{4/} Resolution E- 4481, Findings and Conclusions 4, p. 47.

to the CSI GM budget or the CSI MASH budget. This denies CCSE's request to push charges after July 20, 2011 to the PAs' GRCs, but approves CCSE's request to provide additional budgeting flexibility to allow pre-July 31, 2012 costs to be charged to *either* the CIS GM budget or the MASH budget.^{5/} PG&E notes that the PD text at page 16 needs to be modified slightly to make it clear that CCSE's request is denied in part and approved in part. This better reflects the PD statements that "Thus, costs incurred by the development and implementation of VNM prior to July 31, 2012, shall be charged to the CSI MASH budget. . . ." and Conclusion of Law 5 referenced above. This is an important improvement to alleviate CSI GM administrative constraints. Since VNM was developed to support the CSI MASH program it makes sense to allow the CSI funding for implementation of VNM to also come out of the MASH administration funds if they are less stretched than GM funds as CSI sunsets.

C. PG&E Recommends Revisions to Conclusions of Law 6 and 7

The PD provides in Conclusions of Law 6 and 7 respectively that: "CSI PAs should seek recovery of fringe labor charges and legal costs through the CSI General Market program administration budget." and "Allowing the CSI PAs to seek recovery of fringe labor charges and legal costs from the general rate base would result in the violation of Pub. Util. Code section 2851, because it would cause the CSI program to exceed the program budget set by the legislature." Several changes should be made on these items.

As explained below, from the beginning of the CSI program until the 2011 General Rate Case (GRC), PG&E allocated "fringe labor charges" as it understood this term to the CSI balancing account. From 2011 to today, per PG&E's 2011 GRC Settlement Agreement approved by the CPUC, PG&E allocated these costs to GRC functions. If a pending settlement agreement in PG&E's 2014 GRC is approved, prospectively these charges will once again be charged to the CSI balancing account. These procedures were audited and the auditors approved

^{5/} Petition of the Center for Sustainable Energy (CCSE) for Modification of Decisions D. 10-09-046, D. D.08-10-036, D.11-07-031 and D.06-08-028 to Address California Solar Initiative General Market Program Administration Budget Issues within CCSE's Program Territory, p. 14.

this process. As explained below, this was reasonable and lawful; new accounting rules should be prospective only and should be clear.

1. Align Definition of “Fringe Labor Costs” for PG&E with Pending Settlement Motion

The PD defines fringe labor costs as “charges related to fringe benefits including benefits like medical, hospital, accident, life insurance, retirement benefits, bonus plans, leave, as well as other such concepts.”^{6/} Several of these words are very imprecise, such as “related to” and “other such concepts.” PG&E requests that the Commission modify the PD so that the term “fringe labor charge” is defined to align exactly with the items included in PG&E’s “benefit burden” charges in its recently filed Motion for Approval of Partial Settlement Agreement between and among Pacific Gas and Electric Company (U 39-M), The Utility Reform Network, and The Marin Energy Authority (Settlement Motion).^{7/} While this Settlement Motion is pending Commission approval, it would provide for a shift of “benefit burden” charges from the General Rate Case (GRC) to the CSI balancing account starting in 2014. By providing a definition in the PD that matches the pending Settlement Motion, there will be certainty as to exactly what costs are to be charged to the CSI Balancing Account. Also, while the PD notes that fringe labor charges are defined by CCSE^{8/}, neither CCSE’s original petition, nor their reply comments, reference the definition included in the Proposed Decision. Therefore PG&E recommends that footnote 11 be deleted in the final Decision and the PD be modified to allow PG&E to use the Settlement Motion benefit burden definition.

In addition, this definition is consistent with the method used to characterize PG&E charges in recent CSI audits. For example, in the CSI Performance Audit, covering program

^{6/} PD footnote 11.

^{7/} Filed on September 6, 2013, in Application 12-11-009/Investigation 13-03-007, this motion includes the following items as employee benefits costs: medical, vision, dental, employee healthcare contributions, group life insurance, short-term incentive payments, 401 K expenses, relocation expenses, short-term disability, tuition reimbursement.

^{8/} PD, p. 9, footnote 11.

years 2010-2011, Macias Consulting Group states that “Some CSI-related employee benefit burdens are authorized for recovery and may be included in the GRC as allowable expenses.”^{9/} The CSI audit illustrates that PG&E has been transparent about the fact that it charged these costs to the GRC starting in 2011,^{10/} consistent with the way benefit burden charges have been handled in other programs with balancing accounts.

Using GRC funds is a reasonable way to handle these types of charges and should not be characterized as illegal under California Public Utilities Code (CA PUC) section 2851. Program administration and management labor charges have been charged to the CSI balancing account and counted toward the CSI spending cap. This is consistent with CA PUC section 2851(e) (1) which provides that the CSI limit “includes moneys collected directly into a tracking account for support of the California Solar Initiative.” Starting in 2011 benefit burden costs for the CSI program were collected and paid from GRC funds rather than the CSI balancing account.^{11/} Broader language originally included in SB 1 that would have required all funds collected in other accounts to count toward the cap was struck by the legislature, providing additional flexibility to the Commission.^{12/} Given this change, PG&E requests that the PD Conclusion of Law 6 be modified to make it clear that collection of these benefit burden charges from the CSI balancing account should be prospective only. In addition, PG&E requests that Conclusion of Law 7 either be removed entirely or revised to state that the Commission now interprets the CSI statute to require that benefit burden costs be charged to the CSI balancing account on a going forward basis.

^{9/} California Solar Initiative External Audit Report, May 28, 2013, p.2, footnote 2.

^{10/} PG&E charged CSI benefit burden charges to the GRC starting in 2011 to the present day.

^{11/} This is consistent with PG&E’s 2011 GRC Settlement approved by the Commission. See D. 11-05-018, Ordering Paragraph 32 and Appendix D of Attachment 1, line 32, providing that this is appropriate rate treatment.

^{12/} Deleted language originally in SB 1 (starting right at the end of (e) (1)) and removed by the legislature several years later by SB 1018 (Effective June 27, 2012): “and moneys collected into other accounts that are used to further the goals of the California Solar Initiative.”

2. Define “Legal Costs” to be Charged to the CSI Program and Make Prospective

Second, in its reply to comments on the Petition to Modify, CCSE sought to require PG&E and SCE to share legal costs such as those related to a formal complaint filed against CCSE at the CPUC^{13/}. As stated in SCE’s letter to CCSE dated July 12, 2012, CCSE did not incur costs on behalf of SCE and PG&E. SCE and PG&E were not even notified about the legal costs for the complaint or CCSE’s intention to collect from them until after the fact.^{14/} Unlike CCSE, PG&E has not had any formal complaints regarding the CSI program. As such, PG&E has not charged any legal costs to the CSI balancing account. In addition, while PG&E has in-house attorneys available to assist when needed, many solar issues cross over into other areas such as interconnection or net energy metering tariffs and should not be charged to the CSI program. Given this overlap of issues and the lack of a formal complaint or specific lawsuit, PG&E’s attorneys have not up until this point specifically tracked time spent on CSI related matters. PG&E respectfully requests that the Commission modify the PD to clarify that on a prospective basis only following adoption of the PD, any future legal costs incurred in defending a complaint against PG&E’s CSI program or other lawsuit naming the PG&E CSI program should be tracked and charged to the CSI program.

III. CONCLUSION

PG&E appreciates the opportunity to provide these comments and requests that the PD be modified as discussed above.

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^{13/} Reply of the California Center for Sustainable Energy (CCSE) to Responses to CCSE’s Petition for Modification of Decisions D.10-09-046, D.08-10-036, D.11-07-031 and D.06-08-028 to Address California Solar Initiative General Market Program Administration Budget Issues within CCSE’s Program Territory, p.14.

^{14/} Ibid, Attachment 1, SCE's Letter to CCSE, July 12, 2012.

