

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
(Filed November 8, 2012)

**THE DIVISION OF RATEPAYER ADVOCATES' REPLY COMMENTS
ON PROPOSED DECISION
GRANTING IN PART A PETITION FOR MODIFICATION
REGARDING THE ADMINISTRATION BUDGET FOR
THE CALIFORNIA SOLAR INITIATIVE**

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I. INTRODUCTION

Pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure, the Division of Ratepayer Advocates (DRA) submits the following reply comments on the Proposed Decision of President Peevey Granting in Part a Petition for Modification Regarding the Administration Budget for the California Solar Initiative ("PD"), issued September 3, 2013. The PD addresses the California Center for Sustainable Energy's (CCSE) August 3, 2012 Petition for Modification to address a potential shortfall in the non-residential portion of its California Solar Initiative (CSI) program administration budget ("Petition").¹ Opening comments were filed on September 23, 2013 by DRA, CCSE, Pacific Gas & Electric Company (PG&E), Southern California Edison Company (SCE), and Solar Energy Industries Association. In these reply comments DRA makes the following points:

- The Proposed Decision correctly interprets Public Utilities Code §2851 with respect to expenses that count toward the budgetary limit.
- Notwithstanding any previous decision(s) that allowed PG&E and/or SCE to charge any CSI-related expenses to General Rate Case (GRC) accounts, the Commission should provide clear guidance to all CSI PAs to ensure compliance with the CSI statute.

II. DISCUSSION

A. The Proposed Decision correctly interprets Public Utilities Code §2851(e).

Senate Bill (SB) 1 (2006), which authorized the CSI program and established the budgetary limitation, clearly states: "The total cost over the duration of these programs shall not exceed two billion one hundred sixty-six million eight hundred thousand dollars (\$2,166,800,000) and includes moneys collected directly into a tracking account for support of the California Solar Initiative and moneys collected into other accounts that are used to further the goals of the California Solar Initiative."² PG&E notes that the specific language "and moneys collected into other accounts that are used to further the goals of the California Solar Initiative" was struck by SB 1018, which became

¹ R.10-05-004 Petition of the California Center for Sustainable Energy (CCSE) 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, <http://docs.cpuc.ca.gov/PublishedDocs/EFILE/PM/172338.PDF>, filed August 3, 2012.

² SB 585 (2011) increased the CSI budget to \$2.36 billion but maintained the accounting language in P.U. Code §2851(e)(1).

effective on June 27, 2012.³ Prior to this, however, the legislative intent was clearly for the budgetary limit to be all-inclusive, that is, all CSI-related expenses should count toward the budget. Further and more importantly, the legislative bill analyses for SB 1018 indicate that this language was struck only to remove barriers on the funding of the New Solar Homes Program, not to allow the IOUs to charge labor benefits to their GRC accounts.⁴ Therefore Conclusions of Law 6 and 7 are correct and, if at all modified, should at minimum comport with the original intent of SB 1, which was to designate all costs incurred in support of the CSI program -- including those collected in accounts other than the CSI tracking account -- as counting toward the statutorily authorized budget.

B. Notwithstanding any previous decision(s) that allowed PG&E and/or SCE to charge any CSI-related expenses to General Rate Case (GRC) accounts, the Commission should provide clear guidance to all CSI PAs to ensure compliance with the cost cap of the CSI statute.

The three electric investor owned utilities appear to have differing interpretations of Public Utilities Code §2851(e). SCE explains that it recovers overhead costs associated with customer programs, including CSI, in its GRC, and claims that this is a “Commission-approved cost recovery practice” although it does not provide any reference to a specific decision that supports this claim.⁵ In its response to CCSE’s Petition, San Diego Gas & Electric Company (SDG&E) opposed CCSE’s request to allocate all past, present and future fringe labor charges and legal costs related to CSI program administration to SDG&E’s general rate base, arguing that doing so “would create an incremental cost burden to SDG&E ratepayers in excess of their currently allocated portion of the total

³ 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, <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M077/K196/77196670.PDF> (“PG&E Comments”), filed September 23, 2013, p. 5 / footnote 12.

⁴ See SB 1018 06/26/12 Assembly Floor Analysis, as amended June 25, 2012, prepared by Gabrielle Meindl, http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_1001-1050/sb_1018_cfa_20120626_132017_asm_floor.html, and 06/26/12 Assembly Floor Analysis, as Amended June 26, 2012, prepared by Gabrielle Meindl, http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_1001-1050/sb_1018_cfa_20120626_171322_asm_floor.html

⁵ R.12-11-005 Comments of Southern California Edison Company (U 338 E) on the Proposed Decision Granting in Part a Petition for Modification Regarding the Administration Budget for the California Solar Initiative, <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M077/K299/77299815.PDF> (“SCE Comments”), filed September 23, 2013, p. 4.

CSI program cost, which is capped by PUC Section 2851(e)(1),” and is therefore illegal.⁶ Finally, while PG&E states that “[u]sing GRC funds is a reasonable way to handle these types of charges and should not be characterized as illegal under [Public Utilities Code Section] 2851,” evidently PG&E’s practice of charging CSI benefit burden charges to its CSI balancing account until 2011 suggests that PG&E also considered these costs as counting toward the CSI budget. PG&E explains that this practice changed as a result of Decision (D.) 11-05-018 approving its 2011 GRC settlement, and that PG&E will revert to its pre-2011 practice if the Commission adopts a partial settlement that is currently pending in its 2014 GRC.⁷ At best, it appears that both the practices and each IOU’s reading of the CSI statute seem to diverge, indicating the need for the Commission to provide clear, standardized guidance to all CSI Program Administrators (PAs) regarding which activities, and which types of expenses, should be charged to their respective CSI budgets. Related to this, the CSI Audit for Program Years 2010-2011 addresses the question of which CSI-related activities SDG&E is allowed to charge to the CSI program, to which SDG&E responded that “the CPUC has not issued the PAs guidance on which activities should be included under the CSI program.”⁸ Based on the limited research DRA was able to perform in preparing these reply comments, SDG&E’s statement appears correct, but DRA would support a further investigation and proposed determination, if necessary, of an equitable solution that parties would have adequate opportunity to review and comment on.

SCE also argues that the Commission “should be mindful of the differences between the operating procedures of an unregulated non-profit PA and of SCE as a regulated utility. The Commission should carefully consider the differences in determining how program administration

⁶ R.10-05-004 Response of San Diego Gas & Electric Company (U902E) to the Petition of the California Center for Sustainable Energy (CCSE) for Modification of Decision (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, <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M027/K134/27134410.PDF>, filed September 4, 2012, pp. 7-8.

⁷ A.12-11-009/I.13-03-007 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, <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M076/K764/76764823.PDF>, filed September 6, 2013.

⁸ California Solar Initiative External Audit, Program Years 2010-2011, published May 28, 2013, http://www.cpuc.ca.gov/NR/rdonlyres/2DAC41AA-F5BE-4A54-ACF1-783BAF94E17E/0/CSIExternalAudit2010_2011.pdf, p. 20.

budgets are determined.”² This argument is irrelevant; if SDG&E were the CSI PA for its service territory, then by the PD’s interpretation of the CSI statute, charging labor fringe expenses to SDG&E’s GRC would still violate the CSI statute. Therefore the cost recovery treatment of all CSI-related expenses should be consistent *for all CSI PAs*, and the Commission should not modify Conclusions of Law 6 and 7 as recommended by SCE.

III. CONCLUSION

DRA recommends that the Commission provide clear guidance to all CSI PAs regarding the appropriate cost recovery practice in compliance with Public Utilities Code Section 2851 for all activities and types of expenses incurred in support of the CSI program.

Respectfully submitted,

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² SCE comments, pp. 4-5.