

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 OFFICE OF RATEPAYER ADVOCATES' REPLY COMMENTS  
REGARDING THE JULY 2, 2014 STAFF  
PROPOSAL FOR IMPLEMENTING ASSEMBLY BILL 217**

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## I. INTRODUCTION

On July 2, 2014, the California Public Utilities Commission (Commission) issued an Administrative Law Judge’s Ruling (1) Incorporating Staff Proposal into the Record (2) Requesting Comments from Parties and (3) Setting Comment Dates (ALJ Ruling). In response to the opening comments of opening parties regarding the Staff Proposal for the Implementation of Assembly Bill 217 (“Staff Proposal”), ORA submits the following reply comments.

## II. DISCUSSION

### A. **The Staff Proposal’ recommendation to pay lower incentives to projects is consistent with Assembly Bill 217’s implicit requirement to install capacity at a lower cost.**

Assembly Bill 217 amended Sections 2851 and 2852 of the Public Utilities Code to extend the Single-family Affordable Solar Homes (SASH) and Multifamily Affordable Solar Housing (MASH) programs “until the exhaustion of up to \$108 million in new incentive funding, or the end of the year 2021, whichever occur earlier.”<sup>1</sup> AB 217 authorizes up to \$108 million in new incentives for the SASH and MASH programs,<sup>2</sup> and requires the installation of 50 megawatts (MW) of new capacity.<sup>3</sup> The Staff Proposal observes that “this ambitious goal represents a doubling of the solar capacity incentivized by the program to-date, with only half the amount of incentive funding,”<sup>4</sup> and recommends a plan for achieving the goal.

The Staff Proposal would lower MASH incentives from the current levels of \$1.90 per watt for capacity serving common area load, and \$2.80 per watt for capacity serving tenant load, to \$0.90 per watt for projects that meet the basic requirements for eligibility<sup>5</sup> and \$1.40 per watt for projects that exceed basic eligibility criteria. The MASH Coalition opposes the proposed cuts in the MASH incentive funding levels, arguing that incentive levels must remain in the range of \$1.80 to \$2.00 per

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<sup>1</sup> ALJ Ruling, p. 2.

<sup>2</sup> Public Utilities Code Section 2851(f).

<sup>3</sup> ALJ Ruling, p. 2.

<sup>4</sup> Staff Proposal, p. 12.

<sup>5</sup> AB 217 amended Public Utilities Code Section 2852 to require that the SASH and MASH programs maximize ratepayer benefits; requires participants who received incentives to enroll in the Energy Savings Assistance Program, and provide job training and employment opportunities in the solar energy and energy efficiency sectors of the economy. Public Utilities Code Section 2852(d).

watt in order “to make PV [photo voltaic] feasible for most existing affordable housing properties.”<sup>6</sup> The MASH coalition contends that “[r]educing subsidies too far does not mean that more money will be spread among more projects, but rather that most deals will become unfeasible and so very few projects will have access to funding.”<sup>7</sup>

The Center for Sustainable Energy (CSE) does not share the MASH Coalition’s concern that the Staff Proposal’s recommended level of MASH incentives is too low:

“Beyond incentives, CSE believes there are inherent motivators for low-income non-profit housing providers to continue to pursue solar installations, such as the federal investment tax credit, low-income tax credits and mandates to meet net zero energy buildings, and allowing for continued utilization of the Virtual Net Metering tariff will only add to these other motivators.”<sup>8</sup>

While it is impossible to know in advance whether the proposed MASH incentive levels are too low or at the correct level that will maximize installations and promote the goals of AB 217, ORA recommends that the Commission adopt the Staff Proposal’s recommended incentive levels. The alternative of keeping incentives at the current level would risk spending more money than necessary to complete installations, and make it difficult, if not impossible, to achieve AB 217’s capacity goal.

**B. The Staff Proposal’s recommendation not to pay incentives to projects that are already built is consistent with Assembly Bill 217’s requirement to install capacity at a lower cost.**

The Staff Proposal notes that the MASH program has a “very expansive waitlist of interested applicants,” with total capacity reservations in excess of the amount authorized by AB 217.<sup>9</sup> Rather than requiring waitlisted parties to start the process all over, the Staff Proposal recommends that waitlisted parties be allowed to claim incentives if the project has not yet been built and if the applicant agrees to abide by new MASH rules, including lower incentive rates, as well as job training and energy

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<sup>6</sup> Comments of MASH Coalition regarding AB 217 Implementation Staff Proposal, July 22, 2014 (MASH Comments), p. 11.

<sup>7</sup> MASH Comments, p. 12.

<sup>8</sup> Comments of the Center for Sustainable Energy regarding the Administrative Law Judge’s Ruling (1) Incorporating Staff Proposal into the Record (2) Requesting Comments from Parties and (3) Setting Comment Dates, July 22, 2014 (CSE Comments), p. 10

<sup>9</sup> Staff Proposal, p. 25.

efficiency activities.<sup>10</sup> Pacific Gas and Electric Company (PG&E) agrees with the Staff Proposal, and further recommends:

“allowing MASH waitlisted applicants to keep their place on the waitlist, and once the final Commission Decision is released, provide the applicant with 30 days from the Decision issuance date to submit confirmation that their project will meet the new MASH rules and application requirements. Any project that does not submit this confirmation would be removed from the waitlist.”<sup>11</sup>

ORA agrees with the Staff Proposal regarding the treatment of projects on the waitlist, as further refined by the recommendations of PG&E. In contrast, the MASH Coalition opposes the requirement that incentives should be reserved for projects that have not yet been built, arguing that the MASH program “allows MASH incentives up to 12 months after completion.”<sup>12</sup> The MASH Coalition further contends that once AB 217 passed and the program administrators opened the waitlists, “sponsors had reasonable expectations that projects would happen.”<sup>13</sup>

Neither argument is persuasive. The provision that allows incentives to be paid up to 12 months after a system was built was implemented years ago, when the California Solar Initiative was in its early stages of development and program administrators were attempting to simplify the process.<sup>14</sup> It does not guarantee that a project will receive funding. Nor did waitlisted project sponsors have any “reasonable expectations” that they were entitled to incentives. Attached to ORA’s comments are examples of a conditional reservation issued to a MASH project, as well as a waitlist

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<sup>10</sup> Staff Proposal, p. 25.

<sup>11</sup> Comments of Pacific Gas and Electric Company (U 39 E) to the Administrative Law Judge’s Ruling (1) Incorporating Staff Proposal into the Record (2) Requesting Comments from Parties and (3) Setting Comment Dates, July 22, 2014 (PG&E Comments), p. 10; see also Comments of Southern California Edison Company (U 338 E) on the Administrative Law Judge’s Ruling (1) Incorporating Staff Proposal into the Record (2) Requesting Comments from Parties and (3) Setting Comment Dates, July 22, 2014 (SCE Comments), p. 6 (“Rather than requiring waitlisted MASH applications to reapply for incentives along with new applicants, SCE recommends that customers on the waitlist complete and/or submit the additional requirements under AB 217 and be processed for MASH incentive claims in the order they were placed on the waitlist.”)

<sup>12</sup> MASH Coalition Comments, p. 12.

<sup>13</sup> MASH Coalition Comments, p. 12.

<sup>14</sup> See Advice 3473-E, submitted June 20, 2009, by PG&E on behalf of the three program administrators at pp. 6-7 (“This option will eliminate all unnecessary paperwork and will provide a faster processing time for customers that have already been interconnected. It will allow for faster payments to Customers.”) available at <http://www.pge.com/nots/rates/tariffs/2009-e.shtml>

confirmation of receipt of a MASH rebate application.<sup>15</sup> The conditional reservation notice “confirms that a conditional reservation has been issued for your proposed Photovoltaic (PV) project.” The conditional reservation notice contains the incentive rate and the reserved incentive amount. In contrast, the waitlist confirmation of receipt states that “the requested funds exceeds the available incentive budget” and does not include an incentive rate or reserved incentive amount. The waitlist confirmation created no “reasonable expectation” that an incentive was forthcoming.

The Staff Proposal’s recommendation to limit incentives for waitlisted projects to those not yet built would allow more MASH projects to receive funding, thus achieving the AB 217 requirement that the SASH and MASH programs maximize ratepayer benefits. Rather than providing incentives to projects that were successfully completed without ratepayer funding, incentives should be reserved for projects that are not yet built, thereby allowing more low income customers to receive the benefits of the MASH program.

**C. The Staff Proposal’s recommendation to apportion money equally between the SASH and MASH programs is consistent with the goal of promoting access to solar to customers who would not have other options.**

The Staff Proposal recommends allocating 37.5 MW of the AB 217 capacity goal to the MASH program, and 12.5 MW to the SASH program.<sup>16</sup> Funding for each program would be \$54 million, or an equitable split.<sup>17</sup> This recommendation recognizes the greater costs and challenges associated with installing PV systems on single-family homes of low income residents.<sup>18</sup>

The MASH Coalition disagrees, arguing that the need to “allocate more funds to MASH than SASH is not only driven by sound policymaking principles, but is also dictated by the Legislature’s ambitious goal in AB 217 of doubling solar capacity incentivized with only half the funding, relative to the first round of MASH and SASH.”<sup>19</sup> The Staff Proposal correctly notes that the purpose of SASH

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<sup>15</sup> Attachment A, CSI Conditional Reservation Notice (obtained from PG&E) and Confirmation of Receipt of MASH Application (obtained from SCE).

<sup>16</sup> Staff Proposal, p. 14.

<sup>17</sup> Staff Proposal, p. 14.

<sup>18</sup> Staff Proposal, p. 14 (“In terms of access to solar power, low income single-family homeowners face daunting financial barriers, especially in a solar marketplace where an emphasis on credit scores and creditworthiness are an important (if often overlooked) prerequisite to many residential solar financing options.”)

<sup>19</sup> MASH Coalition Comments, p. 8.

and MASH programs is “not to maximize the number of megawatts that could, in theory, be built” but rather “to ensure access to solar power for low income Californians.”<sup>20</sup>

CSE agrees with the equal split of funding between the MASH and SASH programs,<sup>21</sup> and recommends that to maximize the available incentives, the program administrators should be authorized to “set aside the \$54 million in new funding for the MASH program solely for incentives” and allowed to roll over any remaining MASH administrative funds to the extended program.<sup>22</sup>

ORA supports splitting the incentive budget evenly between the MASH and SASH program, but allowing the program administrators to roll over their existing administrative budgets, so that the entire new \$108 million can be allocated to incentives, as CSE recommends. This would maximize the number of low income customers to benefit from the SASH and MASH programs.

**D. The Staff Proposal’s recommendation to allow SASH customers to use the third party ownership model should be carefully explored before deciding whether to adopt it.**

The Staff Proposal recommends that to operate within the constraints of lower incentives available under AB 217, the SASH Program Administrators be allowed to offer third-party ownership (TPO) of SASH solar systems. In general ORA does not oppose TPO of solar systems and recognizes that the current growth of the residential solar market is largely a result of solar leases and power purchase agreements. ORA nevertheless agrees with PG&E that TPO of SASH systems requires further investigation.<sup>23</sup> ORA also shares SCE’s concern that before allowing TPO of SASH systems that the Commission develop adequate consumer protections to ensure that SASH participants do not fall victim to predatory financing schemes and do not take on additional debt that they may not be able to afford.<sup>24</sup> The Commission should protect the most vulnerable customers which includes SASH system customers. Allowing TPO of SASH systems exposes low income customers to a whole host of risks, including loss of their homes in the event of default.

GRID Alternatives, the current SASH administrator, recommends the following TPO baseline standards for SASH participants:

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<sup>20</sup> Staff Proposal, p. 14.

<sup>21</sup> CSE Comments, p. 10 (“to be equitable, both low-income programs should be allocated equal funding.”)

<sup>22</sup> CSE Comments, p. 9.

<sup>23</sup> PG&E Comments, p. 12.

<sup>24</sup> SCE Comments, p. 8.

- Ensure SASH customers receive at least 50% of the savings, as compared to standard utility rates, from the solar generating equipment
- Reduce or eliminate barriers for customers with poor credit (low FICO scores) to qualify and participate
- Address concerns that homeowners may have about moving or selling their home during the TPO contract term
- Cover maintenance, operations, inverter replacement, and monitoring
- Not allow liens to be placed on homes
- Minimize the risk to the low-income customer that the solar system would be removed for delinquent payments
- Ensure that all costs are apparent and up front and that there is no risk that the TPO deal would result in an additional financial burden to the family.<sup>25</sup>

ORA agrees with PG&E that before allowing TPO of SASH, the Commission should hold workshops to address the costs, benefits, and safeguards necessary prior to allowing TPO of SASH<sup>26</sup> including consideration of the baseline standards that GRID Alternative recommends.

**E. The Staff Proposal's recommendation to switch to a single statewide administrator should not be adopted now, since switching administrators would require shifting administrative dollars that at this point should be directed to incentives.**

The Staff Proposal recommends that the Commission consider the consolidation of MASH program administration into a single statewide third-party Program Administrator (PA), similar to that of GRID Alternatives as the single statewide third-party PA for the SASH program. ORA generally supports the notion of a single statewide third-party PA as promoting administrative efficiencies through economies of scale, and ORA supports GRID Alternatives as the single statewide SASH program PA.<sup>27</sup> However, in the case of the limited AB 217 extension of the MASH program, switching PA midstream would likely result in additional administrative dollars to shut-down the current PA MASH programs and transfer to the single third-party PA MASH program. ORA recommends saving those potential administrative costs in order to direct those ratepayer funded dollars to the direct MASH incentives. This will support the AB 217 requirement that the MASH program maximize ratepayer benefits.

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<sup>25</sup> Opening Comments of GRID Alternatives Regarding the Staff Proposal Dated July 2, 2014 for Assembly Bill 217 Implementation, July 2, 2014 (GRID Alternatives Comments), p. 9.

<sup>26</sup> PG&E Comments, p. 12.

<sup>27</sup> GRID Alternatives Comments, pp. 6-7.



Also, the Staff Proposal specifies that the MASH program currently has a very expansive waitlist of interested applicants.<sup>28</sup> There are over 50 megawatts of MASH projects now waitlisted, more than the entire capacity goal of the program as reauthorized under AB 217. Given this strong market demand for MASH, the entire AB 217 MASH program extension could be fully subscribed within months of re-opening the program. As such, it makes no sense to go through an administratively costly transfer of PA responsibilities with the potential that the program will be so short lived.

### III. CONCLUSION

ORA appreciates the opportunity to submit reply comments on the Staff Proposal to implement AB 217.

Respectfully submitted,

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<sup>28</sup> Staff Proposal, p. 25.

