



**Northern  
California  
Solar Energy  
Association**

**Celebrating 30 years of solar education and advocacy.  
1975-2005**

May 16, 2006

*HAND DELIVERED*

DOCKET OFFICE  
California Public Utilities Commission  
505 Van Ness Avenue, Room 2001  
San Francisco, CA 94102

RE: Order Instituting Rulemaking Regarding Policies, Procedures, and Rules for the California Solar Initiative, the Self-Generation Incentive Program and Other Distributed Generation Issues, R.06-03-004

**Dear Docket Clerk:**

Enclosed for filing are an original and (5) copies of NorCal Solar Energy Association comments on the Staff Proposal for California Solar Initiative Design and Administration 2007-2016 (Rulemaking 06-06-004 filed March 2, 2006) in the above-referenced matter.

Please file the original and return the stamped copy in the envelope provided. Thank you for your assistance with this matter.

Sincerely,

Liz Merry  
Executive Director

CC: ALJ Dorothy Duda  
Michael R. Peevey, President  
Valerie Beck, Energy Division  
All Parties on Official Service List for R.06-03-004

**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 April 24, 2006)

**NorCal Solar Energy Association  
Comments on Staff Proposal for Design and Administration  
of the California Solar Initiative  
(Small Systems Portion only)**

**May 16, 2006**

**NorCal Solar Energy Association**

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**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  
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**NorCal Solar Energy Association  
Comments on Staff Proposal for Design and Administration  
of the California Solar Initiative  
(Small Systems Portion only)**

1) INTRODUCTION

NorCal Solar Energy Association (NCSEA) respectfully submits these comments on the modification to the Staff Proposal for administration of the California Solar Initiative small systems program (CSI.) Our comments specifically address the modification of section 6.2 of the original Staff Proposal issued on April 24, 2006. These modifications were described in the ‘Additional Guidance’ memo dated May 9, 2006.

We support the initial staff conclusion that the goals of the CSI are best served by a non-profit 501(c)(3) administrator, and we find that administration by an investor owned utility (IOU) could have significant a negative impacts on the small system portion of the CSI. NCSEA requests that the small systems administrator be chosen by a panel of interested parties rather than a single investor owned utility (IOU.) Also, we disagree that the CSI should be administered by an IOU on an interim basis pending a final ruling from the IRS on the taxability of incentives administered by a non-profit. NCSEA recommends that the CPUC invite SDREO to submit an initial proposal to administer the statewide small system program.

2) ADMINISTRATION

NorCal Solar Energy Association strongly supports the original staff proposal to prescribe that a non-profit 501(c)(3) organization administers the statewide the small systems program. A non-profit organization is highly preferable to either an IOU or a for-profit consulting-based organization for the following reasons.

## Open Governance

- A. Clear, timely, and detailed data on program results is needed for the solar advocacy community to assess the progress and effectiveness of the CSI, and to effectively participate in its promotion to the public. To date, the IOUs have been less than forthcoming about program costs, budgeting process, or their own efforts to influence the SGIP budget. The IOUs have been slow to publicize data about solar installations under the SGIP, and have rarely shared information without specific direction from the CPUC.
- B. The opaque decision-making process in a private utility means the public has no way of knowing whether the company is undermining one business program with another. The Staff Proposal rightly clarifies that the administrator should have neither real nor perceived conflicts of interest that would weaken implementation of the CSI. For instance, when IOU lawyers are arguing against removing the net metering cap, and their engineers are arguing against distributed generation, and their lobbyists are working for pro-nuclear policies in California – how is the public to know that the utility is really behind the goals of the CSI?

To ensure the integrity of the CSI implementation the organization administering the program must have a demonstrated history of supporting solar, and should fully embrace the publicly reviewed plan for reaching these goals.

## Collaborative and innovative implementation

- A. We believe that effective collaboration among the solar industry, solar education and advocacy groups, government agencies, and both the large utilities and the small multi jurisdictional utilities (SMJUs) will be needed in order to reach the CSI goals. These goals provide such a unique and important vision for the future that it will take “all hands on deck” to reach the target. Non-profits are fast and flexible, and they generally prefer collaboration over competition and are not bound to their shareholders in their business decisions.

The CSI administrator will have to be able to address unexpected shifts in the solar industry, technology developments, and economic scenarios. The project requires an

innovative and flexible administrator that will raise challenges and suggest solutions before the program goals are at risk, rather than relying on a strategic EM&V plan to explain why the program failed.

### Public skepticism

- A. Whether earned or not, there exists a distinct customer skepticism of IOUs, which is more prevalent in the residential than the large commercial sector. The doubts are raised due to politics (e.g. contributions, campaigns, lobbying, etc.), the energy crisis, and their perceived history of environmental insensitivity (e.g. nuclear investments, anti-environmental legislation, insensitive hydropower, etc.) The CSI should not suffer through potential negative public perceptions, nor should the IOUs be able to ‘green-wash’ the rest of their business practices because they were directed to administer the CSI.
- B. The IOUs have demonstrated repeated efforts to limit distributed generation in the residential sector (e.g. net metering caps, anti-solar TOU rate adjustments, attachment of the green value of homeowner generated power, fighting RPS standards, etc.), and so they are in conflict with the small system portion of the CSI. One sector of their business affects the others and because of their for profit shareholder constraints it is not possible to have a “wall of integrity” around the CSI program that separates it from the rest of the utility business practices.
- C. We are sensitive to the current advertising campaigns on radio and TV that do not bode well for future IOU generated ‘solar education’ marketing. These ads purport to promote solar energy, but they don’t mention the benefits of solar, how to install it, or even reference the state’s current incentive program. The ads do tout the IOU itself and how wonderful the IOU is for installing so much solar power. This current ad campaign is indicative of how utilities may be disingenuous toward the CSI. We fear the education and marketing campaigns will promote the IOU primarily, and solar secondarily.

### Cost

- A. Although it is hard information to come by, we estimate that the IOUs charge in excess of 40% overhead on their energy efficiency programs. This rate may be

understandable in the context of making a profit for shareholders. However, the CSI funding will go much further with the lower overhead rate generally charged by non-profit organizations.

#### Data collection and transparency

- A. It is important that the public have easy access to detailed information about the solar incentives paid out of the CSI. This information allows the industry to adjust their marketing strategies.
- B. The incentive processing software should facilitate easy data analysis and reporting across utility regions and other state solar programs. Ideally the incentives will be processed using the same software most prevalent in other states so data can be easily analyzed to compare programs across the country. Program data is a powerful tool for solar advocates and industry researchers, and it should not be stifled due to proprietary “black box” software systems. The CSI administrator should be required to share all non-personal data so we can compare the CSI to other state programs, reduce processing errors (which can be caught by outside review), and maintain program credibility among customers and their solar contractors.

## 2) TAXATION ISSUE

NCSEA supports the CPUC initiative to request a final ruling from the IRS regarding the taxability of solar incentives when they are funded by ratepayers through a utility, and administered by a non-profit organization. However, this issue should not affect the choice of program administrator.

The taxation issue has existed since the first state solar incentives were distributed. Several government agencies, legislators, and business associations have requested clarification from the IRS on Section 1364 Subsection 136 of the tax code, and more pressure should be applied to receive an official Ruling.<sup>1</sup> However, it is instructive to remember that energy efficiency rebates

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<sup>1</sup> Section 136 Energy conservation subsidies provided by public utilities (a) Gross income shall not include the value of any subsidy provided (directly or indirectly) by a public utility to a customer for the purchase or installation of any energy conservation measure. Section 1364 Exclusion for energy conservation subsidies Public Utility Defined: For a subsidy to qualify for the exclusion, the public utility providing it must be a person engaged in the sale of electricity or natural gas to residential, commercial, or industrial customers for use by

distributed by non-profits through the 3<sup>rd</sup> Party programs encountered no issues with incentive taxation and solar incentives should be no different.

### 3) ADMINISTRATOR SELECTION

We are concerned that PG&E has been given final decision-making authority over the choice of CSI small system administrator. The conflict of interest inherent in a utility with real or perceived anti-solar policies requires a diverse and balanced decision making process. We ask that the final decision remain with a panel comprised of representatives from the CEC, CPUC, utility program administrators (including the SMJUs), TURN, and the Division of Ratepayer Advocates. By including the SMJUs the state has a better chance of developing a program and administrator that could cover *all utilities* in the future.

### 4) CONCLUSION

NorCal Solar supports statewide administration of the small system program by a 501(c)(3) non-profit organization and finds that this implementation decision is vital to the success of the CSI. Recruiting a non-profit administrator at this time would avoid the potential for and appearance of conflicts of interest, ensure there is open governance of the contract, and enable a regional collaboration among solar advocacy groups. We recommend that San Diego Regional Energy Office (SDREO) be invited to submit a proposal to administer a statewide CSI small system program. We make this recommendation because: A) they would conceivably have enough time to avoid a delay in the program as it transitions from the CEC, B) because they have a clear track record of success in implementing multiple incentive programs, pro-solar policies, and working in collaboration with other organizations, and C) for practical purposes SDREO is the likeliest contractor and an initial proposal will give the CPUC more guidance about what is possible in terms of timing and implementation.

We concede there may be procedural barriers to single-sourcing this program, however, we see no difference between single-sourcing it to one utility vs. single sourcing it to a non-profit with a significant track record in successfully implementing energy efficiency programs

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the customers. The federal government, state or local governments, and their political subdivisions or instrumentalities can be a public utility for this purpose. Code Sec. 136(c)(2)(B).

Finally, we strongly support the initial staff recommendation that the final contractor decision rest with a diverse advisory panel that seeks public guidance in their deliberation process.

### Background

NorCal Solar Energy Association is a non-profit, public benefit organization formed in 1975 to promote the use of solar technology through the exchange of information. We produce solar education programs throughout Northern California. Our projects include distribution of a Solar Energy Resource Guide, coordination of Solar Home Tours, publication of a monthly electronic newsletter, maintenance of an extensive website full of educational resources, and production of educational workshops.



### **CERTIFICATE OF SERVICE**

I hereby certify that I have this day served an original and five copies of these comments of NorCal Solar Energy Association regarding Order Instituting Rulemaking Regarding Policies, Procedures and Rules for the California Solar Initiative, the Self-Generation Incentive Program and Other Distributed Generation Issues. R 06-03-004. Executed on May 16, 2006.



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**R.06-03--004 Service List (as of 5/11/06)**

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