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)

COMMENTS OF THE CALIFORNIA ENERGY STORAGE ALLIANCE IN RESPONSE TO PROPOSED DECISION PARTIALLY SUSPENDING DISBURSEMENT OF 2016 PROGRAM YEAR FUNDS AND ACCEPTANCE OF NEW APPLICATION FOR THE SELF-GENERATION INCENTIVE PROGRAM

Donald C. Liddell
DOUGLASS & LIDDELL
2928 2nd Avenue
San Diego, California 92103
Telephone: (619) 993-9096
Facsimile: (619) 296-4662
Email: liddell@energyattorney.com

Counsel for the
CALIFORNIA ENERGY STORAGE ALLIANCE

December 7, 2015

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The California Energy Storage Alliance ("CESA")[1] hereby submits these comments pursuant to the Rules of Practice and Procedure of the California Public Utilities Commission ("Commission"), and the *Proposed Decision Partially Suspending Disbursement of 2016 Program Year Funds and Acceptance of New Applications for the Self-Generation Incentive Program*, issued by Assigned Commissioner, President Michael Picker on November 17, 2015 ("PD").

[1] 1 Energy Systems Inc., Abengoa, Advanced Microgrid Solutions, AES Energy Storage, Aquion Energy, ARES North America, Brookfield, Chargepoint, Clean Energy Systems, CODA Energy, Consolidated Edison Development, Inc., Cumulus Energy Storage, Customized Energy Solutions, Demand Energy, Duke Energy, Dynapower Company, LLC, Eagle Crest Energy Company, East Penn Manufacturing Company, Ecoult, ELSYS Inc., Energy Storage Systems, Inc., Enersys, EnerVault Corporation, Enphase ENERGY, EV Grid, Flextronics, GE Energy Storage, Green Charge Networks, Greensmith Energy, Gridtential Energy, Inc., Hitachi Chemical Co., Ice Energy, IMERGY Power Systems, Innovation Core SEI, Inc. (A Sumitomo Electric Company), Invenergy LLC, K&L Gates, LG Chem Power, Inc., LightSail Energy, Lockheed Martin Advanced Energy Storage LLC, LS Power Development, LLC, Manatt, Phelps & Phillips, LLP, Mitsubishi Corporation (Americas), Mobile Solar, NEC Energy Solutions, Inc., NextEra Energy Resources, NRG Solar LLC, OutBack Power Technologies, Panasonic, Parker Hannifin Corporation, Powertree Services Inc., Primus Power Corporation, Princeton Power Systems, Recurrent Energy, Renewable Energy Systems Americas Inc., Rosendin Electric, S&C Electric Company, Saft America Inc., Sharp Electronics Corporation, Skylar Capital Management, SolarCity, Sony Corporation of America, Sovereign Energy, STEM, SunEdison, SunPower, Toshiba International Corporation, Trimark Associates, Inc., Tri-Technic, Wellhead Electric. The views expressed in these Comments are those of CESA, and do not necessarily reflect the views of all of the individual CESA member companies. (http://storagealliance.org).

I. INTRODUCTION.

Public Utilities Code Section 379.6 was amended on June 20, 2014, by Senate Bill 861 to include revisions to Self-Generation Incentive Program ("SGIP") eligibility requirements, program evaluation criteria, project-level requirements, and various program processes. These reforms are designed to inform and revise the SGIP going forward.[2] The overarching intent of SB 861 was to use the ratepayer-funded SGIP to curb greenhouse gas ("GHG") emissions and other air pollutants and support technologies that increase the efficiency, reliability, and utilization of existing grid assets.

CESA appreciates the opportunity to provide these comments in response to the PD, which proposed to authorize commitment of 50% of 2016 SGIP funding expected to be available on January 1, 2016, although implementation of contemplated SGIP reforms appeared very likely to be incomplete at that time.[3]

Subsequent to issuance of the PD, parties were served with a copy of an Energy Division Staff Proposal ("Proposal") along with a comment schedule that makes completion of the SB 861 reform implementation process by January 1, 2016 essentially impossible.[4]

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[2] *See, Assigned Commissioner's Ruling and Scoping Memo*, issued June 9, 2014.

[3] *See, Assigned Commissioner's Ruling Setting Expedited Comment Schedule on Potential Program Changes and Funding For the Self-Generation Incentive Program*, issued on November 3, 2015, where it was noted that because a final decision would likely not be issued until sometime in 2016, approximately $77 million of additional incentive funding will become available in January 2016 under the existing SGIP rules.

[4] *See, Assigned Commissioner's Ruling (1) Issuing an Energy Division Proposal on Senate Bill 861Modifications to the Self-Generation Incentive Program (2) Entering the Staff Proposal Into the Record*, issued on November 23, 2015 ("ACR"), that invites comment on the Energy Division's Staff Proposal with 45 days of issuance of the ACR and allows reply comments to be filed within 15 days thereafter. Commission action on the Energy Division Staff Proposal ("Proposal") could thus occur no earlier than January 13, 2016.

II. OPTIMUM PROGRAM BENEFITS AND FULL COMPLIANCE WITH SB 861 WOULD BE ATTAINED IF THE COMMISSION WERE TO DELAY RELEASE OF FUNDS UNTIL REVISED SELF-GENERATION INCENTIVE PROGRAM RULES HAVE BEEN IMPLEMENTED.

CESA very recently commented on the rationale for delaying release of 2016 SGIP funds for several months.[5] CESA continues to believe the Commission should proceed to complete implementation of SGIP reforms as early as practicable in 2016 and release 2016 SGIP funds at that time. Only if the program opening appears to be excessively delayed, should the Commission consider authorizing release of 2016 SGIP funds. In its Comments, CESA recommended the Commission authorize release of SGIP funds opening on April 1, 2016, because a three-month delay would provide time needed to complete and approve the required SGIP revisions, and direct the SGIP Program Administrators ("PAs") to make appropriate administrative changes. In this interim period, PAs would be expected to, among other things, update the SGIP Handbook to reflect the updated Greenhouse Gas ("GHG") Emissions Factor for SGIP eligibility.[6]

The Commission already has a robust record of facts and argument to support required SGIP reforms. In April of this year, the Commission invited comments on multiple potential changes to enhance the fairness and value of funds distributed through the SGIP. CESA expected then, and continues to expect to support these changes in the main.[7] With a complete

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[5] *Comments of The California Energy Storage Alliance In Response To Assigned Commissioner's Ruling Setting Expedited Comment Schedule On Potential Program Changes And Funding For The Self-Generation Incentive Program*, filed November 6, 2015.

[6] *Decision Revising the Greenhouse Gas Emission Factor to Determine Eligibility to Participate in the Self-Generation Incentive Program Pursuant to Public Utilities Code Section 379.6(b)(2) as Amended by Senate Bill 861*, D.15-11-027, issued November 19, 2015.

[7] *Comments of the California Energy Storage Alliance In Response to Assigned Commissioner's Ruling Seeking Comment On Senate Bill 861 Compliance and Review Of Self Generation Incentive Program,* filed May 22, 2015; and *Reply Comments of the California Energy Storage Alliance in Response to Assigned Commissioner's Ruling Seeking Comment on Senate Bill 861 Compliance and Review of Self-Generation Incentive Program*, filed June 9, 2015.

record at hand, a delay of several months seemed reasonable when CESA filed its comments on the timing of SB 861 implementation in November.

III. IF THE COMMISSION DETERMINES THAT PARTIAL FUNDING OF THE SELF GENERATION INCENTIVE PROGRAM ON JANUARY 1, 2016 IS APPROPRIATE, SEVERAL KEY CHANGES AND REQUIREMENTS ARE NEEDED.

The PD proposes to suspend 50% of the available 2016 SGIP funds, opening additional funds to SGIP applicants on January 1, 2016. While CESA has opposed the immediate release of funds in 2016, given the potential to implement valuable SGIP reforms relatively soon, CESA acknowledges the Commission's view that further delays in SGIP can create potential challenges for developers.[8] CESA thus offers several crucial requirements the Commission should adopt in its final decision *if* it directs release of a portion of the 2015 funds. These requirements are modest yet designed to promote fairness among all project applicants and to reduce any potential rewards to participants who merely congest the application pool, regardless of individual project merits. CESA respectfully suggests that the Commission accept these changes as a condition of its final decision because they provide reasonableness and benefits needed to create a fairer and smarter SGIP program. CESA is confident the program administrators (PAs) can readily implement these few enhancements with limited Commission oversight.

A. The PAs Should Randomize the Selection of Projects Submitted on Day 1 to Avoid Favoring Participants Who May Overwhelm Fair Administration of the Project Queue.

The Commission and the PAs are well aware that competition for SGIP funds can be fierce. SGIP should accept projects in a reasonable fashion, rather than rewarding project

[8] "The issue to be decided is fundamentally a trade-off between disrupting the market for customer-sited generation and storage technologies by delaying incentive availability, potentially for several months, and the opportunity to spend ratepayer-funded incentives more effectively by reallocating funding among technology classes and/or lowering incentive levels for some or all technologies, and/or making other program revisions." (PD, pp. 5-6).

developers who focus on "winning" the SGIP funds. Historically, parties have won outsized SGIP incentives through a focus on this opening day, rather than through fair selection by the Commission.[9]

CESA therefore recommends the Commission require the PAs to randomize the selection of all projects submitted on the opening day of 2016 SGIP funding.[10] This can be done by accepting all applications and then fairly and arbitrarily randomizing the selection of projects.[11] There is no drawback to this approach. It allows all available SGIP money to fund projects, but would guard against the likelihood that a small minority of parties capturing outsized portions of the funding, based on business structures such as size and sophistication unrelated to actually deploying SGIP projects.

B. The Percentages Used for Manufacturers Caps Should be Applied to the Released Amount of Available Funds, Not the Total (Annual) Amount.

The Manufacturer's Cap ensures a broader market development by limiting the amount of SGIP incentive funds granted to any one company. The Commission should enforce this policy requirement in any release of SGIP funds by linking the percentage of the Manufacturer's Cap to the released amount of funds. For example, if the Commission releases 50% of the 2016 SGIP funds, the Manufacturers Caps should be proportionally set at 40% of the 50% released SGIP funds ($41.5M), not 40% of the total annual funding ($83M). Allowing any outsize "grab" of released funds by any single manufacturer would be counter at this time to the market

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[9] *See*, Proposal, at p. 23.

[10] This equitable approach has been used in a variety of contexts. For hydro projects, for one example, where two permit applications are deemed filed on the same date and at the same time, the FERC's longstanding practice has been to break the tie by means of a lottery. See FFP Qualified Hydro 14, LLC, Order Granting Motion to Intervene Out-of-Time and Denying Rehearing, 147 FERC ¶ 61,233, at ¶ 7 n.9 (2014) ("Rehearing Order") (citing *Petersburg Mun. Power & Light v. FERC*, 409 F. App'x 364, 366 (D.C. Cir. 2011)).

[11] Microsoft Xcel, for example, includes a random number generation tool that can be used to aid in this randomizing process.

transformation objectives of the SGIP. The Commission can and should avoid this sort of potentially catastrophic policy outcome.

C. The Updated GHG Emission Eligibility Factor Should be Immediately Implemented For All New Projects Receiving 2016 Funding

Much Commission consideration yielded the new GHG Emissions Eligibility Factors. The Commission should of course use and enforce these new emissions factors, which would be very straightforward to implement under the current SGIP Handbook. To do otherwise would directly contravene the GHG-reductions goals stipulated in SB 861. CESA is concerned that any lack of clarity regarding the timing of implementation dates for the new GHG Emissions Eligibility Factor – which should be now – could potentially promote SGIP participation by ineligible resources, creating confusion, delays, and inappropriately funded projects.

D. Should the Commission Move Forward with a Partial Disbursement of 2016 Funds, it Should Consider a Lower Level of Interim Funding for 2016 – Incremental Funding Releases (up to 50% of the Annual SGIP Budget) Can be Awarded to Wait-Listed Projects.

The PD expresses the view that the 50% funding level "strikes a balance between the negative effects of a market disruption and the benefits of re-designing the SGIP program." However, CESA is concerned that the Commission may be considering a 50% level because it seems to work for half of the parties that filed comments. CESA recommends a potentially more sophisticated, or nuanced, funding release-structure.

CESA recommends release of 2016 SGIP funds in 25% budget increments up to the 50% funding release envisioned in the PD. This incremental method would involve a release of 25% of annual budgeted funds on January 1, 2016 ($20.75M), with an additional 25% of funds set-aside only for release to waitlisted projects). Only after waiting several months, in which time the Commission should try to implement new program rules if possible, should the balance of the 50% funding be released ($20.75M). A wait-list should be established after the first $20.75

million. Only after waiting several months, during which time the Commission should strive to implement new program rules if possible, should the remaining $20.75M of 50% authorized 2016 SGIP funds be released. These funds should be applied to the wait-listed SGIP-eligible projects.

CESA believes this proposed release structure provides several important benefits. First, it serves to address concerns of excessive market disruption. It does this by ensuring that 50% of the annual budgeted funds would be released in 2016, presumably during the first half of 2016. Second, it only opens the funding to projects that are truly ready to apply for SGIP funds. SGIP-eligible projects at risk due to an extended SGIP freeze could thus have an important opportunity to pursue funds, but other nascent projects that are not sufficiently commercially mature would need to wait until SGIP reforms are in place, presumably at some point in Q2 of 2016. This approach accomplishes these goals while also increasing the likelihood that a larger share of 2016 SGIP funds are released under the reformed SGIP rules. The Staff Proposal for these reforms recommends many improvements to the program, and it is sound policy to direct as much SGIP funding towards the eventual new program structure, rather than the old. The Commission can certainly release more funds, *e.g.* halfway through the year if it determines that severe market disruption could be occurring. CESA nevertheless recommends a cap on the released 2016 funds of 50% or until new rules are implemented. If new rules could be completed in Q2 of 2016, the PD's approach of immediately opening the full 50% of 2016 Program Year budget would negatively impact the ability of the state to capture the full benefits of SGIP reform for 2016. These benefits are material and can shape the industry in ways that clearly would support the SGIP program's goals. For instance, SGIP reform may adjust incentive levels so available funding can support more projects and or more valuable or cleaner projects. CESA accordingly recommends an initial one-time release of 25% of the 2016 SGIP funds.

Applications for funding that exceed this initial 25% funding allocation should be waitlisted up to the 50% funding cap (($41.5 M). Only if SGIP reform is certain to be implemented after Q2 2016, should the Commission release another increment of 25% of funds, likely in Q2 of 2016. New applications for this second release should not be accepted unless there are insufficient applications on the existing waitlist.

E. For The Eventual Full Opening of SGIP Funds Under New Program Rules, There Should Be No Wait-listed Projects Carried Over From Any Partial Funding Releases in 2016.

Notwithstanding CESA's above recommendation to waitlist a single program opening for 25% of 2016 SGIP funds, the Commission should not establish waitlists for project that would be funded outside of the 50% annual funding cap. This would ensure clarity that new program rules are to be applied to all remaining 2016 SGIP year funds. Waitlists are a notoriously complicated matter that can create inefficiencies in the SGIP. For instance, establishment of waitlists can incent larger numbers of "likely-to-fail" projects so that these resources are 'in the queue', backfilling the SGIP inappropriately. CESA only recommended waitlists in the above interim measure as a way to mitigate potential and real market disruption while still attempting to direct the majority of funds to be released only under reformed SGIP rules, in recognition of the increased benefits to ratepayers and the state from a reformed program. Since the main purpose of releasing 2016 SGIP finds in the very near term is to limit undue market disruption, there is no need for a waitlist, as traditionally established, because the waitlisted projects may not be used near-term and thus cannot be counted on for market support.

IV. CONCLUSION.

CESA thanks the Commission for the opportunity to submit these comments on the PD.

Respectfully submitted,

Donald C. Liddell
DOUGLASS & LIDDELL

Counsel for the
CALIFORNIA ENERGY STORAGE ALLIANCE

December 7, 2015