

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking Regarding
Policies and Rules for California Solar
Initiative, the Self-Generation Incentive
Program and Other Distributed
Generation Issues.

Rulemaking 06-03-004
(Filed March 2, 2006)

**COMMENTS ON SINGLE FAMILY HOMES PROPOSED DECISION
BY A WORLD INSTITUTE FOR A
SUSTAINABLE HUMANITY**

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COMMENTS ON SINGLE FAMILY HOMES PROPOSED DECISION BY A WORLD INSTITUTE FOR A SUSTAINABLE HUMANITY

INTRODUCTION

A World Institute for a Sustainable Humanity (A W.I.S.H.) files Comments on the Proposed Decision (PD) of President Peevey establishing the single family low income solar initiative program. Overall, A W.I.S.H. is very supportive of the PD. We believe that the principles a W.I.S.H. set forth in Opening Comments at pages 2 – 3 in this proceeding are reflected in the PD in great part.¹ Thus, we strongly support the PD’s tenets on: a single administrator, full weatherization of participating homes prior to solar installations, full subsidization of lowest income participants, “sweat equity” for able participants, coordination with the Low Income Energy Efficiency (“LIEE”) and California Alternate Rates for Energy (“CARE”), concern about the possible unintended consequences of time of use (“TOU”) meters, and marketing and outreach.

A W.I.S.H. comments on specific factual and/or legal errors that it respectfully believes should be corrected. First, we suggest that the percentage of those fully subsidized be increased above 20% so that more lower income households benefit from solar technologies.² Alternatively, the Administrative Law Judge (“ALJ”) should have discretion to modify upward the 20% full subsidy, as the PD permits with incentive adjustments, to reach the maximum number of lowest income ratepayers since higher

¹ Those principles included: that the Solar Initiative truly benefit low income Californians; that low income customers be helped with energy affordability including time of use issues; that there be coordination between the LIEE program and Solar Initiative; that all feasible weatherization measures be installed in a home prior to solar applications; that there be leveraging with LIHEAP agencies and CBOs to maximize resources and reach language minorities and other groups; that solar installations provide job development in low income communities as envisioned in PU Code Section 327(a)(3); and the Solar Initiative foster sustainability, reduction in greenhouse gases, and energy efficiency; and that bulk purchases be considered to achieve volume discount.

² We understand fully the difficulties presented by definitions contained in Assembly Bill 2723 legislation.

income families earning \$120,000 or more may be able to participate in the regular Solar Initiative. A W.I.S.H. believes that it is an error not to design the program to include as many LIEE and CARE eligible ratepayers as possible so that the initiative benefits the truly low income. Second, as to the remaining 80%, A W.I.S.H. proposes safeguards to ensure that there be an analogous 20% cap on the highest income, or greater if the lowest income percentage is modified upward, so that the program is not disproportionately serving only the most affluent among those eligible under Pavley, thereby meeting legislative intent.³

Third, we support “sweat equity” as contained in the PD with the extant clarifying language that the Program Manager “shall determine if the applicant can reasonably meet this condition.” (PD at p. 11) A W.I.S.H. interprets this language, along with the discretionary “may require...up to 32 hours,” to mean it is not mandatory, but left to the manager’s judgment. Fourth, we strongly endorse the requirement of full weatherization as a requirement for participation in the Solar program. A W.I.S.H. suggests that language in the PD be modified to reflect existing Code requirements for LIEE that: [a]pplicants...have *all feasible* LIEE measures installed prior to receiving a solar incentive,” rather than *applicable*. (PD at p. 32) This change tracks language found in Section 2790(b)(2) of the Public Utilities Code, as well as advancing AB 32 goals.⁴

³ Section 2852(c)(1) requires that not less than 10 percent of Solar Initiative funds be dedicated for “low-income residential housing...” Section 2852(c)(3) provides that any monies unexpended revert to augment “existing cost-effective energy efficiency measures in low-income residential housing....,” in other words, LIEE or LIHEAP. Read together, the clear intent is to benefit LIEE and LIHEAP-eligible ratepayers since monies revert to the LIEE program. Higher income families, those earning more than \$120,000, under Pavley may be able to participate in the non-low income CSI.

⁴ Section 2790(b)(2) directs the utilities “to provide as many of these measures as are feasible for each eligible low-income dwelling...”

In addition, A W.I.S.H. believes that the PD errs in limiting energy efficiency measures to a two-year payback. (PD at p. 32, bullet 3) A two year period is regressive and will necessarily exclude many of the measures found most effective in the KEMA Needs Assessment Report.⁵ Lastly, A W.I.S.H. believes that language on TOU requirements should be corrected, as follows: “it should ensure TOU impacts on low-income solar customers are *neutral or beneficial*” (modified from *considered*.) (PD at p.35) Otherwise, the entire thrust of the PD that the Solar program **not** increase “monthly household expenses” will be negated. (PD at p. 6)

A W.I.S.H. applauds the PD and the Commission’s overall goal of fostering sustainable energy sources for low income residents as well as more affluent. The scope and magnitude of California’s efforts in energy efficiency are a national model.

I. W. I. S. H. BELIEVES A LARGER PERCENTAGE SHOULD RECEIVE FULL SUBSIDIZATION TO MAXIMIZE PARTICIPATION BY THE POOREST RATEPAYERS AND THAT THERE SHOULD BE PARITY TO ACHIEVE LEGISLATIVE INTENT

The Pavley legislation’s definition of low to moderate income encompasses households with incomes up to \$126,000 in high cost counties; Pavley’s income criteria vastly exceed those for CARE and LIEE, by two to three times.⁶ Thus, while perhaps statutorily permissible for the program to fund the higher end of households eligible

⁵ This approach may fail to maximize progress toward AB 32 goals, not to mention failing to acknowledge mandatory hardship and comfort considerations. *See* Sections 2790 (c), 382.1(a)(3) & 382(e).

⁶ Staff CSI Proposed Low-Income Incentive Program for Single-Family Homes at pp. 2, 14.

under Code Section 2852, A W.I.S.H. believes such an application negates legislative intent.⁷

To ensure that the low income component of the California Solar Initiative (CSI) serves the most vulnerable, A W.I.S.H. asserts that the PD should be modified to increase the percentage of ratepayers eligible for full subsidies. In the alternative, the Administrative Law Judge should have discretion to **raise** the percentage available for full subsidies akin to the discretion afforded at p. 14 of the PD with respect to incentive adjustments. At the same time, we suggest that the PD errs in not reflecting a balance among the lowest and highest income-eligible participants for low income solar installations. Thus, if the PD allocates 25% for full subsidies for the lowest income, then it should limit the highest income-eligible to 25%, as well, to prevent households earning more than \$120,000 from being the predominant beneficiaries of the “low income” program. At the current 20% full subsidy, only 20% should fall within the highest income range.

Increasing the percentage of lowest income participating in the Solar Initiative and limiting the highest income-eligible participants to the same percentage advances Legislative intent to “ensure that not less than 10 percent of the funds for the California Solar Initiative are utilized for the installation of solar energy systems on low-income residential housing.”(Section 2852(c)(1)) It would further ensure that more CARE/LIEE-eligible ratepayers are included in the program, and it would promote coordination between the CSI and LIEE, which the PD requires at p. 33.

⁷ It is established that the Commission’s role is to effectuate the purpose of the legislation, giving a reasonable common sense interpretation consistent with the apparent purpose. *Burden v. Snowden* (1992)2 Cal.4th 556, 562. The parts of the statute are to be harmonized in the context of the whole (*California Assn. of Psychology Providers v. Rank*, (1990) 51 Cal.3rd 1, 18), and the evils to be remedied may be taken into account. *Delaney v. Superior Court* (1990) 50 Cal.3rd 785, 796.

In sum, harmonizing the purpose of the statute with legislative intent to dedicate CSI funds to low income ratepayers -- with any remaining funds reverting to the LIEE program --, A W.I.S.H. believes that the maximum number of CARE/LIEE participants should be reached. There should at least be parity between the highest and lowest income-eligible under Pavley, and the remaining 50% to 60% eligible under the legislation served in an equitable manner.⁸ The PD should clarify its intent to serve the most vulnerable, meaning those eligible for CARE/LIEE, with full subsidies. KEMA found that average household income for LIEE low income families was \$21,601 (Table 4-12) or \$100,000 *less* than the higher income limits of Pavley. The PD, we respectfully submit, should recognize this disparity and fully serve and subsidize CARE-eligible customers; the 50% to 75% total system cost subsidies discussed at p. 13 of the PD should be revised to full subsidies for the truly poor even if fewer homes are reached. The Commission will not succeed in its goal “to benefit low-income Californians” (PD at p. 14) if the most vulnerable are put at risk, akin to the sub prime mortgage disaster, because of solar installations they cannot afford, which the PD itself recognizes at pp. 10 – 11.

II. A W.I.S.H. SUPPORTS SWEAT EQUITY AS LONG AS DISCRETION BY THE PROGRAM MANAGER IS PERMITTED

A W.I.S.H. reads the language on page 11 of the PD as hortatory, that is the Program Manager has discretion with respect to those receiving full subsidies in requiring “sweat equity” by the participant, friends or relatives. We continue to support this approach, as in Opening Comments, so long as the manager is empowered to waive

⁸ See footnote 6 above regarding statutory construction.

the requirement for those unable to contribute manually. According to the KEMA Report on the LIEE, nearly one in every two low income households has a member who is elderly and/or disabled. (KEMA at Table 4-16)

If the intent of the Low Income CSI is to reach the most vulnerable and those households that qualify as “extremely low income” and “very low income” (PD at p. 11), then the sweat equity contribution must necessarily be flexible. According to KEMA, of the approximately 30% of Californians eligible for LIEE, only a third are homeowners;⁹ nearly half are disabled or have elderly household members. This means for the truly low income to participate in the CSI single family program, which is limited to homeowners, there must be discretion with respect to the sweat equity contribution. A W.I.S.H. suggests that the PD clarify that discretion to further legislative intent to serve low income customers.¹⁰

III. A W.I.S.H. STRONGLY SUPPORTS THE WEATHERIZATION LANGUAGE CONTAINED IN THE PD WITH TWO CAVEATS

We fully support the PD in its requirements for an energy audit and full weatherization, or being on the LIEE waiting list, prior to participation in the Solar program. PD at pp. 31 – 32. However, as A W.I.S.H. stated above, we believe that the language of the PD should track the Public Utilities Code Section 2790(b)(2) with respect to “all feasible measures,” not “applicable” LIEE measures. PD at p. 32. This approach satisfies A W.I.S.H.’s previously voiced concerns that there be coordination

⁹ KEMA Report at p. 4-7.

¹⁰ A W.I.S.H. applauds the PD’s recognition of the unrealistic assumption that very low income households can assume additional debt or take advantage of tax incentives to finance solar projects. PD at p. 10 The sub prime mortgage debacle underscores this finding.. As we noted in Opening Comments, credit histories, lack of discretionary cash, literacy, language and immigration status all counsel against anything other than a full subsidy for the poor.

with LIEE and LIHEAP providers to maximize weatherization potential before installing expensive solar systems. PD at p. 27. Not only will this approach provide greater health, comfort, safety, and job skills training as Public Utilities Code Section 327(b)(8) envisions, but it will advance the Commission’s greenhouse gas reduction goals. Revised language will also provide linguistic consistency among statutory requirements and Commission decisions.¹¹ All feasible measures additionally satisfies the PD’s concern that “[t]he audit should prevent low-income incentive dollars from being used to fund oversized systems serving energy inefficient households.” (PD at p. 31)

For the same reasons, we believe that the Commission errs in establishing a two year payback for energy efficiency measures for those not eligible for the LIEE. (PD at p. 32) KEMA and the recently released Evaluation on the Low Income Energy Efficiency Program make clear that some of the most effective measures are refrigerators, water heating measures, ceiling insulation, and air conditioners.¹² (KEMA at p. 7-20) In fact, the consultant for the LIEE Evaluation confirmed to counsel for A W.I.S.H. in a public meeting that solar water heating may hold the greatest energy savings potential going forward.¹³ Thus, A W.I.S.H. believes it is error to confine measures to those with a short payback period. Instead, we propose all feasible measures and assistance with financing options by the Program Manager for those not eligible for LIEE. Full installation of all cost effective measures (heating/cooling, base

¹¹ The Low Income Energy Efficiency Policies and Procedures Manual at page 24 also requires installation of all feasible measures. (July 24, 2007)

¹² KEMA at p. 7-15 found “need for more comprehensive energy efficiency measures” including A/C, water heater insulation, wall repair, ceiling insulation, ventilation, caulking, windows and doors, refrigerators and cfls. It described “significant untapped potential” in the LIEE program at various points. *See* p. 1-2.

¹³ It should be remembered that water heating can account for nearly 40% of household energy use.

load, and water/energy) will promote state goals and individual customer health, safety and comfort. Coordination with other utility programs, as the PD provides at p. 33, will also assist in achieving maximum results.

IV. THE PD ERRS WITH RESPECT TO TOU PROTECTIONS

Low income households can rarely respond to behavioral changes, as our previously filed comments on TOU note. Most are very captive in their homes and function accordingly; according to the KEMA Report, cited above, nearly half of LIEE-eligible households have disabled or elderly residents. Thus, while the PD aptly acknowledges the potential problems with TOU at p. 35, it fails to fully protect low income customers from the unintended consequences of metering. This error could undermine the whole intent of low income solar installations if customers are not held harmless from the prospect of increasing monthly household expenses from TOU. *See* PD at p. 6 and the staff recommendation that monthly expenses not increase. Thus, A W.I.S.H. suggest that the PD's language be modified from "it should ensure TOU impacts on low-income solar customers are considered" to " it should ensure TOU impacts ...*are beneficial or neutral.*"

CONCLUSION

For the reasons set forth above, A W.I.S.H. urges that its modifications be incorporated into the PD regarding the Solar Initiative for Low Income to ensure that single low income households are well-served and not subjected to unintended consequences that could harm instead of assist them. We also strongly support the Solar Initiative concept of providing more renewable energy sources to Californians, including generating energy for the grid, but believe that to benefit low income

customers the CSI will have to be carefully implemented as we discuss. A W.I.S.H. applauds the Commission's leadership on the Solar Initiative and urges the maximum number of California's lowest income households be served by the program, including through job skills training in "green" technologies and the "network of community service providers," as required in PU Code Section 381.5.

Dated: October 6, 2007

Respectfully submitted,

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APPENDIX AND SUBJECT INDEX

PROPOSED REVISIONS TO CONCLUSIONS OF LAW

3. To maximize the low-income incentive budget, the Commission should provide partial subsidies to existing households that qualify as low-income per Section 2852 but are above 50% of the area median income, *but all CARE/LIEE-eligible households should receive full subsidies.*

10. The single-family low-income solar incentive program should be administered by one entity, or Program Manager, to ensure consistency and equity in program delivery statewide while working with a diverse group of stakeholders and *community* service providers, *as set forth in Section 381.5 of the Public Utilities Code.*

PROPOSED REVISIONS TO APPENDIX A

Page 1 – 2, Incentive and Financing Structure: should grant the Program Manager the discretion to adjust upward the 20% goal for lowest income participants, with parity at the highest end of income-eligible under Pavley, and that all CARE-eligible, who are at 200% of federal poverty, receive full subsidies. The same discretion should be given the Program Manager with respect to upward adjustment of the 20% goal as in footnote 3 with respect to solar incentives. Likewise, the PD should clarify that the Program Manager “may, *but need not*, require” “sweat equity.”

Page 4, Energy Efficiency Requirements: the PD should clarify that applicants receive “*all feasible* LIEE measures prior to receiving a solar incentive” in accordance with Section 2790(b)(2) of the PU Code. Further, to promote energy efficiency, health and comfort, and to prevent hardships, the installation of energy efficiency measures should include those with more than a two-year payback period, in keeping with the KEMA Needs Assessment findings and recommendations noted above at pages 6 -7.

PROPOSED REVISIONS TO THE PD:

Page 11: The PD should be modified to give the Program Manager discretion to adjust upward the 20% of lowest income ratepayers who may receive a full subsidy, at the same time that upper-income customers under Pavley be capped at that same percentage. All CARE/LIEE-eligible customers should receive full subsidies to prevent truly poor from having to take on additional debt, as the PD notes at p. 11.

Pages 12 – 13: The PD should delete references to partial subsidies for CARE customers.

Page 31 - 32: The PD should be modified to delete the limitation that energy efficiency measures be limited to those with a two-year payback. Rather than “applicable LIEE measures,” the standard should be *all feasible measures* as provided in Code.

Page 35: The PD should be corrected to state that TOU impacts be *beneficial or neutral.*

CERTIFICATE OF SERVICE

I, the undersigned, hereby declare: _____

I am a citizen of the United States of America over the age of eighteen years. My business address is P.O. Box 428, Mill Valley, Ca. 94942.

On October 6, 2007 I caused service by electronic mail and/or U.S. mail of the original attached:

COMMENTS ON SINGLE FAMILY HOMES PD

BY A W.I.S.H.

Be made on the parties on the service list for Rulemaking 06-03-004, as it was found on the CPUC'S website on October 6, 2007.

I declare under penalty of perjury that the foregoing is true and correct.

Dated in Mill Valley, California, this 6th day of October, 2007.

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