

BEFORE THE
CALIFORNIA ENERGY COMMISSION

DOCKET	
10-SOPR-1	
DATE	<u>DEC 07 2010</u>
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In the matter of,)
)
 Rulemaking on Solar Offset Program)
 Regulations)
 _____)

Docket No. 10-SOPR-1

Public Hearing re
Proposed Regulations for Solar Offset Program

CALIFORNIA ENERGY COMMISSION
1516 Ninth Street
First Floor, Hearing Room B
Sacramento, California

TUESDAY, DECEMBER 7, 2010
1:00 P.M.

Reported by:
Kent Odell

COMMISSIONERS:

James D. Boyd, Chair, Renewables Committee

Sarah Michaels, His Advisor

Also Present

Sherrill Neidich

Jonathan Knapp

Michael G. Hodson

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P R O C E E D I N G S

1
2 DECEMBER 7, 2010

1:03 P.M.

3 CHAIR BOYD: Good afternoon. Thank you, everybody,
4 for being here. Most of you, I recognize or know. So, any
5 stakeholders and public out there, thank you for coming, and
6 anyone listening in. I'm Jim Boyd, the Vice Chair of the
7 Commission and Chair of the Renewables Committee, and as
8 indicated in our Notice for Proposed Action issued in
9 October, today's hearing is to gather public input,
10 stakeholder input, on the Energy Commission's Draft
11 Regulations, which require a seller of production homes
12 beginning January 1, 2011th, to offer the option of a solar
13 energy system to all customers negotiating a new production
14 home. The law requires the Energy Commission to develop an
15 offset program that allows a developer or a seller of
16 production homes to forego the on-site option and, in its
17 place, to install a separate solar energy system which
18 generates specified amounts of electricity off-site. The
19 Energy Commission began working on these regulations in
20 January and the public and stakeholders have been given a
21 number of opportunities to review and comment on the draft
22 documents today.

23 This public hearing by the Energy Commission's
24 Renewables Committee is part of the rulemaking process that
25 gives the public an opportunity to comment, in this case, on

1 the so-called express terms of the 45-day language.

2 We're close to adoption of the Final Regulations.
3 The Notice I referenced indicates that we have an adoption
4 hearing scheduled for December 29th, but, of course, before
5 we get to that stage, we want to give the public and
6 stakeholders an opportunity for further comment. I know the
7 process has been a collaborative one and I thank everyone in
8 that collaboration, staff, stakeholders, members of the
9 public, and we certainly appreciate the ongoing dialogue
10 that has taken place with regard to this item. This is, to
11 us, an important step in expanding the adoption of renewable
12 energy systems, especially those on new homes. As you all
13 know, if a developer or seller of production homes does not
14 wish to offer solar as an option, they will be required to
15 install a solar energy system to serve as an offset, as I
16 indicated.

17 These regulations, when put into effect, we feel,
18 will help increase the amount of solar energy systems
19 installed throughout California, and is a very definitely
20 positive step towards California's goals of providing 3,000
21 megawatts of additional clean energy and to reduce the
22 output of greenhouse gases by three million tons, which
23 incidentally, is the equivalent of taking about a million
24 cars off the road in terms of their greenhouse gas
25 contributions. So, that's fairly significant.

1 As indicated, I'm the Chair of the Renewables
2 Committee. The second member of the Committee, Commissioner
3 Weisenmiller, could not be here today. I am represented at
4 the table here also by my advisor, Sarah Michaels, sitting
5 at the other end of the table; we're trying not to block the
6 screen, so we've taken opposite ends of the front table
7 here. And staff is represented by Sherrill Neidich, the
8 Project Director, and I see Tony sitting back there in the
9 far corner, Tony Gonsales, the Office Manager of the
10 Renewables Office. I think with those hopefully somewhat
11 brief introductory comments, I will not turn it over to
12 Sherrill to give the presentation on what is being proposed
13 by the staff and so we can get input from you all. So,
14 Sherrill.

15 MS. NEIDICH: Thank you, Commissioner Boyd. As
16 Commissioner Boyd said, my name is Sherrill Neidich. I do
17 work in the Renewable Energy Office. I am a Program Lead
18 for Senate Bill 1 activities and the Project Manager for the
19 Solar Offset Program Rulemaking. Before we proceed, I would
20 like for staff that has been working on those regulations to
21 introduce themselves and then we'll start the program.

22 MR. KNAPP: Jonathan Knapp, Legal Counsel.

23 MR. SAXTON: Patrick Saxton, High Performance
24 Buildings and Standards Development Office.

25 MR. NG: Anthony Ng, Renewable Energy Office.

1 MR. MILLER: Sandy Miller, New Solar Homes
2 Partnership.

3 MR. NASIM: Farakh Nasim, Efficiency and Renewables
4 Office.

5 MS. NEIDICH: Thank you, staff, for final in the
6 development of these Regulations. I want to quickly go
7 through some standard housekeeping items. The restrooms are
8 located out the atrium, through the glass double doors and
9 to your right. We do have a snack bar located on the second
10 floor at the top of the stairs, and if there is an emergency
11 and we need to evacuate the building for any reason, please
12 follow staff out of the building and we will meet at the
13 Roosevelt Park, which is located diagonally across from this
14 building.

15 Today's hearing is for the Committee to consider
16 possible adoption of the Proposed Regulations related to the
17 Solar Offset Program Rulemaking. The 45-day comment period
18 for this rulemaking started on October 22nd and ended on
19 December 6th. There was also 15-day language that was posted
20 and mailed on November 19th. The comment period for the 15-
21 day language also ended on December 6th. The Committee will
22 receive public comment during today's hearing. As you can
23 see on the agenda, we have the public comment period
24 following our presentation. We did want to request blue
25 cards filled out for those who want to speak, but I think we

1 will just - so you can hand those to us. There are copies
2 of today's presentation available in the foyer, and we also
3 have copies of the Rulemaking documents, which include the
4 Notice of Addition of Documents, the Revised Initial
5 Statement of Reasons and the Expressed Terms 15-day
6 Language. If you have brought any written comments with
7 you, please submit them to us before you leave.

8 This meeting is being recorded and the transcript
9 will be posted online within two weeks. Today's hearing is
10 also being broadcast on the Internet through WebEx. WebEx
11 users are muted on entry and will be unmuted during the
12 public comment period. We will allow those in attendance to
13 speak first, and then we will allow those online to comment.
14 In 2006, when Senate Bill 1 was enacted, the Energy
15 Commission was assigned certain activities as a lead agency.
16 And one of those activities was to develop regulations for
17 the Solar Offset Program and with solar as an option of
18 climate. Staff relied on Senate Bill 1 Guidelines, New
19 Solar Homes Partnership Guidelines 2008 Building Energy
20 Efficiency Standards, and Stakeholder comments when
21 developing those Regulations.

22 Throughout the Proposed Regulations, we refer to the
23 Solar as an Option Requirement, as solar option, and the
24 solar offset requirements as a solar offset program. I am
25 going to briefly take you through the Proposed Regulations.

1 Section 2700 summarizes the scope and the intent of
2 the Regulations. Section 2701 defines specific terms used
3 throughout the Proposed Regulations. Section 2702, the Home
4 Buyer Solar Option is a disclosure to prospective homebuyer
5 that describes information a seller of production homes
6 shall disclose to prospective homebuyers when offering
7 solar. This information will assist the homebuyer in making
8 an informed decision on the installation of a solar energy
9 system. The total installed cost language was required for
10 Public Resources Code Section 2540505(B)(1). The estimated
11 cost savings language was required per Public Resources Code
12 Section 2540505(B)(2). Table 1 was developed to reflect the
13 estimated cost savings. Staff referred to a referenced
14 solar energy system when determining the estimated cost
15 savings and used the solar offset program version 1.0 just
16 met annual kilowatt hours generated. This section recording
17 requirements describes the annual reporting requirements
18 that a seller of production homes shall adhere to if they
19 elect to offer solar as an option. The information allows
20 the Energy Commission to verify that a seller of production
21 homes is fulfilling the requirements to offer solar, and the
22 data gathered will be used for statistical and informational
23 purposes, to allow the Energy Commission to gauge the status
24 of the program. Vacation of Compliance - this section
25 describes compliance verification requirements that the

1 seller of Production Homes shall submit to the Energy
2 Commission on an annual basis. This provision will assure
3 that the seller of Production Homes is providing homebuyers
4 solar option materials to the prospective homebuyer.

5 Section 2703 - Requirements for Solar Offset
6 Program. There are two slides for this Solar Offset Program
7 which is, this section describes the requirements that the
8 seller of Production Homes shall adhere to if they elect to
9 not participate in the Homebuyer Solar Option and to
10 determine the number of homes these use for offset purposes.

11 Required Time Energy Equivalency - this section
12 describes a requirement that the electricity equivalency
13 shall be calculated using TDV energy. The required TDV
14 energy equivalency offset for the proposed subdivision shall
15 be based on the assumption that a referenced solar energy
16 system would have been installed by prospective Homebuyers.

17 Offset Solar Energy Systems, there are also two
18 slides for this section. This section defines the
19 requirements of the offset solar energy system and is
20 consistent with Senate Bill 1 Guidelines. Ensuring
21 Reporting - This condition requires eligibility information
22 that the Energy Commission will rely upon for the offset
23 solar energy system and establishes the date the offset
24 solar energy system was interconnected to the utility grid,
25 which was required for banking purposes. The written

1 agreement, the requirement when executed, the agreement
2 between the Developer and the Seller and the System Owner,
3 allows the Energy Commission to verify that the
4 Developer/Seller was responsible for installation of the
5 offset solar energy system and that the offset system
6 [inaudible] solely for the purposes of the solar offset
7 program.

8 Funding of Offset Solar Energy System - we added
9 this provision to ensure credits given only for the amount
10 the Developer/Seller [inaudible] towards an offset solar
11 energy system, and the [inaudible].

12 Use of Offset Energy System to Offset Featured
13 Subdivision - we added this provision to ensure that
14 participants of the solar offset program will be able to
15 have their offset solar energy system offset future
16 subdivisions.

17 Referenced Solar Energy Systems - this section
18 specifies criteria that a participant in a Solar Offset
19 Program shall utilize when designing their Offset Solar
20 Energy System. The referenced Solar Energy System serves as
21 a baseline for calculating how much energy an offset solar
22 energy system will be required to generate. This condition
23 will also ensure that participants in a solar offset program
24 will be using assisted methodologies for developing their
25 offset solar energy system.

1 Expected Annual TDV Energy Calculation - this
2 section identifies for each climate zone the expected TDV
3 energy equivalency of the referenced solar energy system as
4 calculated by the solar offset program calculated version
5 for climate. The figures in Table 2 represent the expected
6 annual kilowatt hours and TDV energy production per home by
7 climate zone and the performance of Energy Commission's
8 climate zone. This section also instructs the Developers
9 and Builders to define the number of homes they are
10 intending to offset by the appropriate TDV energy value,
11 depending on the climate zone in which the proposed
12 subdivision was located. The resulting value is the
13 required TDV energy equivalency for the proposed subdivision
14 being offset. This is just the location of the solar
15 program [inaudible] version 1.0 on the Energy Commission's
16 website. This is the location of the California Building
17 Climate Zone Map on the Energy Commission's website, and
18 also on that same slide, climate zone details for City and
19 Zip Code.

20 Solar Offset Bank - this section establishes a
21 banking system which allows participates in the Solar Offset
22 Program to combine their offset solar energy systems and
23 applying those systems to multiple subdivisions. The
24 banking program allows participants in the Solar Offset
25 Program more flexibility in achieving compliance. The units

1 or currency of the bank will be TDV energy. This section
2 also describes the required reporting commission that a
3 developer's seller shall disclose to the Energy Commission
4 if they wish to deposit an offset solar energy system into
5 the solar offset bank.

6 Withdrawals from the Solar Offset Bank - this
7 section describes the required reporting information that
8 Developer/Seller shall disclose to the Energy Commission if
9 they wish to apply an offset to a proposed subdivision and
10 make a withdrawal from the solar offset bank.

11 Calculating Balance - this section describes the
12 required solar offset bank balance reporting information
13 that the Energy Commission shall disclose to the
14 Developer/Seller. The Energy Commission will disclose the
15 calculating balance information to the Developer/Seller each
16 time a withdrawal is made. And this is an example of one
17 proposed approach to tracking the solar offset bank, note
18 the deposits, withdrawals and balance. This is not a final
19 document, this is just something that we've been working on
20 and this could also be a database, but this just gives you
21 an idea of what it would look like.

22 Annual Reporting - this provision will ensure that
23 the offset solar energy system is still operational and is
24 still qualified to participate in the solar offset program.

25 And Section 2704, Future Ordinances Requiring Solar

1 - this provision ensures that if an ordinance or requirement
2 mandate installation of solar energy systems is initiated by
3 a California City, County, or other governing body, then the
4 ordinance requirement will supersede the provisions of these
5 Regulations.

6 Our next steps will be to adopt Proposed
7 Regulations. The Commission will consider adoption of the
8 Proposed Regulations at the December 29th, 2010 Business
9 Meeting, unless we decide to modify the express terms of the
10 15-day or 45-day language. Now, if the Proposed Regulations
11 have been adopted, staff will prepare the Final Statement of
12 Reasons for submission to the Office of Administrative Law.
13 And this is my contact information in case you need to get a
14 hold of me for anything, and also the location of our web
15 page. And now I'm going to hand this over to Jonathan
16 Knapp, who will review the procedures for public comment.

17 MR. KNAPP: This hearing is being held under the
18 authority of Section 25213 of the California Public
19 Resources Code and the procedures set forth in the
20 California Administrative Procedures Act, or APA, as
21 codified in California Government Code Section 11346, et.
22 seq.

23 At this time, the hearing will be opened to take
24 oral testimony and/or documentary evidence by any person
25 interested in these Proposed Regulations for the record,

1 which is being recorded. All oral testimony and documentary
2 evidence will be considered by the Energy Commission
3 pursuant to the requirements of the APA, before the Energy
4 Commission formally adopts the Proposed Regulations, or
5 recommends changes that may come about as a result of this
6 hearing.

7 The entirety of the Rulemaking Hearing will be
8 reported by a Certified Shorthand Reporter. The transcript
9 of the hearing and all that is presented during the hearing
10 will be made part of the rulemaking record. To ensure
11 fairness and a complete record, and to enable the Energy
12 Commission to hear everyone who is giving testimony, the
13 following procedures will be followed: please identify
14 yourself by name and group, if any, that you are
15 representing; please identify the section number of the
16 Proposed Regulation that you want to discuss. All written
17 testimony should be submitted to the Energy Commission. If
18 you agree with another person's testimony, you may simply
19 indicate your agreement on the record and you need not
20 repeat the prior testimony. Written testimony may be
21 summarized orally, but please do not read it into the
22 record. The Energy Commission staff will not respond to
23 objections or recommendations at this hearing. Its
24 responses will be included in the Final Statement of Reasons
25 that we file with the Office of Administrative Law, and

1 posted on the Energy Commission's website. A complete copy
2 of the rulemaking file will be available for review at the
3 Energy Commission's office in Sacramento. Are there any
4 questions concerning the nature of the proceedings, or the
5 procedures to be followed here, before we begin? I hear
6 nothing, so we will begin.

7 MS. NEIDICH: I think we have someone who would like
8 to speak.

9 MR. HODSON: I'll push the button. Good afternoon,
10 I'm Mike Hodson representing the California Building
11 Industry Association. Commissioner Boyd and staff, CBIA is
12 a statewide trade association representing over 4,000
13 companies involved in residential and light commercial
14 construction. Our members account for about 85 percent of
15 the new homes built in California each year, and that number
16 is relatively meager in the last few years.

17 But what I'd like to do is give some general
18 comments and then go through some specific sections. Our
19 comments have been submitted to the docket, I believe 20
20 copies per instructions, and so let me just go to the
21 general comments.

22 Our comments also are supported by the California
23 Business Properties Association, so I'm really representing
24 both CBIA and CBPA today. Overall, CBIA and CBPA support
25 Proposed Regulations developed by staff. While we have some

1 technical issues that will follow shortly, we think staff
2 has adequately addressed the most significant issues raised
3 by industry over the past eight months. We feel these
4 Proposed Regulations should be adopted by the full
5 Commission. As a side note, we'd like to thank staff for
6 their hard work and patience during the development of the
7 process, we've had lots of dialogue and we appreciate that.

8 Specific comments: In Section 2072702(C)(1), the
9 CEC is requesting that "the reported information be endorsed
10 by a principal or corporate officer of the Seller's
11 company." Industry has indicated that this is a limitation
12 on who can endorse the technical document, and that
13 limitation might be overly restrictive. What we would
14 prefer is an expansion of the sphere of acceptable
15 signatures. We made those comments to similar signatures as
16 on the CF1R Form in compliance, and the CF6R Form for
17 Subcontractors meeting Title 24 compliance. In the Energy
18 Commission's response, staff has indicated that it is
19 appropriate for a principal or a corporate representative,
20 the underlying representative of the company, endorse the
21 report. We wholeheartedly agree, so we would like to have
22 this position clarified and respectively suggest that the
23 CEC provide some manner of written interpretation what a
24 corporate representative is. So, our interpretation, and I
25 think staff agrees, is that this is the same person who can

1 bind the company, legally bind the company, and I think that
2 is the signature that you're looking for.

3 In Section 2073(A)(1), industry needs a definition
4 or interpretation of [quote] "Prospective Homebuyer" that
5 links the requirement of actual number of homes sold. SB 1,
6 the statute, basically says 20 percent of the prospective
7 homebuyers, when you read the statute, and it is certainly
8 clear that the legislative intent is 20 percent of the homes
9 sold. So, what we need is a clarification of the term
10 "Prospective Homebuyer." Depending upon the market, there
11 may be hundreds of Prospective Homebuyers buying a fewer
12 amount of homes, so we would like that clarification so that
13 it reflects the intent of legislation, which in our intent,
14 and our interpretation of that is 20 percent of the homes in
15 the project should be the requirement for solar under SB 1.

16 The last comment is, in Section 2073(B), after the
17 Standards are adopted, we would like to work with the CEC to
18 see if a simplified alternative can be developed for the
19 proposed offset solar energy calculation methodology. What
20 is currently proposed is not tedious, but it is cumbersome.
21 There is a tremendous amount of calculations needed for
22 those homes, and we would propose a rather simple example to
23 make sure it meets at least a minimum of the solar
24 requirement to be something as simple as number of homes in
25 a subdivision X 20 percent X 2 KW. I can do that math, and

1 that would give us basically our target, which we then have
2 to justify to the Commission for the solar offset. So,
3 those are our three specific comments, staff has addressed
4 them, I think they're all workable outside of the 15-day
5 language, and I would be happy to answer any questions from
6 staff or the Commissioner. If not, thank you for this
7 opportunity for testimony.

8 CHAIR BOYD: Thank you very much for being here.
9 Thanks for the outstanding cooperation of your group working
10 with staff.

11 MS. NEIDICH: Are there any other comments?

12 MR. KNAPP: So, this will give one final
13 opportunity, would anyone like to make comments, either in
14 person or online via WebEx? Okay, hearing nothing, this
15 hearing is now closed at approximately 1:30 P.M.

16 (Adjourned at 1:31 P.M.)

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