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May 26, 2010

California Energy Commission
Dockets Office, MS-4
1516 Ninth Street
Sacramento, California 95814-5512

DOCKET
09-SOPR-1
DATE MAY 26 2010
RECD. MAY 28 2010

RE: Docket No. 09-SOPR-1

The following comments are submitted on behalf of the California Building Industry Association (CBIA) and the California Business Properties Association (CBPA).

Our comments have been indexed by page number and topic issue as they appear in the CEC Document 300-2010-005 entitled "Solar Offset Program Pre-Rulemaking".

As we testified at the May 20th Workshop on this issue, CBIA and CBPA are supporting most of the proposed concepts presented by staff. However, there are two issues to which we took issue.

Solar As An Option - Proposed Reporting Requirements (Page 5):
CEC Staff is proposing to require the reporting of various items, including: *"The total installed cost of the PV system to the home buyer per AC watt (both offered and **paid** price)."*

This would represent an unprecedented level of pricing information exchange never before required of private-sector entities, and this requirement could be confusing to the homebuyers. The home buyer needs to know the full installed price which must be documented for tax rebate purposes, and that is the only pricing information they need and should receive. Industry strongly urges the CEC to limit the requirement for "cost" reporting to that which is already required for state and/or federal incentive programs.

Energy Efficiency (Page 10-11):
CEC Staff is proposing that all homes participating in the Solar Offset Program exceed the minimum provisions of the California Energy Code (Part 6, Title 24 Ca Code of Regulations) by 15%. While industry understands the CEC's desire to promote compliance with levels of energy efficiency that exceeds the state's minimum efficiency standards, doing so with this program will trigger a level of cost impact and compliance complexity that will, simply put, kill the program.

Over the past seven years, the CEC has adopted three major revisions to their energy efficiency standards that have resulted in an overall increase in stringency of approximately 50% from where the standards were in 2002. This increase in stringency is unprecedented and has clearly placed California well ahead of the rest of the nation. However, such unprecedented change has also resulted in significant increases in compliance costs. California has indeed reached a point of diminishing returns wherein it will become increasingly more costly to get each new increment of increased energy efficiency.

For example, when the CEC was recently updating their New Solar Home Program, they requested cost-impact data from ConSol with regards to energy efficiency increases of 25%, 30% and 35%. The cost increases to Southern California homes were estimated to be $5,000, $6,000 and $8,500 respectively. A lesser increase of only 15% was estimated to cost in the range of $2,000-$4,000. In the current and foreseeable economic market, such an increase in construction costs will drive industry away from this program at a time when the CEC should be seeking ways to facilitate the construction of more rather than less solar installation throughout the state.

We have had recent experience with which to back this assertion. When the New Solar Home Program criteria was recently updated by the CEC, increased levels of energy efficiency of 15% (Tier 1) and 30% (Tier 2) were incorporated even though California's homebuilding market was plummeting into the worst economic downturn in over 50 years (see attachment). While it was relatively easy for a new homebuyer to secure a loan in 2005-2006, it would be an understatement to say that was no longer the case in 2008-2009. Adding just $500 to the cost of a new home will price many buyers out of today's market. Builders understand this, and it explains why so many have decided to no longer participate in the CEC's New Solar Home Program. In the last 18 months, CBIA has received numerous complaints from builders who were considering entering that (formerly attractive) program but decided against it due to the high costs associated with the increased energy efficiency component. This helps explain why solar was installed on less than 1% of the new homes built in California last year.

There is also an issue of equity here. If a builder simply chooses to offer solar as an option as opposed to participating in the solar offset program, **there is no mandate for the builder to build those homes "above minimum" levels of the energy efficiency provisions required by Title 24, Part 6** . With regards to SB 1, only those participating in, and receiving solar incentive funding are required to incorporate increased levels of energy efficiency. Why then would the CEC propose to place such an extra and costly burden on the homes that do participate in the offset program? After all, the intent of this statutory provision was to promote the actual installation of solar in place of simply offering it as a design option.

Given the ever-decreasing size of the state's solar incentive coupled with the high cost of solar and the current economic climate, it is highly unlikely that many new homebuyers will be choosing to go forward with a solar design option, at least in the near future. Placing a $2,000-$4,000 energy efficiency mandate on all those homes participating in the solar offset program will drive the vast majority, if not all of the prospective participants away from the program. This would not be in the best interest of the state.

Industry strongly urges the California Energy Commission to remove the requirement for increased level of energy efficiency as prerequisite for participating in the SB 1 Solar Offset Program. In this economic climate, the program requirements need to be such that participation is encouraged and easy to facilitate.

Disclosing Solar as an Option to Prospective Home Buyer (Page 4):

CEC Staff has indicated that the Energy Commission is considering developing a brochure that explains the minimum disclosure requirements, including:

Total installed cost of the solar energy system.

- ***Estimated cost savings associated with the solar energy system option, as determined by the Energy Commission.***
- *Information about California solar energy system incentives.*
- *Refer potential home buyers to the Go Solar California website*

Industry supports the development of such a brochure that can be handed out to home buyers. However, we also urge the CEC to use caution when developing the "estimated cost savings" cited above. A great many variables can influence the overall effectiveness of a given PV energy system and even more so, the total electricity use of the home, with the largest variable being homeowner behaviors that impact energy use. Both of these issues will impact the energy bill and the impact of savings due to the PV system.

The brochure needs to be very clear that it is an estimate, based on certain assumptions that can vary widely, and therefore each household's electricity use and savings due to PV will vary. This is very important to prevent (unintentionally) misleading the consumer. This is of critical importance because misleading information, even if unintentional, can lead to litigation that would negatively impact both the building industry and getting PV systems on homes. Industry looks forward to assisting the CEC in the development of such a brochure.

Regarding the issue of whether the "option requirement" would require the seller to offer solar energy systems on every single home in the development, industry thinks this is an important issue. It is understood that there will be a small percentage of homes in most projects wherein an on-site solar energy system will not perform well, for a variety of reasons, including shading, roof orientation and available roof area. In the event that the CEC determines that the statute would allow for such exemptions, industry would support the clear identification of those design circumstances wherein a solar energy system should not and would not have to be offered as a design option.

Energy Commission Verification of Solar as an Option Offer (Page 6):

CEC Staff is considering a number of options on how a builder would go about verifying that the offer of solar-as-an-option has been made to the home buyer. Industry strongly urges the CEC to keep this aspect of the program "easy and simple". There is already an extensive level of reporting requirements related to compliance with the 2008 Update of the Residential Energy Efficiency Standards. Field experience with these new reporting requirements shows a significant level of confusion and non-compliance throughout the entire state. As such, industry urges the CEC to keep this aspect of the SB 1 program as simple and practical as possible. This issue could be revisited down the road if it appears there are compliance problems in the field.

Also, it needs to be understood that the actual installation of solar via the "offset program" may well occur substantially ahead of the construction of the homes that may be taking part in the offset program. However, this issue can be addressed in the portion of the regulations dealing with "banking" of offset credits.

Solar Offset System Design (Page 7):
CEC Staff is suggesting the use of the "calculation tools" for PV systems that already exist and are being used under the current New Solar Home Program as appropriate for the SB 1 Solar Offset Program. Industry supports this proposal and agrees with staff that such use will help foster continuity and uniformity among the various programs.

Solar Offset System Design (Page 8):
CEC Staff is suggesting the use of a "2 kW solar energy system as the baseline for determining the expected TDV weighted equivalent energy of the solar energy system for the offset location". Industry agrees with the 2kW figure as it is based on historical data compiled under several CEC programs. However, industry does request further clarification on how this 2kW figure is to be used in the calculation of the offset-system size. Reference was made during the workshop to a 2.4 kW DC supply that then equates to a 2.0 kW AC supply. We request clarification or confirmation that the "2kW"system size refers to 2.0 kW *AC*. Further, we strongly suggest that the program use the simple offset system sizing approach of: (2kWac) x (20%) x (total number of eligible homes) = offset-system size.

Proposed Reporting Requirements (Page 8):
Among a host of things being suggested for the reporting menu, CEC staff is suggesting the reporting of the *"Number of homes offset and the **location and community identified**"*. Industry understands the need to identify the location of the "offset homes", however; we request the CEC to consider a variety of acceptable ways to properly "identify" that location. As was pointed out during the May 20th workshop, some phased projects may not have a "community name". Street address, lot/parcel number, or other acceptable ways of identifying the specific location seem acceptable.

Discussion (Page 9):

- Industry agrees with CEC Staff that requiring the offset systems "installed on other buildings to be designed to address the electrical demand of that building" would add a great deal of complexity to this program, at least initially. Industry agrees that this issue should not be part of the solar-offset program. This may be an issue that the CEC would want to revisit down the road.

- With regards to "ground-mounted" PV systems, industry most definitely supports having this option available and we would suggest applying the same general registration rules to ground-mounted systems as will be applied to those rooftop mounted systems.

- The Staff asks the question: "*Should developers be allowed to take advantage of incentives from the CSI program for systems placed on alternative buildings?*" Providing that the project complies with all related program rules, industry does not see a problem here. We do not fully understand the concern over possible "double counting" raised in the staff paper. If a specific project could leverage the installation of increased levels of solar via the bundling of multiple programs, and that project complies with all related rules, wouldn't that be a good thing?

- On a related issue, CEC staff is seeking comments on "*whether PV installed as an offset to new homes should be eligible for an incentive and if so, should that incentive come from CSI, NSHP or POU's*". Once again, industry feels that it is clearly an acceptable practice to bundle more than one program together, providing the rules of each program are adhered to. And we understand, for example, that if NSHP incentive money is utilized, than all of the rules related to the NSHP (including the rule requiring increased energy efficiency) must be followed.

Location of Offset System (Pages 9-10):

Industry strongly agrees with the CEC Staff proposal specifying "The offset system will be located within the same utility territory as the offset housing development."

Energy Efficiency (Pages 10-11):

Please see comments at the beginning of this document for reasoning behind industry's strong opposition to the CEC proposal to require all homes participating in the offset program to "have at least 15% greater energy efficiency than the base level of the Building Energy Efficiency Standards (Title 24, Part 6) for the entire housing development".

In addition, industry does take exception to the comment made in the Staff Paper: *"Diminishing energy savings achieved by solar energy systems installed at the offset location is not the intent of the solar offset program."* Industry contends that implementing the SB 1 Solar Offset Program **without** requiring increased levels of energy efficiency in the participating homes will not result in diminished energy savings. As was stated earlier, those homes for which the builder offers solar as an option **are not required to have increased levels of energy efficiency**. As such, continuing to build those homes to the minimum requirements of Title 24, Part 6 will not result in any reduction in overall energy savings. However, the state will benefit greatly from the actual installation of PV energy systems.

In addition, industry does not find the discussion on Page 11 relative to the SB 1 statutory requirement for "*Appropriate energy efficiency improvements in the new or existing home or commercial structure where the solar energy system is installed*" relevant to the discussion on the SB 1 Solar Offset Program. This statutory mandate applies specifically to the ratepayer funded incentive program that the CEC was required to establish. SB 1 contained no such mandate with regards to the establishment of the rules for the Offset Program. These are two separate and distinct programs.

Verification of Offset System Installation (Pages 11-12):

CEC Staff proposes using the existing verification and inspection procedures from the NSHP for verification of SB 1 Offset System Installation. Industry supports this proposal given that some changes may be needed to make verification practical and simple; we look forward to working with the CEC in the development of appropriately modified rules that would also cover the verification of "ground-mounted" systems.

Grandfathering (Page 12):

Industry recognizes the administrative difficulty of allowing for solar installations built in advance of the adoption of the SB 1 Offset Program rules to be able to apply those kw's to residential project(s) built post-adoption. We certainly hope the CEC will consider some manner of "Grandfathering" and we look forward to assisting the CEC in the development of the parameters such grandfathering could take place if the CEC is so inclined to move forward with such an option.

Banking (Page 13):

Industry strongly supports this CEC Staff proposal and contends that the success of the Offset Program will be largely dependant on the availability of a robust "banking" system that will allow developers to install large solar systems and have that project count for multiple offset projects built at a later date. As was indicated during the May 20th workshop, it is very unlikely that that the "offset" solar energy system will be built at the same time the residential dwellings participating in the offset program will be built. It is anticipated that, in the majority of cases, the PV energy system will be constructed well in advance of the residential dwellings to which the offset credits would apply. With regards to the length of time for which credits could be banked, industry feels an indefinite period of time would be appropriate, but we are willing to hear alternate proposals and the basis for such alternate proposals, keeping in mind that the longer they are banked, the more energy is produced for the grid prior to offsetting any new loads. As we testified at the May 20th workshop, it is a gross understatement to say that the current state of economy has seriously impacted the rate at which phased residential developments are being completed.

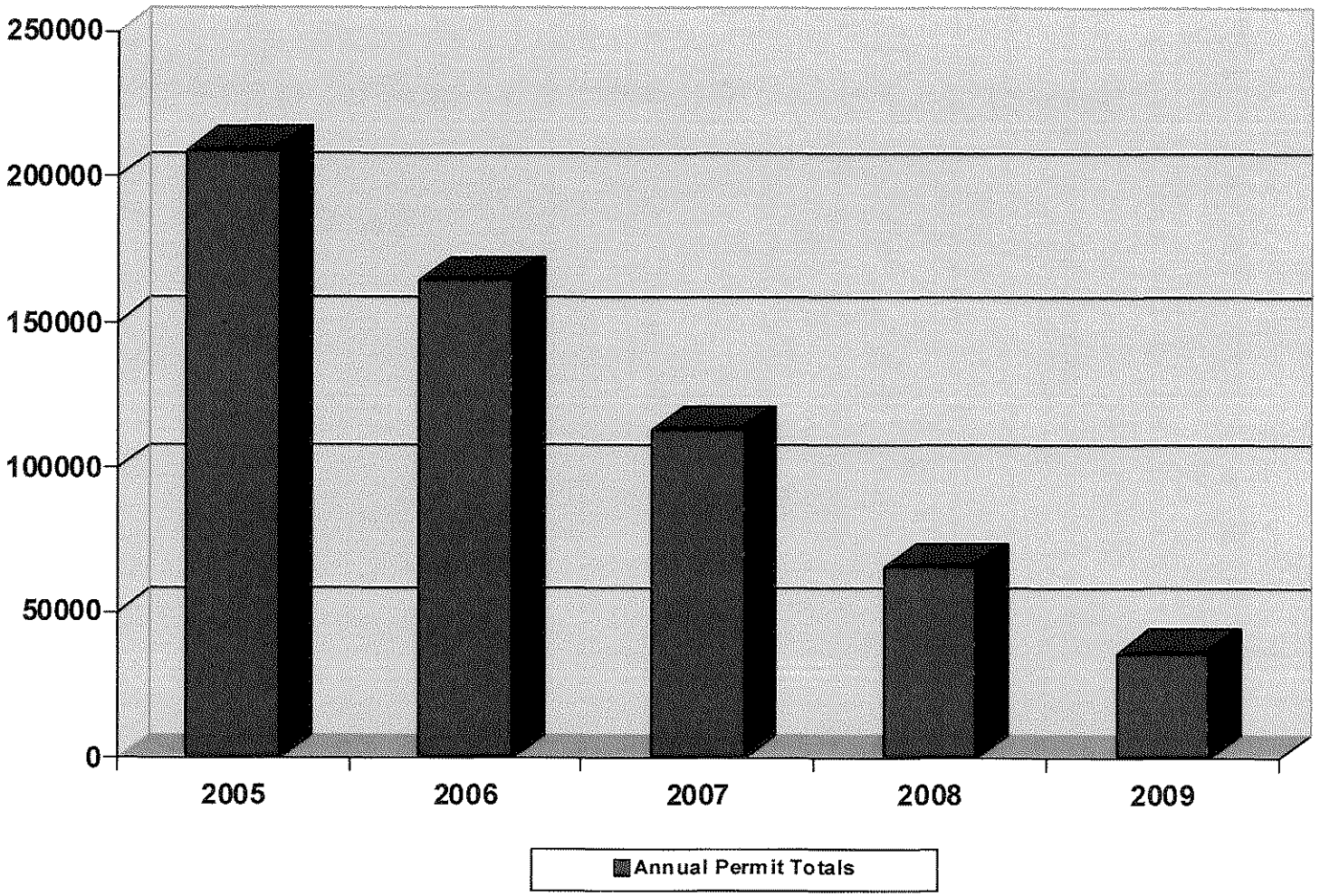
Sincerely,



Robert E. Raymer, PE
Senior engineer/Technical Director

(attachment)

HOUSING PRODUCTION IN CALIFORNIA
2005 – 2009



Total decline in annual production = **208,972** ('05) – **36,209** ('09)

SOURCE: Construction Industry Research Board