

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512
www.energy.ca.gov

**DOCKET****11-CAI-03**DATE Sept 09 2011RECD. Sept 09 2011

September 9, 2011

Raoul A. Renaud
Hearing Adviser II
California Energy Commission
1516 9th Street
Sacramento, CA 95814

RE: Amendment of Complaint against DyoCore, Inc.
Docket # 11-CAI-03

Dear Mr. Renaud:

Energy Commission staff request leave to amend the complaint filed against DyoCore, Inc. on July 26, 2011 ("Complaint") to clarify that staff are not seeking to recover rebate payments from consumers for small wind systems that use the DyoCore SolAir wind turbine.

The referenced clarifications are identified in Attachment 1 to this letter. The language that is proposed to be deleted from the Complaint appears in strike-through in Attachment 1 and the language that is proposed to be added is underlined.

Notably, the changes in the proposed amendment do not affect the allegations against DyoCore, Inc. Thus, if the Renewables Committee grants staff leave to amend the Complaint, it does not appear that it would be necessary for DyoCore, Inc. to respond.

Sincerely,

A handwritten signature in blue ink, appearing to read 'R. P. Oglesby'.

Robert P. Oglesby
Executive Director

Enclosure

Attachment 1
Changes to Complaint Filed Against DyoCore, Inc. (Docket # 11-CAI-03)

VII. Requested Action (§ 1231(b)(5))

I respectfully request that the DyoCore turbine be immediately removed from the Energy Commission's list of eligible equipment for use in the ERP. As shown by the KEMA report, and reflected by DyoCore's admissions on its own website, the DyoCore turbine was listed as eligible for use in the ERP on the basis of grossly overstated, inaccurate, and invalid information. I further request that the Energy Commission provide guidance regarding the resolution of applications for rebate reservations and payment requests under the ERP for small wind systems that use DyoCore turbines, and take such action as may be necessary to recover ERP funds that were paid as rebates for such systems.

In addition, I request that the Energy Commission refer this matter to the Attorney General for investigation and prosecution, as appropriate.

Finally, I also request that the Energy Commission send the following or similar notice to all retailers and end-use consumers who applied for rebates under the ERP for small wind systems using DyoCore turbines along with the Energy Commission's order serving this complaint:

Under the Emerging Renewables Program ("ERP") there are ~~two~~^{three} categories of consumers who may be affected by the attached complaint proceeding: (1) ~~consumers who received a rebate payment under the ERP for the purchase and installation of a small wind system that uses DyoCore SolAir wind turbines ("DyoCore turbines");~~ (2) consumers who were issued an R2 Form reserving ERP funding for systems that use DyoCore SolAir wind turbines ("DyoCore turbines"), but have not received, or submitted a request for a rebate payment; and, (3) consumers who have pending applications for rebate reservations under the ERP for systems that use DyoCore turbines. All parties to these ~~rebate payments,~~ payment requests and applications are on notice that payments may be ~~revoked or withheld,~~ and pending applications may be rejected, pursuant to the Audits and Inspections provisions contained in Section 2, subdivision (K) of the ERP Guidebook, ~~and the Fraud and Misrepresentation provisions contained in Section 7, subdivision (b) of the Renewable Energy Program Overall Program Guidebook ("Overall Program Guidebook").~~

Energy Commission staff are NOT seeking to recover rebate payments from consumers for small wind systems that use DyoCore turbines.

~~Further, any misstatements, falsifications, or misrepresentations contained in these payment requests or applications~~ This matter may be referred to the Attorney General for possible investigation and prosecution pursuant to the Fraud and Misrepresentation provisions contained in Section 7, subdivision (b) of the Overall Program Guidebook.



**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
1-800-822-6228 – WWW.ENERGY.CA.GOV**

***IN THE MATTER OF THE COMPLAINT AGAINST
DYOCore, INC. BROUGHT BY
ENERGY COMMISSION STAFF***

***Docket No. 11-CAI-03
(Revised 9/6/2011)***

COMPLAINANT

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RESPONDENT

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smeyer@downeybrand.com

**INTERESTED
ENTITIES/AGENCIES**

Bay Area Energy Solutions
1326 Marsten Road
Burlingame, CA 94010
www.bayenergy.com

California Solar Systems
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Synergy Corp.
863 N Bush Avenue
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Crizer Wind Energy, Inc.
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Los Osos, CA 93402
crizerwindenergy@sbcbglobal.net

My Wind Power
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Phelan, CA 92371
www.info@mywindpower.biz

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*CA Green Team
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rayw@cagreenteam.com

Prevailing Wind Power
324 N Gertruda
Redondo Beach, CA 90277
bob@prevailingwindpower.com

**INTERESTED ENTITIES/AGENCIES
(cont.)**

Green Solar Solutions, Inc.
22267 Vacation Dr.
Canyon Lakes, CA 92587
greensolarsolutions@yahoo.com

Desert Power, Inc.
77380 Michigan Dr.
Palm Desert, CA 92211

San Diego Small Wind
3125 Tiger Run Ct. #103
San Marcos, CA 92009

Apple Acres, Inc. DBA Gridnot
P.O. Box 645
Lucerne Valley, CA 92356
info@gridnot.com

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DECLARATION OF SERVICE

I, **Rhea Moyer**, declare that on **September 9, 2011**, I served and filed copies of the attached **Amendment of Complaint against DyoCore, Inc. Docket #11-CAI-03**, dated **September 9, 2011**. The original document, filed with the Docket Unit or the Chief Counsel, as required by the applicable regulation, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at:

[http://www.energy.ca.gov/renewables/emerging_renewables/11-cai-03/].

The document has been sent to the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit or Chief Counsel, as appropriate, in the following manner:

(Check all that Apply)

For service to all other parties:

- ☒ Served electronically to all e-mail addresses on the Proof of Service list;
- ☒ Served by delivering on this date, either personally, or for mailing with the U.S. Postal Service with first-class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date to those addresses **NOT** marked "e-mail service preferred."

AND

For filing with the Docket Unit at the Energy Commission:

- ☒ by sending an original paper copy and one electronic copy, mailed with the U.S. Postal Service with first class postage thereon fully prepaid and e-mailed respectively, to the address below (preferred method); **OR**
- ☐ by depositing an original and 12 paper copies in the mail with the U.S. Postal Service with first class postage thereon fully prepaid, as follows:

CALIFORNIA ENERGY COMMISSION – DOCKET UNIT

Attn: Docket No. 11-CAI-03
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

OR, if filing a Petition for Reconsideration of Decision or Order pursuant to Title 20, § 1720:

- ☐ Served by delivering on this date one electronic copy by e-mail, and an original paper copy to the Chief Counsel at the following address, either personally, or for mailing with the U.S. Postal Service with first class postage thereon fully prepaid:

California Energy Commission
Michael J. Levy, Chief Counsel
1516 Ninth Street MS-14
Sacramento, CA 95814
mlevy@energy.state.ca.us

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.

/s/ Rhea Moyer

Rhea Moyer