

**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF CALIFORNIA**

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

DOCKET NO. 11-CAI-03

DOCKET

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DATE OCT 04 2011

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**SOLAR POINT RESOURCES, INC.'S
PREHEARING CONFERENCE STATEMENT**

October 4, 2011

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Solar Point Resources, Inc. (“Solar Point”), a small business, intervened in this proceeding in order to protect its interests as an authorized distributor of the DyoCore Turbine; the interests of its customers including schools, family farms, churches and homeowners; and the interests of its subcontractors. The interests of Solar Point, its customers and subcontractors are directly impacted by: 1) the ongoing temporary suspension of the Emerging Renewables Program (“ERP”); and 2) the request for guidance regarding the resolution of applications for rebate reservations and action to recover ERP funds paid as rebates for DyoCore systems included in the Complaint against DyoCore, Inc. (“Complaint”). The suspension of the ERP and the Complaint has caused major repercussions to small businesses created to support the ERP. Solar Point is one of these businesses and is deeply impacted by the Complaint even though it is not responsible for the harm the Complaint sought to remedy. In addition, the Complaint has affected Solar Point’s customers, which include homeowners, school districts, churches, municipal entities, small businesses and California farms.

Solar Point has worked diligently with California Energy Commission (“Commission”) Staff in an attempt to resolve the outstanding ERP reservations and claims that include the DyoCore turbine. Solar Point appreciates Commission Staff’s efforts to resolve these issues in a fair and expedited manner. Commission Staff has developed a formula to resolve the outstanding reservations and claims (the “Formula”). Solar Point supports the Formula and

believes it reflects the impacts on the small businesses that have sold small wind systems that include the DyoCore turbine.

Pursuant to section 1718.5 of Title 20 of the California Code of Regulations and the Notice of Prehearing Conference for the Complaint Against DyoCore, Inc., Solar Point hereby files its Prehearing Conference Statement.

I. SOLAR POINT'S REQUEST FOR COMMITTEE ACTION ON THE FORMULA

Solar Point respectfully requests that the Committee act upon the Formula on October 11, 2011 to resolve the outstanding issues with authorized distributors of the DyoCore turbine. A Committee recommendation would allow Solar Point to avoid the time and expense of participation in any hearing called by this Committee on the other issues presented in the Complaint. Furthermore, Solar Point wants to ensure that the suppliers and subcontractors with which Solar Point works can be paid, and so that Solar Point's customers can decide whether to go forward with the installations that have been suspended in mid-construction. Because of the ramifications to small business of the suspension of the ERP and the actions requested in the Complaint, Solar Point respectfully requests that the Committee address the Formula separate and apart from the other issues presented by the Complaint. Solar Point further asks that the Committee recommend the Formula to the Commission for approval at the November 2, 2011, Business Meeting.

The Notice of Prehearing Conference specifically provided for an option to adjourn to a workshop for the purpose of working toward a resolution of the issues in the Complaint. Solar Point believes the Formula described by Commission Staff resolves all of Solar Point's issues to be addressed in this proceeding. Therefore, Solar Point has limited its Prehearing Conference Statement to an expression of support for this proposed resolution for outstanding reservations and claims by authorized distributors of the DyoCore turbine. Should this Committee or the Commission decide not to approve the Formula, Solar Point reserves its rights to amend its Prehearing Conference Statement and respond to the five points and key issues outlined in the Notice of Prehearing Conference. Furthermore and if the Committee does not approve the Formula, Solar Point must request a continuance of the Prehearing Conference.

II. SOLAR POINT'S PRELIMINARY WITNESS LIST

In light of the proposed Formula, Solar Point does not anticipate the need to call or cross-examine any witnesses at the hearing. However, should the Committee not approve the Formula, Solar Point reserves the right to call or cross-examine at least the following witnesses.

- Christopher Hawke (Solar Point)
- Robert Tablak (Solar Point)
- James Lee (Energy Commission)
- Sarah Taheri (Energy Commission)
- Stan Blois (Energy Commission)
- Jennifer Nelson (Energy Commission)
- Pete Baumstark (KEMA)
- Daria Mashnik (KEMA)

In the event that the Committee does not approve the Formula, Solar Point would like to reserve the right to cross-examine all witnesses presented by any Party to this proceeding. Solar Point does not know how many witnesses the Parties intend to call, nor does Solar Point know the identity of any such witnesses.

III. SOLAR POINT'S PRELIMINARY EXHIBIT LIST

Since Solar Point supports the Formula, it does not plan to file exhibits and testimony in this proceeding. However, in the event that the Committee does not approve the Formula, Attachment A below sets forth a partial list of exhibits Solar Point expects to present at the hearings. Solar Point reserves the right to add to this exhibit list in the event the Committee does not approve the Formula.

IV. PROPOSALS FOR SCHEDULING THE EXCHANGE OF EXHIBITS AND TESTIMONY, AND THE DATE OF HEARINGS

As noted above, since Solar Point supports the Formula, it does not plan to file exhibits

and testimony in this proceeding. However, in the event that the Committee does not approve the Formula, Solar Point reserves its right to propose dates for scheduling the exchange of exhibits and testimony and for the hearings.

V. COMMENTS ON THE COMMITTEE'S INTENTION TO USE INFORMAL HEARING PROCEDURES

Should the Committee fail to support the Formula, Solar Point would object to the use of informal hearing procedures.

VI. DISCUSSION OF KEY ISSUES IN THE CASE

The Notice of Prehearing Conference requests discussion of several key issues in this proceeding. Since Solar Point supports the Formula, it is not necessary or helpful at this time for Solar Point to provide discussion on these issues. However, in the event that the Committee does not approve the Formula, Solar Point reserves its right to file its discussion of these issues.

VII. CONCLUSION

Solar Point thanks Staff and the Committee for their consideration in this proceeding, and for working with Solar Point to resolve the issues arising from the Complaint in a fair and expedited manner.

DATED: October 4, 2011

DOWNEY BRAND LLP

By: _____/s/
Jane E. Luckhardt
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Downey Brand LLP
Attorneys for Solar Point Resources, Inc.

ATTACHMENT A

Solar Point's Exhibit List

SOLAR POINT RESOURCES, INC. EXHIBIT LIST

Exhibit	Brief Description	Offered	Admitted
300.	Testimony of Solar Point a. Chris Hawke b. Robert Tablak		
301.	March 4, 2011 Energy Commission Notice Regarding Suspension of Emerging Renewables Program		
302.	Excerpts from March 17, 2010 Energy Commission Business Meeting Regarding Suspension of Emerging Renewables Program		
303.	July 1, 2011 Energy Commission Notice Regarding Continuing Suspension of Emerging Renewables Program		
304.	California Energy Commission Emerging Renewables Program Guidebook (10th Edition; April 2010)		
305.	California Energy Commission Emerging Renewable Resources Account Guidebook, Volume 3 (January 1998)		
306.	Emerging Renewables Program Small Wind Incentives Study, prepared by KEMA, Inc for the Energy Commission (July 2009)		
307.	Electronic Mail Correspondence Between Representatives of KEMA, Inc. and DyoCore, Inc.		
308.	Energy Commission spreadsheet showing the addition of the DyoCore Turbine to the list of ERP-eligible wind turbines (March 1, 2010)		
309.	Energy Commission spreadsheet documenting the increased listed output of the DyoCore Turbine to 1.6kW (June 1, 2010)		
310.	Agreements and Work Authorizations Between Energy Commission and KEMA, Inc.		
311.	Solar Point Logs of Telephone Conversations		
312.	Energy Commission Form CEC-1038 R1		
313.	Energy Commission Form CEC-1038 R2		
314.	Data demonstrating Solar Point's pricing methodology		

315.	Communications from Solar Point customers in light of Emerging Renewables Program suspension		
<i>Remaining numbers reserved for additional exhibits.</i>			



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(Revised 9/16/2011)

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DECLARATION OF SERVICE

I, Lois Navarrot, declare that on, October 4, 2011, I served and filed copies of the attached **Solar Point Resources, Inc.'s Prehearing Conference Statement**, dated October 4, 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/index.html].

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:

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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/
Lois Navarrot