

**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

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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/
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