DOCKET
11-CAI-03
DATE SEP 13 2011
RECD. SEP 13 2011

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

RE: DyoCore Inc. Response to Amendment of Complaint against DyoCore, Inc.

Docket # 11-CAI-03

Dear Mr. Renaud,

We request to include the following towards response in respect to the filed Amended Complaint against DyoCore Inc.

Points requested to be considered by the Commission

1. Requested Action (§ 1231 (b)(S))

   I request this action be removed in its entirety. There is no justifiable cause to remove DyoCore as a qualified ERP participant.

   DyoCore submitted data that was taken into consideration by KEMA who then mistakenly published annual performance data opposed to actual wind data. The simple solution would be to post the correct data that is applicable for the intended rating performance listing as it should have been done in the first place. Since all other qualifications, other than a mistake made by KEMA, meet the ERP guidelines there is no cause for removal.

   As outlined in the KEMA CEC agreement Work Authorization No. 13. Amendment No. 1 Renewable Energy Program Technical Assistance Contract No. 400-07-030, KEMA was the sole authority on determining the merits of a company/product for inclusion.

   DyoCore acted in good faith in working with KEMA for such qualification and inclusion in the ERP. Following inclusion DyoCore and its independent representatives spent considerable financial resources and efforts towards building out SolAir product distribution capabilities to meet the demand of the California applicants as applied to the program. DyoCore, its distributors and California qualified residents and ERP participants depended on the intentions of the CEC and KEMA.

Work Authorization No. 13 Amendment No. 1

2	**Review of New Technology Requests**	Upon request and/or approval of the Energy Commission Project Manager, the Contractors will review industry representatives' requests to add products to the Eligible Equipment list that are not standard non-concentrating photovoltaic modules, meters/metering providers, inverters, fuel cells or wind turbines. The Contractors will initially determine if the information presented by the industry representative addresses all items necessary to meet the current requirements per the ERP Guidebook, Appendix 3, Section E, or SB1 Guidelines on Non-PV requirements. The Contractors will then advise the Energy Commission Project Manager on whether or not a detailed evaluation should be done. Upon approval by the Energy Commission Project Manager, the Contractors will: evaluate the technical merits of the proposal, working with the requesting party to obtain any missing information, and submit an electronic summary of the research results and recommendations to the Energy Commission Project Manager. The Energy Commission will in turn use the recommendation when deciding whether or not the new product is eligible to be added to the Eligible Equipment lists.	Written requests, updates, and evaluation summaries	As needed (e.g., when a request is received for listing a new product.) and as approved by the Energy Commission Project Manager

raine
9/6/2011 3:09:07 PM
"Contractor will: evaluate the technical merits of the proposal, working with the requesting party..."

2. Time is of the Essence.

   Substantial financial damage is being caused by continued delays to both the reinstatement of the CEC ERP and in the complaint against DyoCore. It is our request that a timely and immediate resolution be sought in moving forward. Further delay is causing significant financial damage to California businesses, some of which have already began closing their doors and have already reduced staff, and already financially crushed families who have placed deposits down towards renewable energy systems that are being considerably held up by this continued delayed process of reinstating the ERP and release of held funds.

   If there is cause against DyoCore it should be identified and DyoCore should be given its opportunity to defend itself formally, if no cause exists other than simply the wrong power curve being posted by KEMA then post the correct power curve so we can all move forward.

3. The Facts

   DyoCore at the time of application and inclusion in the ERP could have arbitrarily chosen any point within the correct power curve. The fact is that there was NO standard in place that required a product to qualify at any specific wind speed.

   DyoCore's SolAir will produce 1.6 kW in real wind speeds at approximately 38mph. This at the time of listing and still today is an applicable qualification. Other products on the ERP are listing at similar wind speeds that are installed in similar conditions.

   As published by Paul Gipe, Testing the Power Curves of Small Wind Turbines – Published in 2000, Summer 2000 (Vol. 13, No. 3) issue. WindStats.

   > "There are no rules, standards, or norms about what wind speed manufacturers may pick to "rate" their small wind turbines. Often in the United States it's 28 mph (12.5 m/s). But manufacturers may pick any speed they choose. If it's less than 28 mph, the turbine will have a lower "power rating" than a wind turbine with a similar sized rotor but with a higher rated speed. In the 1970s it was easy for unscrupulous manufacturers to manipulate this system to make it appear that their turbines were a better buy than competing products. By pushing "rated power" higher they were able to show lower relative costs in $/kW of rated power (turbine cost/rated power) or they were able to jack up their price--and profits--proportionally."
   >
   > "Measuring power curves is not an exact science. There's a lot of room for error and misinterpretation. Most notable is the sheer difficulty of accurately measuring wind speed. It's not as simple as most think."

   Paul Gipe concluded by stating; "it's unlikely that a consumer can expect to see the performance promised", then listed companies that are ERP participants.

4. If any notice is to be sent to participants it should be a notice of when to expect their rebates as promised by the program that they and all participating parties invested in.

If the objective of the committee is to delay a hearing to allow further investigation of a resolution to release held funds it is understood that this is a difficult decision, however, the facts have to have a part on that timely decision. The facts do not change in time and they are clearly agreeable. The facts are that approximately 180 turbines are listed on the ERP of which over three quarters if not greater have published power curves that will never be experienced by the consumer and NO set standard was in place for their consideration during publication.

DyoCore, its distributors and its clients are inappropriately being made a target by an already broken system. Had any other company prior to DyoCore had demonstrated the demand that DyoCore has for its products the system would have come to a halt as well. DyoCore should not be victimized because of its success and the success of the ERP as it was intended to apply. If the system is broken then fix it but not at the financial burden and good hard working California companies who all acted in good intentions to the intended purpose of the program. If companies and consumers

participated in good faith and within the terms of the program then the program should honor those participants as promised and stated.

DyoCore has a qualified physicist reviewing its raw data. DyoCore should have a verified power curve from its 2009-10 Hampshire IL test site within the next week and will immediately forward this qualified data to KEMA for its review and modification of the SolAir published power curve. Since no current requirement is in place for a required wind speed, DyoCore will be seeking a qualification at 1.6 kW at the respective correlating wind speed if applicable.

DyoCore has also been accepted for testing by SWCC and expects to begin testing within the month to meet the anticipated new playbook standards and a new published rating that applies to the applicable standard in place at that time as it would apply to all other qualified ERP products/companies.

Sincerely,

David Raine,
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DECLARATION OF SERVICE

I, David Raine, declare that on, 9/13, 2011, I served and filed copies of the attached Amendment Response, dated 9/13, 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
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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.

*indicates change

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)

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