

December 10, 2018 California Energy Commission Business Meeting

Item 7. PROPOSED ADOPTION OF THE GUIDELINES FOR CALIFORNIA'S SOLAR ELECTRIC INCENTIVE PROGRAMS (SENATE BILL 1), SEVENTH EDITION

Proposed Guidelines, Clean Version

<https://efiling.energy.ca.gov/GetDocument.aspx?tn=225961>

Proposed Guidelines, Redline Version

<https://efiling.energy.ca.gov/GetDocument.aspx?tn=225941>

Senate Bill 1 Docket Log

<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=07-SB-01>

M e m o r a n d u m

To: Commissioner David Hochschild
Renewables Lead Commissioner

Date: November 30, 2018

From: Mona Badie, Staff Counsel
Office of Chief Counsel
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512

Subject: Docket No. 07-SB-01, Revision to the Guidelines for California's Solar Electric Incentive Programs (Senate Bill 1) at the December 10, 2018 Business Meeting

Summary

This memo addresses the application of the California Environmental Quality Act (CEQA) to the Commission's adoption of a proposed revision to the Guidelines for California's Solar Electric Incentive Programs (Senate Bill 1) (hereinafter referred to as the SB 1 Guidelines), as reflected in the proposed Guidelines for California's Solar Electric Incentive Programs (Senate Bill 1), Seventh Edition. The SB 1 Guidelines are being revised to respond to and reflect the release of new equipment standards, current and planned requirements for smart inverters, and solar paired with storage installations.

Based on a review of CEQA and the pertinent legal authority, I have concluded that the Commission's adoption of the revised SB 1 Guidelines is exempt from CEQA, either because the action is not a "project" under CEQA, or because the action is exempt under what is commonly referred to as the "common sense" exemption to CEQA. This is the same conclusion that was made by Staff Counsel Michelle Chester in a Memorandum dated October 31, 2016 with regards to the adoption of the Guidelines for California's Solar Electric Incentive Programs (Senate Bill 1), 6th Edition.

Background

The SB 1 Guidelines establish eligibility criteria, conditions for incentives, and rating standards to qualify for ratepayer-funded incentives for solar energy systems pursuant to Senate Bill 1 (Stats. 2006, ch. 132, § 4). The SB 1 Guidelines were initially adopted by the Commission in December 2007, with multiple revisions to date, including the most recent 6th Edition adopted in November 2016, and establish minimum requirements to implement California's solar energy system incentive programs overseen by the Commission, the California Public Utilities Commission (CPUC), and local publicly owned electric utilities (POUs).

Senate Bill 1 builds on the CPUC's California Solar Initiative (CSI) program, the Commission's New Solar Homes Partnership (NSHP) program, and the POU's existing solar energy system incentive programs with an overall goal is to help build a self-sustaining solar electricity market combined with improved energy efficiency in the State's residential and non-residential buildings.

The proposed Guidelines for California's Solar Electric Incentive Programs (Senate Bill 1), Seventh Edition summarize the revision as follows:

- Photovoltaic modules incentive eligibility:

- Modification of photovoltaic (PV) modules' proof of certification in line with accepted national safety standards;
- Providing manufacturers with the option to submit additional optional performance data and detailing how the Commission may replace the current required performance requirements in the future;
- Describing the acceptance of optional design qualification or performance information from manufacturers and detailing the criteria for including new information; and
- Removing some previously required or optional performance data.
- Inverters: modification of the requirement for inverter components including providing manufacturers the option of submitting additional information related to smart inverters.
- Battery storage system and components: addition of requirements for battery energy storage systems and batteries.
- Procedure for removing equipment from the Commission's eligible equipment lists: update of the methods through which the Commission may notify a manufacturer that its equipment is being removed from the eligible equipment lists.

CEQA

CEQA (Public Resources Code, § 21000 et seq.) requires state agencies to consider the environmental impacts of their discretionary decisions. CEQA generally applies to "discretionary projects proposed to be carried out or approved by public agencies..." (Public Resources Code, § 21080(a)). The CEQA Guidelines (Cal. Code Regs., Title 14) define a "project" to mean "the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment..." (CEQA Guidelines, § 15378(a)). The CEQA Guidelines list activities that may be considered a "project," including approvals by public agencies for public works construction or related activities, contracts, grants, loans or other forms of assistance, or leases, permits, licenses, certificates, or other entitlements (CEQA Guidelines, § 15378(a)(1) - (3)). The CEQA Guidelines also list several activities that do not fall within the meaning of the term "project" and thus are not subject to CEQA, including a public agency's "[c]ontinuing administrative or maintenance activities, such as ... general policy and procedure making..." (CEQA Guidelines, § 15378(b)(2).)

Adoption of Revision to the SB 1 Guidelines

The proposed revision is administrative in nature. As such, the Commission's approval of the proposed revision should be characterized as a continuing administrative or maintenance activity related to general policy and procedure making, and thereby excluded from the definition of a "project" under the CEQA Guidelines, § 15378(b)(2), and not subject to CEQA.

However, if adoption of the proposed revision is considered to constitute a "project" under CEQA, the Commission's action is nevertheless exempt under CEQA Guidelines § 15061(b)(3), commonly referred to as the "common sense" exemption. Where there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA (CEQA Guidelines, § 15061(b)(3)). The proposed revision seeks to revise program guidelines so it will not have a significant effect on the environment. Additionally, the Commission has already determined the SB 1 Guidelines are exempt under the common sense exemption, so revisions thereto should fall under the same analysis.

For these reasons, the Commission's adoption of the proposed Guidelines for California's Solar Electric Incentive Programs (Senate Bill 1), Seventh Edition is exempt from CEQA.

RESOLUTION NO: _____

STATE OF CALIFORNIA

STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

RESOLUTION RE: GUIDELINES FOR CALIFORNIA'S SOLAR ELECTRIC INCENTIVE
PROGRAMS (SENATE BILL 1), SEVENTH EDITION

WHEREAS, Senate Bill 1 (Statutes of 2006, Chapter 132) (SB 1), as codified in Public Resources Code sections 25780 through 25784, directs the State Energy Resources Conservation and Development Commission (the Energy Commission) to adopt guidelines to establish eligibility criteria, conditions for incentives, and rating standards for all ratepayer-funded solar energy incentive programs pursuant to SB 1, including incentive programs administered by the Energy Commission, the California Public Utilities Commission (CPUC), and local publicly owned electric utilities (POUs); and

WHEREAS, on December 19, 2007, in accordance with Public Resources Code Sections 25780 through 25784, the Energy Commission adopted guidelines entitled, *Guidelines for California's Solar Electric Incentive Programs Pursuant to Senate Bill 1* (SB 1 Guidelines), which were most recently revised in 2016; and

WHEREAS, staff, with input and guidance from renewables lead Commissioner David Hochschild, has proposed a revision to the SB 1 Guidelines to respond to and reflect the release of new equipment standards, current and planned requirements for smart inverters, solar paired with storage installations, and other related matters, as reflected in the proposed *Guidelines for California's Solar Electric Incentive Programs (Senate Bill 1), Seventh Edition*; and

WHEREAS, the Energy Commission's legal office has considered the application of the California Environmental Quality Act (CEQA) to the adoption of the proposed revision to the SB 1 Guidelines and concluded that the adoption is exempt from CEQA, because: (1) it is a continuing administrative activity related to general policy and procedure making which is not considered a "project" subject to CEQA under California Code of Regulations, Title 14, Section 15378(b)(2); and (2) if it is considered a project, then it falls under the "common sense" exemption in California Code of Regulations, Title 14, Section 15061(b)(3) because it does not have the potential to have a significant effect on the environment.

THEREFORE, BE IT RESOLVED, the Energy Commission has considered staff's proposed revision to the SB 1 Guidelines and finds that its adoption is exempt from CEQA for the reasons stated by the legal office; and

THEREFORE, BE IT FURTHER RESOLVED, the Energy Commission hereby adopts the revision to the SB 1 Guidelines, *Guidelines for California's Solar Electric Incentive Programs (Senate Bill 1), Seventh Edition*, and authorizes the Executive Director, or his designee, to implement these SB 1 Guidelines on the Energy Commission's behalf.

CERTIFICATION

The undersigned Secretariat to the Commission does hereby certify that the foregoing is a full, true, and correct copy of a Resolution duly and regularly adopted at a meeting of the Energy Commission held on December 10, 2018.

AYE: [List of Commissioners]

NAY: [List of Commissioners]

ABSENT: [List of Commissioners]

ABSTAIN: [List of Commissioners]

Cody Goldthrite,
Secretariat