

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



April 27, 2022

Sephra A. Ninow, J.D.
Director, Regulatory Affairs
Center for Sustainable Energy
3980 Sherman Street, Suite 170
San Diego, CA 92110
sephra.ninow@energycenter.org

Subject: Energy Division Approval of Center for Sustainable Energy Advice Letter 133-E/133-E-A “Proposed Substantive and Minor Revisions to the Solar on Multifamily Affordable Housing (SOMAH) Program Handbook”

Dear Ms. Ninow,

This disposition letter approves the Center for Sustainable Energy (CSE) advice letter (AL) CSE 133-E and CSE 133-E-A “Proposed Substantive and Minor Revisions to the Solar on Multifamily Affordable Housing (SOMAH) Program Handbook” pursuant to Decision (D.) 17-12-022, effective April 24, 2022.

D.17-12-022 ordered that the initial SOMAH Program Handbook be submitted via a Tier 3 AL while Handbook adjustments may be proposed by the program administrator via a Tier 2 AL.^{1,2} Pursuant to D.17-12-022, CSE submitted Handbook adjustments in CSE AL 133-E on March 15, 2022, and partial supplement CSE AL 133-E-A on March 25, 2022, which seeks to update the Handbook to better support applicants in disadvantaged communities, update information sources, and accelerate the application process.³

Sunrun filed a timely protest on March 7, 2022. On March 14, 2022, CSE filed a timely reply seeking to dismiss the protest in full. On March 25, 2022, CSE filed supplemental advice letter CSE AL 133-E-A to clarify code of conduct implementation and accepting most of the changes Sunrun proposed as a remedy within their protest.

Energy Division finds that CSE AL 133-E and 133-E-A comply with D.17-12-022 and are approved. Attachment 1 contains a detailed discussion of the background, protests, reply, and staff’s determination.

¹ D.17-12-022 Ordering Paragraph 1

² IBID Appendix B at page 1

³ CSE AL 133-E-A replaces CSE AL 133-E SOMAH Program Handbook sections 2.1.7, 4.2, 4.2.3, 4.2.4, 4.4.5, 4.9.1, 4.9.3, and 4.9.5.

Please direct any questions regarding Energy Division's findings in this disposition to Sarah Lerhaupt (sarah.lerhaupt@cpuc.ca.gov).

Sincerely,

 FOR

Pete Skala
Interim Deputy Executive Director for Energy and Climate Policy/
Interim Director, Energy Division

cc:
Rachel McMahon, Director of Public Policy, Sunrun

Attachment 1

Background

Decision (D.) 17-12-022 began implementation of Assembly Bill (AB) 693 (Eggman, 2015) by, among other things, creating the Solar on Multifamily Affordable Housing (SOMAH) program. SOMAH provides incentives to qualified affordable multifamily housing properties to install distributed generation energy systems, whose economic benefits must mostly accrue to tenants. While the main program elements were set in Public Utilities Code 2870, D.17-12-022 established that the SOMAH program would be administered by a statewide third-party program administrator (PA) and ordered that the PA file an initial proposed program implementation plan and program handbook via a Tier 3 advice letter (AL). D.17-12-022 further specified that the PA could request future adjustments to the approved SOMAH Program Handbook (referred to further as the “Handbook”) via a Tier 2 AL.^{4,5,6} The SOMAH PA consists of four organizations: the Center for Sustainable Energy (CSE), GRID Alternatives, the Association for Energy Affordability, and the California Housing Partnership Corporation.

In conformance with D.17-12-022 and on behalf of the entire SOMAH PA team, CSE filed advice letter CSE 133-E and CSE 133-E-A requesting to modify certain elements of the Handbook. The impetus for the Handbook changes came from recent SOMAH Evaluation report recommendations and stakeholder input.^{7,8,9} The changes requested by CSE were:

- Establishing a participation benchmark that 40% of all properties be in disadvantaged communities (DACs) by 2026,
- Allowing an application deposit waiver for priority groups like DAC properties,
- Updating CalEnviroScreen tool eligibility for DAC properties to align with CalEPA’s latest map version,¹⁰
- Adding a code of conduct that allows the PA to remove any participant from the program if not adhered to, and
- Amending current application processes, updating the Handbook’s glossary of terms and information sources, and improving fleet monitoring for the program.¹¹

⁴ D.17-12-022 Ordering Paragraph 1

⁵ Resolution E-4987 (2018) approved the first SOMAH Program Implementation Plan and Program Handbook

⁶ Previous SOMAH Program Handbook Advice Letters from Center for Sustainable Energy (CSE) include 105-E, 114-E-A, and 118-E-A

⁷ SOMAH Program Phase 2 Evaluation Report, CALMAC ID CPU0330.02, by Verdant and Associates, October 2021

⁸ The SOMAH PA meets regularly with Energy Division and runs quarterly public forums and an Advisory Council (of non-profit and property owner representatives) to solicit program development feedback.

⁹ The SOMAH PA also presented to the Disadvantaged Community Advisory Group on May 21, 2021, for their feedback on DAC participation. The meeting details are accessible here:

<https://www.energy.ca.gov/event/meeting/2021-05/disadvantaged-communities-advisory-group-meeting>.

¹⁰ D.17-12-022 at page 10-11 states “AB 693 requires that in the context of this program, disadvantaged communities are those identified by the California Environmental Protection Agency pursuant to California Health and Safety Code Section 39711. CalEPA defines disadvantaged communities as those scoring in the top 25% of census tracts statewide on a set of environmental, health, and socioeconomic data from 20 indicators. In addition, 22 census tracts in the highest 5% of CalEnviroScreen’s Pollution Burden, but that do not have an overall CalEnviroScreen score because of unreliable socioeconomic or health data, are also designated as disadvantaged communities”

Protests and Reply

Sunrun filed a timely protest on March 7, 2022, arguing that CSE failed to propose Handbook modifications in response to recommendations from a recent SOMAH Evaluation Report. Sunrun summarized the evaluation recommendations as a need for the program “to reduce excessive process, unnecessary information demands, and cycles of paperwork that present a significant disincentive.”^{12, 13} Secondly, Sunrun’s protest argues that the Handbook should be updated to improve access through the electric utilities to tenant meter numbers and electricity usage data to reduce the “substantial amount of back and forth between contractors and utilities”.¹⁴

Regarding the first matter, Sunrun contends that CSE failed to propose application process changes that will reduce the program’s administrative burden on applicants more fully. The Handbook captures the steps an applicant must take to document a project’s eligibility, construction progress, and program requirements to receive an incentive. Sunrun’s protest recommends application process changes that introduce greater flexibility for the Energy Efficiency Compliance Milestone documentation; allow earlier acknowledgement of the Progress Payment Pathway; and eliminate the required waiting period between the Program Payment Pathway and the Incentive Claim Form. These recommendations reduce paperwork or waiting periods for the applicant.

Regarding tenant data, Sunrun recommends that the utilities supply meter numbers based on tenant addresses and the utilities should provide tenant energy consumption information immediately following submittal of a SOMAH reservation application.

On March 14, 2022, CSE filed a reply stating that Sunrun’s protest should be dismissed on the grounds that it relies upon policy objections that are beyond the scope of matters appropriate for this advice letter. General Order 96(b) Section 7.4.2 states that “a protest may not rely on policy objections to an advice letter where the relief requested in the advice letter follows rules or directions established by statute or Commission order applicable to the utility.”¹⁵ CSE did agree however that the “SOMAH PA does view the suggestions [from Sunrun] as beneficial to the program’s overall efforts to reduce procedural barriers and promote greater program participation.”¹⁶

On March 25, 2022, CSE filed supplemental advice letter CSE 133-E-A with additional updates to the Handbook to clarify the proposed Participant Code of Conduct infraction and dismissal process and accepting some of Sunrun’s recommendations in full and others in-part for reducing the program’s administrative burden, as explained in the section below.

¹¹ CSE AL 133-E at page 8, Section L. This removes the need for contractors to manually transmit solar system performance information by allowing the SOMAH PA to have access directly.

¹² Sunrun Protest, March 7, 2022, at page 3

¹³ SOMAH Phase 2 Evaluation Report CPU0330.02, Verdant and Associates, October 2021

¹⁴ Sunrun Protest, March 7, 2022, at page 6

¹⁵ General Order 96(b) Section 7.4.2 at page 13

¹⁶ CSE, March 14, 2022, Reply to Protest at page 4

Discussion

Firstly, CSE's request to wholly dismiss Sunrun's protest is denied. CSE's position that Sunrun's protest does not satisfy General Order 96(b) Section 7.4.2 "Grounds for Protest" is only partially correct. Given that the Commission in D.17-12-022 identified program handbook adjustments as a matter appropriate to a Tier 2 AL and that General Order 96(b) Section 7.4.2 Grounds for Protests permits protests when they are based on the "advice letter [containing] material errors or omissions" it is allowable for Sunrun to protest on the grounds of omission for certain program administration adjustments. Sunrun's protest of the PA's application processes, which are set by the Handbook, are valid and should be addressed by the PA when shown to be feasible and within the PA's scope.¹⁷ Recommended changes are limited to the advice letter filer, in this case the SOMAH PA. While Sunrun's protest is generally permissible, it also identifies remedies that require action by the utilities that do not satisfy the grounds for protest listed in General Order 96(b) Section 7.4.2.

Detail regarding denial of Sunrun's recommendations for the utilities and acceptance by CSE of permissible recommendations is below.

Denial of Sunrun's Protest Regarding Utility Recommendations

Sunrun's requests that the Handbook should allow "[program participants to] obtain meter numbers from the utility, rather than the applicant submitting them" and "usage data should be available [from the utilities] more quickly" do not satisfy the grounds for protest of CSE AL 133-E and/or 133-E-A per General Order 96(b) Section 7.4.2 as they are policy objections outside the scope of the relief requested.¹⁸ D.17-12-022 determined that the PA sets program processes and oversees the Handbook, not the utilities. Unless this policy is changed, issues outside the PA's SOMAH processes are not within the AL's permitted scope. While the Handbook may reflect or have requirements in response to utilities' requirements, those requirements are not addressable in this AL filing. The portion of Sunrun's protest seeking to change utility processes is denied since it does not satisfy the grounds for protest in General Order 96b Section 7.4.2 and per General Order 96b Section 7.6.1 is also erroneous as it is beyond the direction identified by the Commission in D.17-12-022.¹⁹

CSE Supplemental #133-E-A Resolves Sunrun's Protest

In its supplemental AL CSE 133-E-A, the SOMAH PA agrees with and incorporates recommendations presented by Sunrun to address the application process omissions in its initial advice letter submittal. CSE adopted Sunrun's recommendations to allow simultaneous documentation for Proof of Project Milestone and Energy Efficiency Milestone and to the same

¹⁷ General Order 96(b) Section 7.4.2 at page 13

¹⁸ Sunrun, March 7, 2022, "Sunrun's Protest to Center for Sustainable Energy Advice Letter 133-E, Proposed Substantive and Minor Revisions to the Solar On Multifamily Affordable Housing (SOMAH) Program Handbook" at page 2

¹⁹ General Order 96(b) Section 7.6.1 states "Notwithstanding a timely protest, the reviewing Industry Division may approve an advice letter that is subject to disposition under this rule and is otherwise proper, if the protest either (1) is not made on proper grounds as set forth in General Rule 7.4.2, (2) may be rejected on a technical basis as discussed in this rule, or (3) is clearly erroneous."

effect, incorporated recommendations to adjust the Progress Payment Request form timing and amended the waiting time between the Progress Payment Request Milestone and the Incentive Claim form.

For amending the Progress Payment Request (PPR) Milestone, the PA removed the required waiting time, allowing submittal of the PPR form simultaneously with the Proof of Project Milestone form. The PA disagreed with Sunrun's suggestion to replace the PPR form with a checkbox in the PowerClerk application portal (as part of the Proof of Project Milestone documentation). The PA maintains "[due] to the payment of funds, it is important to confirm that all involved parties are in agreement" as to where the funds will be given and to this end, have a form separate from PowerClerk, which is managed by the Applicant.²⁰ The Applicant may be a separate party designated by the property owner. This is a satisfactory resolution of Sunrun's recommendation, as it combines two steps into one and maintains customer protections.

The PA declined Sunrun's suggestion to eliminate the minimum period between the PPR and Incentive Claim Milestones. Instead, the PA proposes to reduce the minimum period from four months to two months. The PA shares that Sunrun's suggestion is not feasible as it will 1) complicate the ability for Applicants to complete one milestone before the other, 2) create a technical hurdle since the database and application system are not set up for processing overlapping payments, and 3) go against the intent of the Progress Payment which "is to provide additional financial support for the project in the time period where the project is mechanically complete but not yet interconnected and ready to submit the [Incentive Claim form]."²¹ The PA adequately addresses Sunrun's suggestion with their Handbook revision in AL CSE 133-E-A, as the period between PPR and Incentive Claim Milestones can be twice as fast as before and will maintain the Progress Payment's purpose.

In summary, the components of Sunrun's protest of CSE 133-E that are allowable are resolved by CSE with the submittal filing of CSE AL 133-E-A. Therefore, Energy Division approves CSE AL 133-E and CSE AL 133-E-A, effective April 27, 2022.

²⁰ CSE, March 25, 2022, "Supplemental: Proposed Substantive and Minor Revisions to the Solar On Multifamily Affordable Housing (SOMAH) Program Handbook" at page 4

²¹ CSE, March 25, 2022, "Supplemental: Proposed Substantive and Minor Revisions to the Solar On Multifamily Affordable Housing (SOMAH) Program Handbook" at page 5