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8-15-16
04:59 PM

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking
Concerning Energy Efficiency Rolling
Portfolios, Policies, Programs,
Evaluation, and Related Issues.

Rulemaking 13-11-005
(Filed November 14, 2013)

**THE OFFICE OF RATEPAYER ADVOCATES’
NOTICE OF EX PARTE COMMUNICATION**

Pursuant to Rule 8.4 of the California Public Utilities Commission’s (“Commission”) Rules of Practice and Procedure, the Office of Ratepayer Advocates (“ORA”) respectfully submits the following notice of ex parte communication in the above referenced docket. Rule 8.3 (d) provides that ex parte notices are not required in a ratesetting proceeding where hearings have been determined to be unnecessary, as was determined in the above referenced docket.¹ In the interest of full transparency, ORA submits the notice of oral ex parte communication, which occurred at the Commission’s offices in San Francisco.

The meeting was held on Wednesday, August 10, 2016 at 2:30 p.m. with Matthew Tisdale, Advisor to Commissioner Mike Florio. It lasted for thirty minutes. The meeting was initiated by ORA to discuss the Proposed Decision on 2016 Energy Efficiency Policy Guidance (“PD”). ORA representatives present were Program Manager Mike Campbell, Analyst Daniel Buch, and Attorney Zhen Zhang.

¹ Assigned Commissioner’s Ruling and Scoping Memorandum Regarding 2015 Portfolios (Phase I of Rulemaking 13-11-005), p. 3 (Jan. 22, 2014); Assigned Commissioner and Administrative Law Judge’s Ruling and Scoping Memorandum Regarding Implementation of Energy Efficiency “Rolling Portfolios” (Phase II of Rulemaking 13-11-005), p. 13 (Feb. 24, 2015); *see generally* Assigned Commissioner and Administrative Law Judge’s Ruling and Amended Scoping Memorandum Regarding Implementation of Energy Efficiency “Rolling Portfolios” (Phases IIB and IIIA of R.13-11-005) (Oct. 30, 2015).

ORA and Sean Simon discussed the following:

- ORA supports the PD's direction on statewide and third party programs in order to ensure greater statewide consistency and cost-effectiveness.
- The PD should be modified to require Investor Owned Utilities ("IOUs") to bid out their entire portfolios to third parties unless an IOU can demonstrate it can implement a program more cost-effectively than all other implementers.
- ORA supports the PD determination that energy efficiency goals should be set to net saving, to prevent free ridership.
- ORA supports the removal of codes and standards savings from IOU goals.
- The PD's baseline policy is reasonable, but should be modified to incorporate the Energy Division White Paper proposal on baselines for major alterations.
- The PD should be modified to increase accountability for Evaluation, Measurement, and Verification funding.

ORA's presentation was accompanied by a handout outlining ORA's positions. A copy of the handout is attached.

Respectfully submitted,

/s/ ZHEN ZHANG

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August 15, 2016



Proposed Decision

Energy Efficiency Portfolio Guidance

ORA Position: The CPUC should adopt the Proposed Decision (PD) with certain modifications in order to provide guidance in developing Energy Efficiency (EE) portfolios that will result in optimal, cost-effective energy savings.

Statewide and Third-Party Programs

ORA Supports: The PD directs IOUs to transition upstream and midstream programs, as well as some downstream, to the new statewide structure in order to reduce administrative redundancy and increase consistency in statewide programs.

The PD directs IOUs to bid out EE program design and implementation to third-parties unless an IOU specifically shows why the program activity must be conducted by utility personnel.

Modify the PD to Optimally Promote the CPUC's New EE Framework

- **Compliance with Definitions:** Require all EE programs meet the statewide or third-party definition, unless IOUs demonstrate they can implement more cost-effectively:
 - ▶ IOUs should be compensated on pay-for-performance terms for all programs they implement.
- **Procurement Review Groups (PRGs):** Require IOUs to convene EE PRGs to oversee the preparation of competitive solicitations and to ensure the fair evaluation of competitive solicitations.
 - ▶ PRGs should be modeled on existing supply-side PRGs and assisted by Independent Evaluators.
- **Statewide Budget True-up:** Clarify that both prospective and retrospective program budget true-up is necessary to ensure that the costs for statewide programs correspond to ratepayer benefits each IOU territory.
- **Statewide Program Leads:** Require joint Tier 1 advice letter within 30 days of Decision, identifying lead Program Administrator (PA) for each statewide program in order to ensure a timely transition to the new statewide structure in upcoming business plan filings.

Portfolio Goals

ORA Supports: The PD determines that goals should revert to net instead of gross to best achieve state policy goals. Net goals:

- ▶ Align PA targets with ratepayer interests and state goals to promote real, measurable grid impacts.
- ▶ Protect ratepayers from non-incremental activities that may result from changes in baselines, as these would not contribute to goal achievement.



Codes and Standards

ORA Supports: The PD removes Codes and Standards from IOU goal setting and goal achievement.

- ▶ Strikes a reasonable balance in directing the IOUs to continue to fund and administer C&S advocacy programs with management fees in ESPI.
- ▶ Alleviates substantial double-counting concerns arising from the move to existing conditions baselines as a default.

Baselines

ORA Supports: The PD adopts existing conditions as a default baseline for existing buildings while adopting reasonable exceptions for cases where alternate baselines are more appropriate.

Modify the PD to Incorporate ED's White Paper Proposal on Major Alterations in Order to Reduce Free-Ridership

- Commercial sector turnover in existing buildings is likely to be the largest source of new free-ridership with a change in baseline to existing conditions.
 - ▶ ED's White Paper reduces free-ridership in commercial sector turnover by requiring a code baseline, but allows for reasonable exceptions where free-ridership concerns are less substantial such as hard-to-reach markets.
- IOUs should develop a process for identifying which projects are least likely to be incremental.
 - ▶ Prevents net-to-gross ratios for programs serving this market from sinking dramatically and disadvantaging truly incremental projects.

EM&V

Modify the PD to Provide Accountability for EM&V Budgets

- Allocate 27.5% of total EM&V budgets to PAs in order to support current EM&V activities.
- Allocate an additional 12.5% to ED initially, but earmark funds for IOUs for incremental EM&V activities related to new measurement activities.
 - ▶ Require the IOUs to file a Tier 2 Advice Letter describing EM&V activities and budget in order to access the earmarked funds.
- Require CPUC staff to perform a reasonableness audit of EM&V administrative expenses in the next annual audit of EE program administrators.