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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Examine the Commission's Post-2008 Energy Efficiency Policies, Programs, Evaluation, Measurement, and Verification, and Related Issues	Rulemaking 09-11-014 (Filed November 20, 2010)

REPLY COMMENTS OF THE CALIFORNIA ENERGY EFFICIENCY INDUSTRY COUNCIL (EFFICIENCY COUNCIL) IN RESPONSE TO THE ASSIGNED COMMISSIONER'S RULING SOLICITING COMMENTS ON POST-2012 ENERGY EFFICIENCY SAVINGS GOALS AND OTHER PORTFOLIO PLANNING MATTERS

December 10, 2010

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I. Introduction and Summary

The California Energy Efficiency Industry Council (Efficiency Council) respectfully submits this reply to comments submitted December 3, 2010 by parties in this proceeding in response to the "Assigned Commissioner's Ruling Soliciting Comments" (Ruling or ACR), dated November 17, 2010.[1] These reply comments are submitted in accordance with Rules 1.9 and 1.10 of the California Public Utilities Commission's (CPUC or Commission) Rules of Practice and Procedure.

The Efficiency Council is a non-profit trade association representing businesses that provide energy efficiency services and products in California.[2] The Efficiency Council's membership currently consists of 43 non-utility companies that include energy service companies, engineering and architecture firms, contractors, implementation and evaluation experts, financing experts, unions, workforce training entities, and manufacturers of energy efficiency products and equipment. The member companies of the Efficiency Council employ over 3,500 Californians (over 50,000 nationally) and have over 110 different offices in cities

[1] The Efficiency Council filed a Motion to Become a Party in this proceeding in accordance with Rule 1.4 on December 3, 2010, concurrently with opening comments in response to the ACR.

[2] More information about the Efficiency Council, including information about the organization's current membership, Board of Directors, and antitrust guidelines and code of ethics for its members, can be found at www.efficiciencycouncil.org.

from Eureka to San Diego to help California residents and businesses save energy in every corner of the state. The mission of the Efficiency Council is to support appropriate energy efficiency policies, programs, and technologies that create sustainable jobs and foster long-term economic growth, stable and reasonably priced energy infrastructures, and environmental improvement. The Efficiency Council's members represent substantial expertise in California's energy efficiency industry and have on-the-ground experience with successfully delivering efficiency savings in the state through a variety of channels.

The Efficiency Council commends the Commission and Energy Division for examining the issues around portfolio planning that are necessary to be resolved before the start of the next portfolio cycle. The Efficiency Council appreciates the opportunity to provide these reply comments, and it looks forward to participating in the process going forward and working with other stakeholders to determine the best way to plan for the next program cycles and ensure California's leadership continues and that benefits to the state's economy are maximized. The Efficiency Council's replies to other parties' comments in response to the questions posed in the ACR are summarized as follows:[3]

- The Efficiency Council urges the Commission to quickly resolve the threshold issue of program cycle timing posed in the ACR. The reexamination of administrative structure, at least at this particular time, as suggested by TURN and DRA is not necessary. Stability of a policy framework, with improvements, is necessary; this is a primary concern of the efficiency industry and a theme that drives many of our comments.
- Several parties, along with the Efficiency Council, support a one-year extension of the 2010-2012 portfolio cycle and encourage the Commission to adopt a permanent extension of the program cycle to four years.
- If the current cycle is extended, the Efficiency Council supports full bridge funding for 2013, with, as suggested by DRA and LGSEC, funding decisions made as early as possible so that businesses, customers, and the utilities do not miss opportunities for energy savings and economic growth.
- Along with TURN, DRA, NRDC, PG&E, SCE, Sempra, and LGSEC, the Efficiency Council strongly supports the inclusion of flexible, mid-cycle opportunities for portfolio adjustments that ensure the inclusion of innovative

[3] In these reply comments, the Efficiency Council responds to comments filed by the the Division of Ratepayer Advocates (DRA), Local Government Sustainable Energy Coalition (LGSEC), Natural Resources Defense Council (NRDC), Pacific Gas and Electric (PG&E), Southern California Edison (SCE), Southern California Gas and San Diego Gas & Electric (Sempra utilities), and The Utility Reform Network (TURN).

ideas and programs, as well as provide an exit ramp for unsuccessful programs or for successful programs that have run their course. A key mechanism to identify mid-cycle needs and adjustments should be through formal and periodic public reviews, possibly such as those outlined by NRDC.

- As suggested by NRDC and PG&E, the Commission should develop and adhere to a consolidated timeline that incorporates all the pre-cycle policy guidance and other portfolio planning activities. This coordinated timeline will allow for the most predictability in cycle schedule by providing sufficient time for each planning activity.
- The Efficiency Council joins several parties in the proceeding in asserting that the current cost-effectiveness inputs should be updated and that a thorough review of the alternative approaches to cost-effectiveness evaluation should be conducted as soon as possible, in advance of goal development and prior to portfolio development and program starts.

II. Responses to Comments Submitted by Parties in Response to December 3, 2010 ACR Regarding Energy Division White Paper

The Efficiency Council urges the Commission to quickly resolve the threshold issue of program cycle timing posed in the ACR. The reexamination of administrative structure, at least at this particular time, as suggested by TURN and DRA is not necessary. Stability of a policy framework, with improvements, is necessary; this is a primary concern of the efficiency industry and a theme that drives many of our comments.

The Efficiency Council believes it is essential to ensure that any pre-cycle portfolio planning activities proceed on schedule and allow for an on-time start of the next program cycle. This will best be achieved through quick Commission action to resolve the threshold issue of program cycle timing presented in the ACR. The Local Government Sustainable Energy Coalition (LGSEC) believes that it is "not clear that the Commission needs to render an opinion now on changing the current program cycle, or expanding the next cycle to four years" (p. 2). However, the Efficiency Council urges the Commission to recognize this opportunity to make improvements to the general efficiency policy framework that can increase stability, encourage innovation, and stimulate job growth. A re-examination of administrative structure for efficiency in California, at least at this time, as proposed by the Division of Ratepayer Advocates (DRA, p.

1) and The Utility Reform Network (TURN, p. 5), would inject significant uncertainty into the market.

In order to subsequently move ahead with the many other steps in pre-cycle portfolio planning, the Commission must first move as expeditiously as possible to resolve the threshold issue of cycle length and put into place improvements that stabilize the cycles and limit unnecessary program starts/stops that are harmful to customers and businesses and result in decreased energy savings. The conceptual timelines presented in both Option A and Option B in the "Energy Division White Paper and Proposal on the 2010 Energy Efficiency Goals Update and Related Matters" (White Paper) are unforgiving. If Option A is pursued, the Commission is already behind schedule and the remaining process must begin immediately in order for the next cycle to have a chance at an on-time start. Option B may extend the overall timeline, but the extension allows for a significant increase in the scope of policy planning activity, which must also start immediately in order to allow for an on-time start for the next cycle. Either way, it is critical that the Commission make a decision as soon as possible about which cycle timeline to pursue in order to achieve the expected savings potential.

Several parties, along with the Efficiency Council, support a one-year extension of the 2010-2012 portfolio cycle and encourage the Commission to adopt a permanent extension of the program cycle to four years.

The Efficiency Council joins the Natural Resources Defense Council (NRDC, p. 2), Southern California Gas and San Diego Gas & Electric (Sempra utilities, p. 3), Pacific Gas and Electric (PG&E, p. 1-2), Southern California Edison (SCE, p.1) in supporting both a one-year extension of the 2010-2012 portfolio cycle and a permanent transition to a longer four-year program cycle.

The Efficiency Council also joins DRA in support of extending the current program cycle for one more year, through 2013, to "allow a more considered update of the goals and to allow better planning overall" (p. 1). We agree with SCE's assertion that, "Despite the unprecedented effort of collaborating to overcome numerous resource and timing issues, delays… illustrate the challenge that Energy Division and the IOUs have faced in comprehensively implementing a current program cycle according to Commission direction, while also beginning the planning for the next cycle with the appropriate analysis, strategic planning, and development." (p. 9) Without an extension of the current cycle and the time that it provides for adequate planning in advance of the next cycle, as noted by NRDC, California will not "achieve the deep energy savings required by the state's aggressive climate goals" (NRDC, p. 2).

The three-year cycle has not proven to provide sufficient time the prescribed policy activity to be completed on time. Along with the aforementioned parties that recognize the need to extend the current cycle by a year, the Efficiency Council agrees with SCE that, "The benefits of a permanent program cycle extension greatly outweigh the detriments." (SCE, p. 2) Shifting to a longer cycle, combined with a commitment to staying on a predetermined pre-cycle portfolio planning schedule, will ensure an on-time start is possible at the beginning of each new cycle. This will greatly enhance the ability of businesses in the energy efficiency marketplace to plan ahead and to help the state achieve its energy and climate goals, while encouraging job growth in the sector. Furthermore, a longer cycle will be more efficient as it will decrease the frequency of program starts and stops, therefore limiting the costs associated with contract negotiations, workforce hiring, and employee training for energy efficiency businesses.

Although there are some concerns with a four-year portfolio cycle (for which we will offer remedies later in these comments), the Efficiency Council joins SCE in believing that "a longer-term approach to portfolio planning and implementation can only be beneficial to all parties to this proceeding and to the ratepayers in the State of California." (p. 9). The benefits of a longer cycle for business are significant due to reduced transaction costs, streamlined hiring and training periods, and decreased likelihood of unexpected delays. As pointed out by the Sempra utilities, a four-year cycle "provides the Commission, its staff, IOUs and all interested parties adequate time to address foundational issues necessary to plan the next program cycle"(p. 2). While we are hesitant at this time to support an effort to extend future program cycles beyond four years, NRDC's suggestion of a five-year cycle (p. 2) is an interesting proposal to consider. Longer cycles, with clear and adhered-to timelines, provide a more constant signal to the market and decrease 'ramping up' and 'ramping down' activities for implementers. We agree with NRDC that this would likely provide the dual benefit of expanding the energy efficiency workforce while lightening the administrative load at the Commission.

If the cycle is extended, the Efficiency Council supports full bridge funding for 2013, , as suggested by DRA and LGSEC, with funding decisions made as early as possible so that businesses, customers, and the utilities do not miss opportunities for energy savings and economic growth.

It is critical that the extension of the portfolio cycle into 2013 is coupled with funding equal to the projected expenditures of final year of the cycle that is being extended, so as not to lose momentum in the programs. This is essential to ensure that 2013 does not suffer from missed opportunities in which energy savings and energy efficiency job growth both diminish. The Efficiency Council supports DRA (p. 2) and LGSEC's (p. 9) recommendations for adequate bridge funding to be determined ahead of time to ensure the continuation of effective programs that produce energy savings and save Californians money. The Efficiency Council also supports the SCE (p. 10) and PG&E (p. 5) recommendations to fund the fourth extension year of the current cycle (2013) at a level equal to that allotted to the other three years in the cycle. The effects of inefficient ramp up/ ramp down patterns that result in swings in efficiency delivery infrastructure for a variety of program implementers can be reduced with stability in overall annual funding levels. Consistency in funding each and every year is necessary in order to achieve the ambitious savings targets and create an industry marked by sustainable growth.

Along with TURN, DRA, NRDC, PG&E, SCE, Sempra, and LGSEC, the Efficiency Council strongly supports the inclusion of flexible, mid-cycle opportunities for portfolio adjustments that ensure the inclusion of innovative ideas and programs, as well as provide an exit ramp for unsuccessful programs or for successful programs that have run their course. A key mechanism to identify mid-cycle needs and adjustments should be through formal and periodic public reviews, possibly such as those outlined by NRDC.

As several other parties also recommend, the Efficiency Council supports the inclusion of various mid-cycle opportunities for portfolio adjustments. Each portfolio, once implemented, will include programs that exceed savings expectations and others that are not as effective. LGSEC offers an Efficiency Council-supported vision for the extended cycle: "No matter what the length of the cycle (but particularly with four years or more) there needs to be flexibility during the cycle to modify programs or add new programs as the policy world and the technological world continues to evolve. There must be a mechanism in the process to ensure that the next great energy efficiency idea can be accommodated without waiting for four or more years." (p. 8). This flexibility to adjust portfolios is central to delivering expected savings goals, encouraging innovation, and ensuring that portfolios are on the right track.

SCE (p. 8) and PG&E (p. 4) suggest that the current framework of advice letters and fund shifting sufficiently manages poorly performing programs and supports strong programs. The Efficiency Council believes that the current system does not go far enough to provide opportunities for the addition of unforeseen innovative ideas mid-cycle to support energy savings, or to phase out successful programs that have run their course. Our members have found reluctance at some IOUs to adopt new program ideas mid-cycle, no matter how worthy, due to the burdensome process of adding new program efforts to the portfolios. While internal portfolio reviews at the IOUs should be continually performed and fund shifting can support strong programs and reduce funding for those that are wrapping up or not achieving their targets, the extension to a longer cycle requires regular and formalized reviews to ensure that the portfolio supports the best possible programs. The Efficiency Council generally supports NRDC's suggestions for the Commission to establish annual IOU workshops to update stakeholders on portfolio cycle achievements (p. 3), submit a formal interim progress report midway through the cycle (p. 3), and increase the robustness of the fund shifting process by improving the currently modest oversight (p. 4-5).

TURN (p. 5) and NRDC (p. 3) both offer unique suggestions for mid-cycle intervention mechanisms. In order to root out ineffective programs and provide additional opportunities for companies that are not awarded a contract at the beginning of a cycle, the Efficiency Council supports the NRDC suggestion for enhanced rolling bidding (p. 5). As noted by NRDC (p. 5), utilities in preparation for the last cycle sent out requests for proposals to the third parties through 'flights' before the program portfolios were approved, with limited opportunities for supplemental requests for proposals when necessary. NRDC's suggestion that "the actual RFPs and contracting processes could occur throughout the program cycle in accordance with an identified timeline approved up front with the portfolio applications" (NRDC p. 5) will allow California's energy efficiency businesses to most aggressively support the utilities in their efforts to meet savings targets. We agree with NRDC that mid-cycle interventions increase certainty for third parties with the establishment of a known timeline, provides opportunities for businesses that would otherwise be left out for four years, and eases the burden on third parties who must currently respond to "numerous RFPs within a very compressed timeframe" (p. 5).

The Efficiency Council believes that the inclusion of a predictable timeline that consolidates and coordinates policy guidance is central to informing cycle decision making. An ideal timeline will properly account for changes and encourage stability of the cycle by providing sufficient time for each planning activity. Maximum energy savings and job growth will more regularly occur under schedules that adhere to established timelines and results in on-time program starts for all portfolio implementers.

The Efficiency Council joins NRDC (p. 6), SCE (p. 7), and PG&E (p. 2-3) in supporting the inclusion of a consistent, comprehensive, and adhered-to timeline. The consolidation of key deliverables and policy actions into one formal procedural schedule, along with a commitment from the Commission and all parties to adhere to the schedule, will prevent unnecessary delays, keep uncertainty at bay, and ensure that "all stakeholders have a clear idea of the overlapping issues needing to be addressed over the course of the next few years." (NRDC, p. 5) The Efficiency Council supports the PG&E suggestion that the Commission concludes all policy guidance in advance of portfolio development and program starts (p. 3).

The thoughtful and comprehensive creation of a single, comprehensive pre-cycle planning timeline is critical, as any delays in the pre-cycle planning activities results in market uncertainty and decreased energy savings, for both customers and the efficiency industry. We support the opinion of SCE that regardless of Option A or B, a three-year cycle or longer, "Any delay in delivering the goals study could have a cascading effect on all subsequent project tasks making the possibility of developing a comprehensive and complete program plan and application impossible to achieve in the allotted timeframe" (SCE, p. 7) A well-aligned and consistent schedule that provides appropriate timelines for action is crucial for program success and industry development.

At a time of high unemployment and economic uncertainty, the energy efficiency industry has the potential to continue to expand its employee base and help to combat the state's high unemployment rate. Uncertainty and the lack of full funding restrain hiring and stifle job creation among the full spectrum of efficiency businesses, including contractors, implementers, and evaluators. The 2009 bridge funding period created significant uncertainty and led to financial distress, layoffs, and delays in hiring throughout California's energy efficiency community during a time when those companies should have been universally expanding. An established program timeline that allows for smooth transition from one program cycle to the next, without dramatic shifts in total statewide funding allocations, reduces the likelihood of significant losses of expertise from the industry as has been seen in the past. During extended program downtowns, energy efficiency businesses can be forced to lay off well-trained sales and technical staff due to an unnecessarily stagnant market. Companies in the energy efficiency industry cannot do their part to revive California's economy and retain and recruit the best and brightest into our field if the prospects in the industry are unclear.

The Efficiency Council joins several parties in the proceeding in asserting that the current cost-effectiveness inputs should be updated and that a thorough review of the alternative approaches to cost-effectiveness evaluation should be conducted as soon as possible, in advance of goal development and prior to portfolio development and program starts.

California's energy efficiency goals are necessarily aggressive. In order to ensure that they are achievable, comprehensive reviews of the application of cost-effectiveness methodologies and updates of underlying assumptions based upon the most recently available data must be performed. In particular, it appears that the future electricity generation plants to be avoided through efficiency efforts in California are no longer combined cycle gas turbines with low upfront costs and uncertain fuel costs. Instead, the avoided supply in the future will be small, medium, and large-scale renewable energy systems with higher capital costs and low operating costs, similar to efficiency. Thus, The Efficiency Council joins NRDC (p. 8) and SCE (p. 11) in support of including avoided renewable energy purchases, as required to meet the state's 33% Renewable Portfolio Standard (RPS), in the avoided cost calculation. SCE's recommendation that carbon-reduction benefits could not be applied for the avoided renewables (SCE, p. 11) seems appropriate as well. We also support NRDC's recommendation to examine "how to account for non-energy benefits…and additional questions of how to account for benefits of nonresource programs, spillover, and if the current discount rate is the most appropriate value to use." (p. 9)

III. Conclusion

The Efficiency Council appreciates the opportunity to offer this reply to comments of the parties on the ACR regarding portfolio planning issues. We urge the Commission to move forward with the resolution of the threshold issue of program cycle timing posed in the ACR. We join several parties in support of a one-year extension of the 2010-2012 portfolio cycle, with full bridge funding, and the adoption of a permanent extension of the program cycle to four years with an opportunity for mid-cycle adjustments in order to maximize energy savings and job growth in the energy efficiency industry. The Efficiency Council looks forward to continuing to collaborate with the Commission and other stakeholders to ensure future cycles will start on time, provide sufficient time for review and modifications, and to update critical cost-effectiveness methodologies.

Dated: December 10, 2010

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have, on this day, served a complete copy of the **"Reply Comments of the California Energy Efficiency Industry Council (Efficiency Council) in Response to the Assigned Commissioner's Ruling Soliciting Comments on Post-2012 Energy Efficiency Savings Goals and Other Portfolio Planning Matters"** on all known parties to R.09-11-014 by transmitting an e-mail message with the document attached to each person named in the official service list. In addition, electronic and hard copies of comments have been sent to the Assigned Commissioner and ALJ in this proceeding.

Executed on December 10, 2010 in Oakland, California.

/s/ *Matthew O'Keefe*

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