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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)

COMMENTS OF THE CALIFORNIA ENERGY EFFICIENCY INDUSTRY COUNCIL (EFFICIENCY COUNCIL) IN RESPONSE TO THE ASSIGNED COMMISSIONER'S RULING AND SCOPING MEMO REGARDING PUBLIC PURPOSE PROGRAM FUNDS, PHASE III

July 21, 2011

Audrey Chang
Executive Director
California Energy Efficiency Industry Council
436 14th Street, Suite 1123
Oakland, CA 94612
(916) 390-6413 main
(650) 847-1210 direct
achang@efficiencycouncil.org

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I. Introduction and Summary

The California Energy Efficiency Industry Council (Efficiency Council) respectfully submits these comments, in accordance with Rules 1.9 and 1.10 of the California Public Utilities Commission's (CPUC or Commission) Rules of Practice and Procedure and in response to the "Assigned Commissioner's Ruling and Scoping Memo Regarding Public Purpose Program Funds, Phase III" (ACR), dated July 7, 2011.

The Efficiency Council is a statewide trade association of non-utility companies that provide energy efficiency services and products in California.[1] Our member businesses, now numbering over 50, employ over 4,000 Californians throughout the state. They include energy service companies, engineering and architecture firms, contractors, implementation and evaluation experts, financing experts, workforce training entities, and manufacturers of energy efficiency products and equipment. The Efficiency Council's mission is to support appropriate energy efficiency policies, programs, and technologies that create sustainable jobs and foster

[1] 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.

long-term economic growth, stable and reasonably priced energy infrastructures, and environmental improvement.

The Efficiency Council's members have 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 and helping California's residents and businesses lower their utility bills. Our member companies, consistent with trends experienced in the overall energy efficiency industry across the country, expect to hire at least hundreds more individuals in California in the year to come, providing a rare bright spot of employment growth in the state's otherwise stagnant economy.

The Efficiency Council appreciates the opportunity to provide these comments, and it looks forward to continuing collaboration with other stakeholders to ensure California's efficiency leadership continues and that benefits to the state's economy are maximized. The Efficiency Council's response to the ACR's solicitation of comments are summarized as follows:

- The Efficiency Council believes it is absolutely essential that the Commission act to ensure full and uninterrupted delivery of natural gas efficiency programs in the IOUs' portfolios. Curtailing the natural gas programs will immediately eliminate jobs, savings, and benefits to customers, and will stifle energy efficiency businesses' ability to help the state meet its energy savings, Strategic Plan, and AB 32 goals.
- The portfolio's natural gas programs, in particular, need the Commission's support as they are effective and a frequently overlooked element of the energy efficiency portfolios.
- The Efficiency Council urges the Commission to address the unexpected funding shortfall presented by SB 87 as a one-time situation with solutions that are focused only on the current fiscal year. Extension year and future portfolio cycle solutions should be independent of these short-term measures.
- The Efficiency Council supports the IOUs' motion (July 1, 2011) to shift unspent funds in order to keep programs at or near authorized levels. Based on the IOUs' listing of CPUC precedents for allowing use of both electric and natural gas unspent funds without distinction, the Efficiency Council believes the CPUC should continue to allow such use for the gas PPPs.
- The Efficiency Council urges the Commission and IOUs to quickly reconcile their calculations of unspent, available funds so they and other stakeholders are working from the same set of assumptions when considering solutions.
- The Efficiency Council recommends that the Commission provide high-level guidance and criteria for prioritizing programs during this fiscal year in the event

curtailment is needed, and allow the IOUs, as administrators of the natural gas program portfolios, to decide the best use of limited funds.

- If programs need to be curtailed, the Efficiency Council recommends that the Commission should seek to avoid interrupting natural gas projects already in the pipeline and ensure that IOUs give third-party administrators and local government programs at least three months lead-time for program changes.
- The Efficiency Council strongly believes that the Commission and stakeholders must work to prevent similar legislative budget transfers of energy efficiency funds in the future in order to protect customers and maintain momentum toward the state's energy savings goals.

II. Responses to ACR's Proposal

The ACR seeks comment on a proposed method whereby reductions in Public Purpose Program (PPP) funding, due to the recent state budget bill SB 87 that allows the transfer of up to $155 million in PPP funds to the General Fund, would be implemented.

The Efficiency Council strongly agrees with the ACR that "We must be prepared to act expeditiously if money is transferred from the [PPP] Fund" (p. 6). In addition, the Efficiency Council urges the Commission to address the unexpected funding shortfall presented by SB 87 as a one-time situation with solutions that are focused only on the current fiscal year. Extension year and future portfolio cycle solutions should be independent of these short-term measures.

The Efficiency Council believes it is absolutely essential that the Commission act to ensure the full and uninterrupted delivery of natural gas, as well as electricity, efficiency programs in the portfolio. Curtailing these efficiency programs, as the ACR proposes, will immediately eliminate jobs, savings, and benefits to customers, and will stifle energy efficiency businesses' ability to help the state meet its energy savings, Strategic Plan, and AB 32 goals.

The Efficiency Council strongly believes the portfolio's natural gas programs, overall, need the Commission's continued support as they are effective and a frequently overlooked element of the energy efficiency portfolios. Based on the differing assumptions of funding availability noted in the ACR and in the IOUs' July 1, 2011 motion, however, it is challenging to understand and comment on several of the specific portfolio recommendations for addressing the funding sweep. As a result, the Efficiency Council urges the Commission and IOUs to quickly reconcile their calculations of unspent, available funds so they and other stakeholders are working from the same set of assumptions when considering solutions.

The ACR proposes program prioritization to address funding shortages for each of the IOUs. Based on the IOUs' July 1, 2011 motion and examples of Commission precedents (see Section IID, p. 6), prioritizing specific programs may not be required if the Commission allows the IOUs to shift unspent funds to support their current fiscal year budgets for natural gas programs. However, should significant curtailment be required, the Efficiency Council recommends that the Commission propose high-level guiding principles, including a set of criteria, for prioritizing programs during this fiscal year rather than be prescriptive with program prioritization. With such a framework, the IOUs, as administrators of the natural gas program portfolios, are in a good position to assess and recommend the prioritization of programs, run by any implementer within the portfolios.

In addition, to avoid disrupting effective programs, the Efficiency Council believes that it is not good policy to shift ratepayer funds among the IOUs, especially funds that support rebate or other incentive programs that are intended to support the utility territory in which they were collected.

The Efficiency Council agrees with the ACR's statement that many of the PPPs involve "long-term contracts, substantial numbers of employees, and the long-term commitment of substantial utility and private sector resources" (p. 6). Further, many of the PPPs involve projects already in the pipeline prior to passage of SB 87. We propose that the Commission should seek to completely avoid interrupting these natural gas projects already in the pipeline or provide six months notice should programs be curtailed, as jobs will be affected.

While we do not believe significant curtailment of the natural gas programs is required based on the IOUs' motion, if the Commission's decisions were to result in reduced programming, we agree that "*a minimum* of three months lead time would be necessary…to best avoid contractual liability, unnecessary personnel disruptions, and conserve resources" (p. 6, emphasis added). Specifically, we recommend that enough time is provided for the IOUs to also notify third-party administrators and local government programs of detailed changes to their programs with at least three months lead time for these other implementers to make adjustments to marketing of programs, communicate throughout the product supply chains, and other longer time-horizon program elements. Thus, a total lead-time of four to six months is required, which includes time for IOUs to make their decisions and adjustments as well as three months from the time of notification of non-IOU implementers of program changes.

The Efficiency Council strongly recommends that the Commission and stakeholders work to prevent similar legislative budget transfers of any energy efficiency funds in the future in order to protect customers and maintain momentum toward the state's energy savings and climate goals. The natural gas savings are a critical element in meeting these goals. The Commission should work hard to protect billpayers and their funding of energy efficiency programs, especially as the Commission and stakeholders work to plan an effective 2013 extension year and future cycles. Long-term stability in funding is crucial for successful energy efficiency.

III. Response to the IOUs' July 1, 2011 motion

The Efficiency Council supports the IOUs' July 1, 2011 motion ("Motion of Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Gas Company to Shift Unspent, Uncommitted Energy Efficiency Funds to Ensure Adequate Funding for the 2010-2012 Energy Efficiency Portfolio in the Wake of Senate Bill 87," filed in A.08-07-021 et al.) to keep programs at or near authorized levels. The IOUs, in their motion, make a compelling case for using funds that have already been collected from customers (i.e., no rate increase required) to prevent significant and immediate curtailment of activities across their energy efficiency portfolios. The IOUs claim that Commission action to grant them authority to utilize these unspent, uncommitted funds from prior cycles would allow for continuation of their Commission-approved energy efficiency portfolios for fiscal year 2011-2012. However, as referenced in Section II, the Efficiency Council urges the Commission and IOUs to quickly reconcile their calculations of unspent, available funds so they and other stakeholders are working from the same set of assumptions.

Given the IOU's statements that their unspent, uncommitted funds are sufficient to largely continue their portfolios, the Efficiency Council strongly supports their motion in order to maintain momentum toward the state's energy savings. Although the unspent funds may not cover the IOUs' entire natural gas budgets for the current fiscal year, granting their motion would result in much smaller impacts to the portfolio than if the IOUs were required to absorb the effects of the full $155 million transfer to the state's General Fund.

The Efficiency Council does not offer a legal opinion regarding whether PPP funds from other utilities, non-surcharge funds, additional surcharges, or electricity funds, can be used to fund current gas PPPs. However, based on the IOUs' list of previous cases in which CPUC has allowed PG&E and SDG&E to combine or transfer natural gas and electric unspent funds to fund both natural gas and electric programs (p. 6), the Efficiency Council believes the CPUC should allow such transfers of unspent funds in this case as well.

IV. Responses to the ACR's request for comment on specific issues

The ACR solicits comments on the following:

- **What specific programs should be continued and at what level, given the priorities set out above and at what level, given the priorities set out above and the funds available?**
- **To what extent does the Commission's have the ability ability to shift PPP funds among the various IOUs?**
- **What, if any, limitations are there on the Commission's ability to use non surcharge funds to support these gas PPPs?**
- **What is the legality and propriety of requiring ratepayers to pay additional surcharges to fund gas PPPs?**
- **Can electric funds be shifted to gas PPPs in accordance with the energy efficiency manual or Commission decisions?**

Aside from comments provided in Sections I-III, the Efficiency Council has no further positions on these specific issues raised by the Ruling at this time.

V. Conclusion

The Efficiency Council appreciates the opportunity to offer these comments on the Assigned Commissioner's Ruling regarding the reduction in PPP funding. The Efficiency Council believes it is critical to carefully consider the options to reduce the harm to customers and businesses due to SB 87's transfer of up to $155 million from the Gas Consumption Surcharge Funds. The Efficiency Council looks forward to working with the Commission and other stakeholders to ensure the continuity of natural gas efficiency programs in the portfolio in order to help meet the state's energy goals, Strategic Plan, and AB32 goals.

Dated: July 21, 2011

Respectfully submitted,

Audrey Chang
Executive Director
California Energy Efficiency Industry Council
436 14th Street, Suite 1123
Oakland, CA 94612
(916) 390-6413 main; (650) 847-1210 direct
achang@efficiencycouncil.org