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07-28-11
04:59 PM

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, 2009)

REPLY 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 28, 2011

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I. Introduction and Summary

The California Energy Efficiency Industry Council (Efficiency Council) respectfully submits this reply to comments submitted July 21, 2011 by parties in this proceeding in response to the "Assigned Commissioner's Ruling and Scoping Memo Regarding Public Purpose Program Funds, Phase III" (ACR), dated July 7, 2011. 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 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 appreciates the opportunity to provide these reply comments,[2] 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. These comments are summarized as follows:

- There is largely general agreement among parties that the Commission should act to ensure continued delivery of effective natural gas efficiency programs in the IOUs' portfolios. 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, such as indicated by PG&E, and ensure that IOUs give third-party and local government implementers at least three months lead-time for program changes.
- There is agreement that the Commission and IOUs must 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, along with most other parties, continues to support the IOUs' motion (July 1, 2011) to shift unspent funds in order to keep programs at or near authorized levels.
- Although some parties support prioritizing ARRA-funded projects and Energy Upgrade California, the Efficiency Council continues to recommend 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.
- The Efficiency Council supports a one-time shifting of funds among IOUs for programs that have cross-territory, statewide benefit, if, as suggested by DRA, it is permissible, and it results in less curtailment of programming. The Efficiency Council, however, does not support DRA's recommendation for a major multi-year redirection of funds and programming as part of Phase III of this proceeding.

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[2] Parties to which we respond in these reply comments include City and County of San Francisco (CCSF), Division of Ratepayer Advocates (DRA), Joint IOUs, Local Government Sustainable Energy Coalition (LGSEC), Natural Resources Defense Council (NRDC), and The Utility Reform Network (TURN).

II. Responses to Comments Submitted by Parties in Response to July 7, 2011 ACR

There is largely general agreement among parties that the Commission should act to ensure continued uninterrupted delivery of effective natural gas efficiency programs in the IOUs' portfolios. 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, such as indicated by PG&E, and ensure that IOUs give third-party and local government implementers at least three months lead-time for program changes.

The Efficiency Council supports what appears to be agreement among the parties filing July 21, 2011 comments that it is absolutely essential that the Commission act to ensure uninterrupted delivery of effective natural gas, as well as electricity, efficiency programs in the IOUs' portfolios. Curtailing the portfolios' 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.

Many of the PPPs involve projects already in the pipeline prior to passage of SB 87. PG&E, in its attachment to the Joint IOU comments, indicates it has 660 committed customer projects totaling $33.4 million, of which 137 are third-party and 164 are local government partnerships (p. 3). We propose that the Commission should seek to completely avoid interrupting these and other natural gas projects already in the pipeline.

While we do not believe significant curtailment of the natural gas programs is required based on the IOUs' July 1, 2011 motion to shift unspent funds, if the Commission's decisions were to result in reduced programming, we recommend that the Commission provide enough advance notice to the IOUs for them to be able to plan and then give third-party implementers, local government programs, and other implementers three months to make adjustments to marketing of programs, communicate throughout the product supply chains, and adjust other longer time-horizon program elements. For example, CCSF indicates significant investments from leveraged funding have gone to start-up costs, workforce development, and marketing (p. 3), which presumably could be salvaged to some extent with advance notice of adjustments.

There is agreement that the Commission and IOUs must 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 Joint IOUs provide updated values in their comments, which need consideration and analysis by the Commission.

The Efficiency Council agrees with NRDC and Joint IOUs that the Commission and IOUs must reconcile their calculations of unspent, available funds prior to considering solutions and agreeing to a course of action. While the parties have done their best to provide comments and recommendations based on the indication of funding availability in the ACR, it may not reflect the most up-to-date or accurate assessment of available funding for the current fiscal year, resulting in recommendations that may need to be revised. The IOUs, in their comments (p. 7-8), report updated values, which the Commission needs to consider and analyze, providing an update to the parties for review and comment.

The Efficiency Council, along with most other parties, continues to support the IOUs' motion (July 1, 2011) to shift unspent funds in order to keep programs at or near authorized levels.

The Efficiency Council supports NRDC, LGSEC, City of San Joaquin, City of San Francisco, and the IOUs in calling for the Commission to grant 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 (assuming the motion is permitted according to Commission and other State policies). 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. In their comments, the IOUs also indicate that the Gas PPPs help to reduce the price of electricity for all customers (p. 5-6), a significant public benefit.

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' motion's 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 and the IOUs' indication in their comments (p. 13) that a large scale shifting of funds between electric and gas accounts would not be necessary, the Efficiency Council believes the CPUC should allow such transfers of unspent funds in this case as well.

Although some parties support prioritizing ARRA-funded projects and Energy Upgrade California, the Efficiency Council continues to recommend 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.

While the Efficiency Council recognizes that TURN, LGSEC, DRA, and CCSF support the ACR's proposal to prioritize ARRA-funded projects, especially Energy Upgrade California, 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, should assess and decide the prioritization of programs in a transparent manner, run by any implementer within the portfolios.

In setting the guiding principles, the Efficiency Council generally agrees with TURN (p. 8) and LGSEC (p. 2-3) that integrated, whole-building programs that do both electricity and natural gas upgrades are especially important to continue. Doing only electricity upgrades when service providers are already in the home or building leaves significant cost-effective natural gas opportunities on the table, which does not make sense for customers, ratepayers, or for the State.

The Efficiency Council supports a one-time shifting of funds among IOUs for joint programs that have cross-territory, statewide benefit, if, as suggested by DRA, it is permissible, and it results in less curtailment of programming. The Efficiency Council, however, does not support DRA's recommendation for a major redirection of funds and programming as part of Phase III of this proceeding.

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.

Given the need to take immediate action to counter the severe restriction in funding for this fiscal year, the Efficiency Council supports the Commission implementing a one-time solution of fund shifting that would otherwise require more significant policy discussion. Specifically, although several parties indicate that the Energy Efficiency Policy Manual, pursuant to CPU Code sections 381, 381.1, 399, and 890-900, limits the Commission's ability to shift PPP funds between utilities, DRA points out that it does not prohibit or limit the ability of the Commission to direct the IOUs to jointly fund statewide programs with benefits for all customers (p. 7). As a result, the Efficiency Council supports a one-time shifting of funds among IOUs for joint programs that have cross-territory, statewide benefits to all ratepayers if, as suggested by DRA, it is permissible, and it results in less curtailment of programming. While the Efficiency Council believes that it is not good policy to generally 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, limited one-time shifting may be a good solution for continuing statewide programs.

The Efficiency Council does not, however, support DRA's recommendation to establish a new financing program (p. 7-9) that significantly redirects funding and programming as part of the current Phase III of this proceeding to address implementation of SB 87's PPP funding transfer. While consideration of significant changes is appropriate for the next cycle, the Commission needs to direct its attention and focus on immediate solutions that can be implemented for the current fiscal year and that support continuity in the already authorized portfolios.

III. Conclusion

The Efficiency Council appreciates the opportunity to offer this reply to 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 28, 2011

Respectfully submitted,

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