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 CONTINUATION OF FUNDING FOR ENERGY EFFICIENCY PROGRAMS

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I. Introduction and Summary

The California Energy Efficiency Industry Council (Efficiency Council) respectfully submits this reply to comments submitted October 12, 2011 by parties in this proceeding in response to the "Assigned Commissioner's Ruling and Scoping Memo Regarding Continuation of Funding for Energy Efficiency Programs" (ACR), dated September 28, 2011. The ACR proposes the use of procurement funds to backfill funding that would otherwise have been collected in the Public Goods Charge (PGC). 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

[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. The views expressed by the Efficiency Council are not necessarily those of its individual members.

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 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:

- The Efficiency Council agrees with the majority of parties that the Commission should act expeditiously to ensure continued program implementation for the authorized energy efficiency portfolios. We believe it is absolutely essential to maintain funding for energy efficiency programs in order to continue generating energy and cost savings benefits for customers, job creation, and the ability of the state to meet its energy savings, Strategic Plan, and AB 32 goals.
- The Efficiency Council does not share CFC and CLECA's concerns about the Commission setting a dangerous precedent by augmenting the PEEBA to cover lost PGC revenues given the continued statutory mandates and policy that require the Commission to pursue cost-effective energy efficiency programs as the top priority energy resource in California.
- The Efficiency Council supports the utilities' statements regarding their existing authority to determine procurement energy efficiency funding residually to ensure total funding at authorized levels. As a result, we do not believe the Commission needs to wait for utilities to report on the availability of or to spend unspent funds, as called for by DRA and CFC, prior to making a decision to proceed with using procurement funds to backfill PGC funds.
- The Efficiency Council opposes recommendations by DRA, CLECA, and CFC for the Commission to evaluate broad administrative issues and cost-effectiveness of the state's energy efficiency programs prior to issuing a decision. Such issues continue to be more appropriately addressed in other parts of this proceeding; the Efficiency Council urges the Commission to limit this current discussion on

[2] Parties to which we respond in these reply comments include Division of Ratepayer Advocates (DRA), Joint IOUs - Pacific Gas and Electric (PG&E) and San Diego Gas and Electric (SDG&E), Southern California Edison (SCE), Natural Resources Defense Council (NRDC), California Large Energy Consumers Association (CLECA), and Consumer Federation of California (CFC).

clarification of the mechanisms for utilities to collect procurement funds to backfill lost PGC funds.

II. Responses to Comments Submitted by Parties in Response to Sep. 28, 2011 ACR

The Efficiency Council agrees with the majority of parties that the Commission should act expeditiously to ensure continued program implementation for the authorized energy efficiency portfolios. We believe it is absolutely essential to maintain funding for energy efficiency programs in order to continue generating energy and cost savings benefits for customers, job creation, and the ability of the state to meet its energy savings, Strategic Plan, and AB 32 goals.

The Efficiency Council supports what appears to be agreement among most parties filing October 12, 2011 comments that the Commission should act expeditiously to ensure uninterrupted delivery of effective electricity energy efficiency programs in the IOUs' current portfolios. The Division of Ratepayer Advocates (DRA), Southern California Edison (SCE), Joint Utilities (PG&E and the Sempra utilities), and Natural Resources Defense Council (NRDC) all support the ACR proposal to backfill electric efficiency program funds that would have come through collection of the Public Goods Charge (PGC), which expires on January 1, 2012. Curtailing the portfolios' efficiency programs, as NRDC indicates, will undermine the utilities' ability to capture available energy savings, will reduce jobs, and will result in lower bill savings for customers and lost environmental benefits (p. 2).

Although the Consumer Federation of California (CFC) opposes the ACR, we believe their argument that customers are paying high rates (p. 5) means that it is even more essential that the state support the implementation of the current efficiency portfolios' programs that produce energy bill savings for customers; overall energy bills due to total energy consumption are of ultimate concern to customers, not per-unit rates. We also believe that it is essential to continue the authorized levels of funding in order to meet the state's broader energy savings, Strategic Plan, and AB 32 goals.

While DRA seems to limit its support of the ACR to augment funds only through the end of the 2012 cycle and calls for a "swift decision" to this effect (p. 3), the Efficiency Council believes the Commission already has ongoing authority in approving the use of the IOUs' procurement funds to provide the revenue needed for energy efficiency portfolios going forward. As a result, we recommend that the Commission avoid limiting its decision to the current portfolio. Still, we agree with DRA in urging the Commission to prioritize ensuring stability in the current efficiency portfolios and act to ensure full funding for the remainder of the 2010-2012 cycle well in advance of January 1, 2012.

The Efficiency Council does not share CFC and CLECA's concerns about the Commission setting a dangerous precedent given the continued statutory mandates and policies that require the Commission to pursue cost-effective energy efficiency programs as the top priority energy resource in California.

CFC and the California Large Energy Consumers Association (CLECA) both have concerns regarding the Commission establishing a permanent source of funding for energy efficiency through the Procurement Energy Efficiency Balancing Account (PEEBA). CFC states that approval of the proposal would be a "dangerous action" (p. 3) and CLECA asserts, "there is nothing so permanent as the temporary" (p. 3). Both parties seem to be concerned that the efficiency programs do not provide long-term savings impacts and are not cost-effective and therefore should not continue to receive funding. Both parties also seem to support their arguments with the belief that the legislature's lack of action to extend the PGC is equal to the legislature definitively taking action to end customer-funded energy efficiency program funding.

While the legislature did not act this year to extend the PGC, it also neither acted to end customer-funded energy efficiency program funding nor did it change any of the existing statutory and policy mandates for the Commission to pursue cost-effective energy efficiency programs as the top priority energy resource in California. Under the Commission's existing statutory mandate to oversee the IOUs' procurement of all energy resources in the state, the Commission is still obligated to prioritize cost-effective energy efficiency for meeting the state's energy needs.[3] In addition, as the ACR notes, the Commission, in D.03-12-062, established the use of procurement funds to support its energy efficiency priorities "regardless of the limitations

[3] Pub. Util. Code § 454.5(b)(9)(C).

of the…PGC mechanism." The legislature did not take any action that changes these policies. As a result, as the Efficiency Council stated in its opening comments, the Commission must continue to ensure adequate and consistent funding that fulfills its mandate for all "cost-effective and feasible" energy efficiency. Confirming its existing authority to allow the utilities to use procurement funds for implementing energy efficiency programs would neither be counter to the legislature's actions nor set a new precedent.

Regarding CLECA's and CFC's concerns that the Commission should not authorize more funds because of current deficiencies in overall impact and cost-effectiveness, the Efficiency Council acknowledges that the Commission, IOUs, all implementers, and stakeholders must continually work to improve the state's energy efficiency programs and portfolios, specifically addressing issues that have arisen in the controversy and uncertainty regarding past energy savings. However, we disagree with these parties' assertions that the programs are not impactful and are not cost-effective and therefore funding (and programs) should be curtailed. Despite ongoing controversy over the accomplishments of the IOUs' 2006-2008 portfolios, the CPUC Energy Division's evaluation report has established that hundreds of millions of dollars in net benefits have been created through the state's energy efficiency programs – meaning customers are better off than without the programs.[4] Energy efficiency also continues to be the least expensive, cleanest, and fastest energy resource to implement. While California's long history of successfully pursuing energy efficiency has meant that continued innovation is necessary to identify and implement new cost-effective solutions, the Commission's continued commitment to funding efficiency programs is essential and does not require new authority.

The Efficiency Council supports the utilities' statements regarding their existing authority to determine procurement energy efficiency funding residually to ensure total funding at authorized levels. As a result, we do not believe the Commission needs to wait for utilities to spend their unspent funds nor report on the availability of unspent funds, as called for

[4] CPUC Energy Division, July 2010, "2006-2008 Energy Efficiency Evaluation Report." ftp://ftp.cpuc.ca.gov/gopher-data/energy%20efficiency/2006-2008%20Energy%20Efficiency%20Evaluation%20Report%20-%20Full.pdf.

by DRA and CFC, prior to making a decision to proceed with using procurement funds to backfill PGC funds.

The Joint Utilities and SCE both indicate in their comments that, under D.09-09-047, their applications and advice letters specify that procurement energy efficiency funding is determined residually by deducting available PGC funding from total authorized energy efficiency funding levels in the portfolios (Joint Utilities p. 3, SCE p. 2). As a result, with the loss of PGC funding, the utilities indicate that they have the existing authority to adjust the procurement energy efficiency collections to ensure total funding at authorized levels.

Given that the utilities have an existing authorized process for deducting the available PGC funding from total authorized levels to determine necessary procurement energy efficiency funding, the Efficiency Council does not agree with DRA and CFC that the Commission needs to wait for utilities to report on the availability of or to spend unspent funds, as called for by DRA and CFC, prior to making a decision for the IOUs to proceed with using procurement funds to backfill PGC funds. DRA claims that based on the utilities' inputs and the recent decision D.11-10-014 in this proceeding regarding using unspent, available electric funds to replace natural gas Public Purpose Program (PPP) funds transferred to the state's General Fund, there are remaining funds that could potentially cover 10-15% of lost PGC electric efficiency funding (p. 3). DRA recommends, "only after unspent funds have been exhausted should the Commission authorize increased collections through the PEEBA to offset the expected loss of PGC funds" (p. 4). CFC offers its recommendation to use this funding for 2010-2012 portfolio cycle only if the Commission evaluates the portfolios, eliminates unsuccessful programs, and still identifies a funding gap (p. 5).

The Commission acted in D.11-10-014 to allow unspent electric funds to backfill natural gas PPP funds, uniquely raided in the state budget process, since no alternative funding source exists for natural gas efficiency programs. At this time, it is still uncertain that there will be enough funds to fully implement the IOUs' 2010-2012 gas programs. Therefore, unspent electric funds should be reserved to ensure full implementation of gas programs as already approved by the Commission.

Thus, while the Efficiency Council does not object to DRA's and CFC's proposals for the Commission to direct the utilities to use available, unspent funds in conjunction with any necessary procurement funding, we strongly urge the Commission not to wait for the utilities to spend the funds before allowing the utilities to move forward with augmenting procurement funds for energy efficiency. Given that PGC collections expire on January 1, 2012, the Commission needs to allow the IOUs to move quickly to ensure no funding gap will exist for the current approved portfolios of electric efficiency programs, which would cause costly delays and interruptions for customers and implementers. We also do not support CFC's recommendation that the Commission perform a new evaluation of the current portfolios before authorizing use of unspent funds. Funding for the current 2010-2012 portfolios was already authorized by the Commission in D.09-09-047, and evaluation of efficiency programs to inform future portfolios and portfolio administration, as called for examination by DRA, are ongoing issues more appropriately addressed in other aspects of this energy efficiency proceeding.

The Efficiency Council opposes recommendations by DRA, CLECA, and CFC for the Commission to evaluate broad administrative issues and cost-effectiveness of the state's energy efficiency programs prior to issuing a decision. Such issues continue to be more appropriately addressed in other parts of this proceeding; the Efficiency Council urges the Commission to limit this current discussion on clarification of the mechanisms for utilities to collect procurement funds to backfill lost PGC funds.

DRA, CLECA, and CFC all recommend the Commission address the state's energy efficiency programs' long-term impacts, cost-effectiveness, return-on-investment, current administrative structure, or some combination thereof, as part of the current discussion on backfilling the expired PGC funding. CFC specifically asserts that if Commission audits existing efficiency programs, it might determine that there are many programs to eliminate, resulting in more than enough funding even without the PGC (p. 4). While the Efficiency Council agrees that there are always improvements to be made in the state's energy efficiency programs, the current 2010-2012 portfolios have already been approved and authorized by the Commission. Furthermore, California's energy efficiency programs are benefiting customers through lower energy bills, helping the state meet its energy savings and environment goals, and creating jobs (the energy efficiency industry is one of the few bright spots in California's struggling economy).

As a result, though the Efficiency Council does not object to the examination of the broader policy issues surrounding energy efficiency programs, we urge the Commission to address these broader issues in other aspects of this and other efficiency proceedings. The current discussion should be limited to providing consistent and adequate funding, especially for the already-approved 2010-2012 portfolios. Specifically, the Efficiency Council believes that the Commission already has existing authority for approving the augmentation of the IOUs' procurement funds, so the discussion and decision should more narrowly focus on the appropriate mechanisms to collect the funds.

III. Conclusion

The Efficiency Council appreciates the opportunity to offer this reply to comments on the Assigned Commissioner's Ruling regarding the use of PEEBA to backfill funding that would have been collected in the PGC. The Efficiency Council believes it is critical to maintain stability in funding for energy efficiency programs in order to meet the state's energy and greenhouse gas reduction goals, as well as ensure savings for utility customers and continue to create energy efficiency jobs. The Efficiency Council looks forward to working with the Commission and other stakeholders to ensure the continuity in the state's energy efficiency programs.

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Respectfully submitted,

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