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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, 2009)

REPLY COMMENTS OF THE CALIFORNIA ENERGY EFFICIENCY INDUSTRY COUNCIL (EFFICIENCY COUNCIL) IN RESPONSE TO THE PROPOSED DECISION PROVIDING GUIDANCE ON 2013-2014 ENERGY EFFICIENCY PORTFOLIOS AND 2012 MARKETING, EDUCATION, AND OUTREACH

April 16, 2012

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I. Introduction and Summary

The California Energy Efficiency Industry Council (Efficiency Council) respectfully submits this reply to comments submitted April 9, 2012 by parties in this proceeding in response to ALJ Farrar's proposed "Decision Providing Guidance on 2013-2014 Energy Efficiency Portfolios and 2012 Marketing, Education, and Outreach" (PD), dated March 20, 2012. These comments are submitted in accordance with Rule 14.3, Rule 1.13, and Rules 1.9, 1.10 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure.

The Efficiency Council is a statewide trade association that supports the Commission's desire to guide the development of an improved transition portfolio that will pave the way for more fundamental shifts unlocking new levels of efficiency in the next three-year cycle. We share the opinion with the majority of parties that the PD has many positive elements but also contains some conflicts. These need to be resolved expeditiously in order to ensure that the 2013-2014 portfolios are not subject to schedule delays or added administrative burdens that could cause significant interruptions for participating customers, erosion of substantive and deep energy savings, and potentially harmful disruptions to the energy efficiency industry workforce.

II. Discussion

a) The Efficiency Council supports the majority of parties' comments expressing appreciation for the Commission's efforts to establish guidance that improves energy

efficiency programs in California but we agree with many parties that the PD contains inconsistencies and policy conflicts that must be resolved prior to a final decision.

The Efficiency Council supports the majority of parties filing April 9, 2012 opening comments that expressed that there are many positive elements in the Proposed Decision (PD) that will improve energy efficiency programs in California. For example, we agree with the City and County of San Francisco (CCSF) comments supporting the PD's directive to develop rolling portfolios and evergreen programs (p. 1-2), Pacific Gas and Electric (PG&E) support for the PD's directive to continue successful third-party and local government programs (p. 1), Greenlining Institute et al. comments supporting the PD's efforts to create energy savings benefits for all households, and Greenlining Institute et al. (p. 1-2) and the California Construction Industry Labor Management Corporation Trust (CILMCT) (p. 10) support of the PD's promotion of "high-road" workforce development.

We agree, however, with many parties, including PG&E, San Diego Gas and Electric/Southern California Gas (SDG&E/SCG), Southern California Edison (SCE), Natural Resources Defense Council (NRDC), Division of Ratepayer Advocates (DRA), The Utility Reform Network (TURN), the National Association of Energy Service Companies (NAESCO), and the Local Government Sustainable Energy Coalition (LGSEC) that significant modifications are required in order to address various conflicts and inconsistencies. Many of these conflicts result from an attempt to quickly establish a plan for both near-term continuation of successful programs and longer-term program improvements.

In particular, we agree with comments suggesting that the Commission must assert its demonstrated leadership role in determining high-level policy direction that ensures success without being pulled into developing prescriptive details for the transition period. For example, we support NAESCO's comments that the PD expands on the original notion of the transition period to "potentially touch parameters of all of the programs" and that "the IOUs have to work to re-shape and re-balance the entire portfolio of programs in an unrealistic short 8-10 weeks" (p. 4) rather than continuing the vast majority of successful programs and focusing major issues and changes on the 2015 portfolios.

The Efficiency Council also agrees with NAESCO's comments that the PD prescribes many responsibilities and burdens on the Energy Division (ED) that it may not be prepared to handle or that places it in a potentially conflicting role (p. 7-8). As we stated in our opening comments (p. 8), the Efficiency Council is concerned that the level of detailed management and oversight required of the ED will have the undesired effect of delays and added transaction costs, which will result in discouraging consumer participation in complex, deep-retrofit programs and placing unreasonable expectations on a high-achieving, but already heavily burdened Energy Division. For example, we support SDG&E/SCG (p. 19-20) and DRA (p. 3-4) in recommending revisions to ED's and others' roles, responsibilities, and protocols for custom project review (p. 19-20) and we point the Commission to the alternative process we offered in our opening comments (p.15-17).

In addition, the Efficiency Council supports comments by NAESCO and NRDC that the PD, in an attempt to address an ambitious set of improvements, creates policy conflicts. For example, the PD seeks to expand deep retrofits while maintaining particular cost-effectiveness requirements and reducing EUC incentives (NAESCO p. 5-6, NRDC p. 2). TURN also notes that the PD's guidance is not sufficient to ensure cost-effective deep retrofits (p. 9). While we support deep retrofits as a policy priority, it is important for the PD to acknowledge that, with higher implementation costs for comparable savings and added barriers to program participation, program cost-effectiveness may naturally fall compared to earlier portfolios. This is the reality of moving up the supply curve of cost-effective measures to acquire more savings. While TURN suggests the PD should provide guidance on substantive design changes (p. 9), as we recommended in our opening comments (p. 10), we believe the Commission can help reconcile the apparent conflicts by working with stakeholders during the transition period to define and develop methodologies, reevaluate cost-effectiveness thresholds, and provide recommendations for implementation of cost-effective deep retrofits.

b) The Efficiency Council urges the Commission to maintain its high-level leadership in guiding the efficiency portfolios in the PD but, given parties' comments on process details, we believe it is important to respond to some specific suggestions by NRDC, Solar City, Efficiency First, SDG&E/SCG, and TURN.

With respect to NRDC (p.22), Solar City (p. 3), and Efficiency First (p. 1) supporting the PD's directive not to require HERs II for home rater certification at this time, as well as NRDC's suggestion for an alternate approach (p. 22) and SDG&E/SCG's suggestion that third-party contracts meet the same requirements for standards/certifications as utility programs (p. 11), we agree that a recognized standard is important but that a forum separate from the PD and free of the constraints of reply comments, would better resolve this issue.

We strongly disagree with TURN's suggestions for annual updates to the DEER ex ante values (p. 6). As we indicated in our reply to TURN's similar comments on the ACR and Scoping Memo (Nov. 16, 2011, p. 7), we agree that the state's efficiency programs should always strive to use current and relevant information but at some point the Commission needs to freeze the data sets to facilitate consistency. Mid-cycle updates in values will trigger delays, cause customer confusion, and result in reporting problems that will hinder the entire energy efficiency endeavor. We recommend continuing to study and update data throughout the transition period in order to establish a subsequent data set that can be similarly frozen for planning and implementing the 2015 cycle.

c) The Efficiency Council strongly recommends that the Commission appropriately respond to the parties' extensive comments. If the Commission is unable to consider and respond in time to adopt a final decision at the April 19, 2012 business meeting, the Efficiency Council suggests that the Commission take an additional three weeks to adopt a final decision at its May 10, 2012 business meeting and allow for early negotiations to commence immediately.

Given the extensive and substantive comments from over 30 parties, the Efficiency Council believes that while the Commission needs to act expeditiously to keep the proceedings on track, it should take the time necessary to appropriately respond to the comments and address the inconsistencies, conflicts, and need for clarification in the PD. If the Commission takes an additional three weeks after the April 19, 2012 business meeting to revise the PD in a manner that gives clearer guidance for utilities to prepare their applications, we believe that adopting a final decision at its May 10, 2012 business meeting would still allow sufficient time to ensure uninterrupted program delivery on Jan. 1, 2013.

For this extended schedule to work, however, we also support LGSEC's recommendation that, to avoid any program gaps, the Commission allow the utilities to commence negotiations for local government programs immediately (p. 20), and we would strongly suggest the same process be applied for third-party programs. Including this guidance in the revised PD will be critical to avoiding disruption in program delivery and potential impacts on Efficiency Council member jobs because employees could be laid off if third-party programs are not adequately funded or are discontinued prior to new third-party programs being awarded. Many small to medium sized companies that are integral to California's energy efficiency workforce cannot financially survive gaps in program funding and are forced to reduce staff size during gaps in available funding or reassign staff to projects outside of California if they have diversified beyond California.

Note that under the Order section of the PD (p 380), the Commission may need to revise the July 2, 2012 application filing date in Order 1 to comply with a May 10, 2012 ruling, either to July 23, 2012 or potentially up to 75 days from the decision, as requested by PG&E (p. vi).

III. Conclusion

The Efficiency Council appreciates the opportunity to offer this reply to comments on the proposed decision for 2013-2014 transition portfolio guidance. We join the majority of parties in recognizing the Commission's efforts to move quickly on this resolution but recommend that the Commission separate the short-term and long-term energy efficiency efforts in order to ensure the uninterrupted delivery of energy efficiency programs to California's energy users. The Efficiency Council looks forward to working with the Energy Division, Commission and other stakeholders to ensure the on-time delivery of a robust and effective 2013-2014 energy efficiency portfolio.

Dated: April 16, 2012

Respectfully submitted,

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