

STATE OF CALIFORNIA

Public Utilities Commission  
Fresno

**M e m o r a n d u m**

**Date:** May 8, 2012

**To:** The Commission  
(Meeting of May 10, 2012)

**From:** Lynn Sadler, Director  
Office of Governmental Affairs (OGA) — Sacramento

**Subject:** **AB 2450 (Hall) – Electric Program Investment Charge: Clean Vehicle Rebate Project program.**  
**As amended: March 29, 2012**

**LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: OPPOSE**

**SUMMARY OF BILL**

AB 2450 would establish the Clean Vehicle Rebate Project (CVRP) Fund in the State Treasury. It requires the California Public Utilities Commission (CPUC) to allocate at least \$15,000,000 from the money collected through the proposed Electric Program Investment Charge (EPIC) each year to the CVRP Fund for distribution as rebates to consumers. It does not provide the CPUC authority to increase the collection of money consistent with D.11-12-035 or to increase the amount collected through EPIC.

**SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION**

AB 2450 is objectionable on both policy and legal grounds. As a matter of policy, appropriate use of funds collected under the EPIC is currently the subject of the CPUC proceeding R.11-10-003. As currently envisioned, the use of EPIC funds would be vetted through a comprehensive planning process involving the California Energy Commission, the investor-owned utilities (IOUs), the CPUC and a broad set of stakeholders through which an investment plan, addressing funding allocations and program eligibility and other design elements, would be developed. The bill would prejudge the outcome of the proceeding and allocate funding to a purpose that has not been justified and may not align with ratepayer interests. From a legal standpoint, we have a number of concerns, also related to whether the proposed use would yield electricity ratepayer benefits, a requirement that any proposed use of EPIC monies needs to meet given the EPIC is being established under the CPUC's own authority.

## SUMMARY OF SUGGESTED AMENDMENTS

None.

### DIVISION ANALYSIS (Energy Division)

#### The bill would prejudice the outcome of R.11-10-003

In October 2011, the CPUC opened R.11-10-003 to consider the establishment of the Electric Program Investment Charge (EPIC) and the use of those monies to support a number of activities consistent with those activities that had previously been funded by the Public Good Charge (PGC) and administered by the California Energy Commission (CEC), namely its Public Interest Energy Research efforts, as well as a number of renewable programs including the Emerging Renewables Program, the Existing Renewable Facilities Program, and the New Solar Homes Partnership. A Phase 1 decision was issued in December 2011 directing the IOUs to collect amounts equivalent to what had been collected under the PGC in prior years, approximately \$143 million, and established a schedule and process for issuance of a Phase 2 decision to determine how those funds would be administered and used. On April 24, 2012, the CPUC issued a Proposed Decision addressing Phase 2 issues. We believe the extensive record developed thus far in the proceeding and the extensive nature of stakeholder involvement provides a strong foundation to determine how the EPIC funds should be administered and ultimately used.<sup>1</sup> Additionally, as currently envisioned in the Proposed Decision, the specific funding allocations, program eligibility criteria and other key programmatic elements would be developed by the program administrators (consisting of the CEC and the IOUs) through an extensive stakeholder process, and submitted to the CPUC for approval on a triennial basis as an investment plan. The proposed legislation would, if implemented, short circuit both the current proceeding and the envisioned investment planning process, forgoing the assessment of alternative uses, and the ratepayer and policy benefits associated with those uses. In our view, this type of thorough assessment is prerequisite before committing to expend ratepayer monies collected via EPIC. Earmarking funds for EV rebates represents a gross prejudgment of the process we have pursued to date and runs roughshod over the reasonable expectations of the many stakeholders that have been participating in good faith in our proceeding.

#### The bill allocates funding without adequately vetting the specific purpose for which those monies would be used

More specifically we have questions regarding whether the proposed use would fill a policy gap that needs to be addressed, in particular by electricity ratepayers who are the source of funds under the EPIC program. There are a number of programs at both the

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<sup>1</sup> In February 2012, a staff proposal, developed in close consultation with the California Energy Commission, was issued via ruling that provided a series of recommendations regarding the administration and focus of a program using EPIC funds. Parties filed extensive comments and reply comments on this staff proposal, and this material served as the basis for the recently issued Proposed Decision.

state and federal level that provide or are intended to provide this type of support. At the federal level, there are a variety of tax credits available to support the purchase of both plug-in electric hybrid and pure electric vehicles providing incentives as high as \$7500 per vehicle.<sup>2</sup> Additionally, at the state level there are a number of programs that were established to provide rebates or other incentives that help defray the relatively high costs of electric vehicles, in particular AB118 and the Low Carbon Fuel Standard. AB118 established the Clean Vehicle Rebate Project, currently administered by the Air Resources Board. As of March 9, 2012, this program has provided \$17.7 million in rebates toward the purchase of qualifying EVs and has an estimated \$7 million in remaining funds.<sup>3</sup> Additionally, under the low carbon fuel standard, the provision of electricity as a transportation fuel can yield credits to specified entities, which can then be sold into the LCFS compliance market with the proceeds helping to improve the economics of plug-in electric vehicles (PEVs) and related infrastructure. As part of the Commission's GHG proceeding, the CPUC is considering how LCFS credits that accrue to the utilities might be used to provide benefits to current PEV users, consistent with the requirements of the ARB's regulation. While we recognize the importance of vehicle rebates in encouraging PEV adoption, additional assessment is required before earmarking additional funds for this purpose, particularly given the source of the EPIC funds.

#### The use of EPIC monies to provide PEV rebates does not clearly align with ratepayer interests

In addition to the more general policy question of whether additional public support should be dedicated to providing PEV rebates, we also question the reasonableness of using electric ratepayer monies for this purpose. As both a legal and policy matter, the Commission does not support the use of ratepayer funds that do not provide ratepayer benefits. The Commission has not considered whether new PEV rebates are in the ratepayers' interest, and until that determination has been made we cannot support an a priori decision to use ratepayer funds in this manner. As described below, this also creates legal vulnerability. We note that Senate Bill 626 directs the CPUC to "evaluate policies to support the widespread deployment of and use of plug-in and hybrid electric vehicles" with a specific focus on addressing the grid impacts and infrastructure implications of PEV adoption. Given the substantial role that PEVs are anticipated to play in reducing GHG emissions in the transportation sector, it is incumbent on the Commission to ensure the electricity system is prepared to integrate the substantial number of electric vehicles that are anticipated in the years ahead. However, using electricity ratepayer monies to pay for the vehicles themselves, as this bill would require, needs to be carefully considered and the benefits to electricity ratepayers enumerated before making a substantial commitment. The bill would not allow that considered approach.

#### Other, more appropriate sources of funding should be considered

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<sup>2</sup> <http://www.irs.gov/businesses/article/0,,id=219867,00.html>

<sup>3</sup> [http://www.arb.ca.gov/msprog/aqip/cvrp/cvrp\\_rebate\\_summary\\_wg\\_031512.pdf](http://www.arb.ca.gov/msprog/aqip/cvrp/cvrp_rebate_summary_wg_031512.pdf)

To the degree the state wishes to supplement current efforts to reduce the upfront costs of PEVs, it may be more appropriate to look to other funding sources beyond electricity ratepayers. Pursuant to the cap and trade program established pursuant to AB 32, monies from the sale of unallocated greenhouse gas emissions allowances will accrue into the Air Pollution Control fund, to be used for purposes to be determined upon appropriation by the legislature (Public Health and Safety Code section 38500). Notably, in 2015 transportation fuels will come under the regime, providing a potential revenue source that has a much clearer nexus to the provision of transportation services and would appear to be a more appropriate source of funding for rebates to buy-down the upfront costs of low and zero emission vehicles.

## **PROGRAM BACKGROUND**

As described in detail above, the CPUC has an active proceeding, R.11-10-003, regarding the use of monies collected under EPIC which this bill would impact.

The CPUC is also currently supporting the widespread deployment of electric vehicles on a number of fronts, in response to existing legislative mandates, and recognizing the implications of transportation electrification on electricity system operations and costs. The CPUC is also keenly aware of the tremendous opportunities vehicle electrification represents in terms of achieving that the State's greenhouse gas objectives to reduce emissions to 1990 levels, by 2020 and the longer terms goals of 80% below 1990 levels by 2050 consistent with executive orders S-3-05 and B-16-2012.

In 2009, the CPUC instituted Rulemaking (R.) 09-08-009 to resolve issues related to alternative-fueled vehicle tariffs, infrastructure, and policies to support California's greenhouse gas emissions reduction goals. In Decision (D.) 10-07-044 issued in Phase 1 of this proceeding, the Commission determined that electric vehicle charging service providers are not themselves public utilities, rather they are generally customers of the investor owned utilities. As such the Commission found that its authority over the utilities' tariffs provides sufficient means to ensure the provision of charging services does not result in any adverse financial or operational impacts. In D.11-07-029 during Phase 2 of this proceeding the Commission established policies to overcome barriers to electric vehicle deployment in compliance with PUC 740.2. Specifically, the Commission directed the IOUs to evaluate the processes and options available to enable the IOUs to have greater insight into where electric vehicles will be charging; found that that existing rates are generally sufficient for early market adoption, and more specifically are adequate for assigning appropriate cost responsibility and promoting off-peak charging; established a process for movement toward lower cost metering options including sub-metering;; determined that distribution system upgrade costs associated with PEV charging infrastructure should be socialized pending the results of cost and load impact research to be completed in the 2013 timeframe; directed the utilities to undertake PEV related education and outreach activities. Phase three of this proceeding is ongoing.

The CPUC is also considering issues related to the rebate of electric vehicles in R.11-03-012, which addresses utility cost and revenue issues associated with greenhouse

gas emissions. In Track 2 of this proceeding, the CPUC will address the allocation of utility credit revenues generated under the Low Carbon Fuel Standard. The CPUC is considering proposals on the means by which utilities will return the revenue that may be generated from the sale of LCFS credits for the direct benefit of electric vehicle consumers. Proposals including the provision of rate reductions or rebates to consumers of electric vehicles and electric vehicle charging equipment are being evaluated.

Lastly, the CPUC is finalizing the provisions of a \$120 million Settlement with NRG, which includes an in-kind component involving the deployment of electric vehicle charging infrastructure throughout the state. The specific details of the Settlement have yet to be finalized but the infrastructure component includes the deployment of at least 200 fast charging stations and an additional 10,000 plug-in units at a minimum of 1,000 locations statewide.

## **LEGISLATIVE HISTORY**

Pursuant to PU Code, § 399.8, the Public Goods Charge funds energy efficiency, renewable energy, and research, development and demonstration programs not adequately provided for by competitive and regulated markets. The fund provides the Energy Commission money to disburse under the Public Interest Research, Development, and Demonstration Fund with the intent to develop technologies to improve environmental quality, enhance reliability, increase energy efficiency, lower electrical system costs, or other benefits. The collection of PGC monies, authorized under Section 399.8, sunset on January 1, 2012. Section 399.8 mandated the collection of \$65 million for renewable energy, and \$62.5 million for research development and demonstration activities, as well as \$228 million for energy efficiency and conservation activities, with these amounts adjusted based on the lesser of the annual growth in electricity commodity sales or inflation.

Assembly Bill 118 (Nunez, 2007) required CARB, CEC and other agencies to develop and adopt a state plan to increase the use of alternative fuels. AB118 created the Alternative and Renewable Fuel Vehicle and Technology Program (Alternative Program) to be administered by the CEC to provide grants, loan guarantees and other funding mechanisms to develop and deploy technology that transforms the vehicle market and attains the State's climate policy. The Alternative Program received annual funding of \$10 million from the PIRDD Fund. AB118 also created the Air Quality Improvement Program to be administered by CARB to fund air quality improvement projects related to vehicle technologies, which is dependent on funding appropriated by the Legislature. One of the aforementioned projects includes the Clean Vehicle Rebate Project, which provides rebates for light duty zero emissions vehicles and plug-in hybrid electric vehicles.

Senate Bill 626 (Kehoe, 2009) required the CPUC, CEC, CARB and other agencies to evaluate and implement policies to promote the development of equipment and infrastructure needed to facilitate the use of electric power and natural gas to fuel low-

emission vehicles. Costs of programs pursuant to this bill are not allowed to be passed through to customers unless programs are in the ratepayer's interest. Public Utilities Code section 740.2 established rules to address the impacts of the use of PEV: on electrical infrastructure, on grid stability and renewable energy integration, the necessary technological advancements for widespread use, legal impediments, integration across service territories, and on the state's climate change goals (AB32).

Executive Order S-1-07 (Schwarzenegger, 2007) established the Low Carbon Fuel Standard, which calls for a 10 percent reduction in the carbon intensity of California's fuels by 2020. The Commission is currently considering the mean by which credit value from the sale of credits from the LCFS might be returned for the direct benefit of EV customers.

Executive Order S-3-05 (Schwarzenegger, 2005) established greenhouse gas reduction targets for the state of California: reducing emissions to 1990 levels by 2020, and to 80% below 1990 levels by 2050. This executive order also directed various state agencies to coordinate efforts to address these targets, as well as established various reporting requirements related to goal attainment and the impacts of global warming on California resources and public health.

Executive Order B-16-2012 (Brown, 2012) ordered that CARB, CEC, CPUC and other agencies establish benchmarks to support and facilitate the rapid commercialization of zero-emissions vehicles. Specifically for 2015, B-16-12 sets milestones involving: infrastructure permitting, manufacturing, private investment, and research and education. The Order also establishes benchmarks of attaining one million ZEV in 2020 and 1.5 million in 2025. Concurrently with the Executive Order, the Governor announced a \$120 million Settlement with NRG to build electric vehicle charging infrastructure. This Settlement intends to resolve the claims against Dynegy resulting from the 2000-1 Energy Crisis.

## **FISCAL IMPACT**

AB 2450 would require one-time costs for 1 ALJ II, for a total cost of approximately \$151,273.

## **STATUS:**

AB 2450 is pending consideration in the Assembly Appropriations Committee.

## **SUPPORT/OPPOSITION**

### Support

Alliance of Automobile Manufacturers

### Opposition

Pacific Gas and Electric Company

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## BILL LANGUAGE

BILL NUMBER: AB 2450 AMENDED  
BILL TEXT

AMENDED IN ASSEMBLY MARCH 29, 2012

INTRODUCED BY Assembly Member Hall

FEBRUARY 24, 2012

An act to ~~amend Section 739.1 of~~ add  
Section 399.1 to the Public Utilities Code, relating to  
~~electricity~~ vehicles .

### LEGISLATIVE COUNSEL'S DIGEST

AB 2450, as amended, Hall. ~~Electrical rates.~~  
*Electric Program Investment Charge: Clean Vehicle Rebate Project  
program.*

Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined. ~~Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. Existing law requires the commission to designate a baseline quantity of electricity and gas necessary to supply a significant portion of the reasonable energy needs of the average residential customer, and requires that electrical and gas corporations file rates and charges, to be approved by the commission, providing baseline rates. Existing law requires the commission, in establishing the baseline rates, to avoid excessive rate increases for residential customers. Existing law requires the commission to establish a program of assistance to specified low income electric and gas customers, referred to as the California Alternate Rates for Energy or CARE program. The Reliable Electric Service Investments Act required the PUC to require the state's 3 largest electrical corporations, until January 1, 2012, to identify a separate electrical rate component, commonly referred to as the "public goods charge," to collect specified amounts to fund energy efficiency, renewable energy, and research, development, and demonstration programs that enhance system reliability and provide in-state benefits. An existing decision of the PUC institutes an Electric Program Investment Charge (EPIC), subject to refund, to fund renewable energy and research, development, and demonstration programs.~~

This bill would ~~make a technical, nonsubstantive change to that provision~~ establish the Clean Vehicle Rebate Project Fund in the State Treasury and require the PUC to allocate not less than \$15,000,000 from the moneys collected pursuant to the EPIC to the fund. The bill would authorize the State Air Resources Board, upon appropriation by the Legislature, to use moneys in the fund for distribution as rebates pursuant to the program criteria established pursuant to the state board's Clean Vehicle Rebate

Project program .

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~  
yes . State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 399.1 is added to the  
Public Utilities Code , to read:

399.1. (a) The Clean Vehicle Rebate Project Fund is hereby established in the State Treasury. Moneys in the account shall be available to the State Air Resources Board, upon appropriation by the Legislature, for purposes of providing rebates pursuant to the state board's Clean Vehicle Rebate Project program.

(b) Out of the moneys the commission otherwise orders to be collected pursuant to Decision 11-12-035 (Phase 1 Decision Establishing Interim Research, Development and Demonstration, and Renewables Programs Funding Levels, dated December 15, 2011, in Rulemaking 11-10-003), the commission shall allocate not less than fifteen million dollars (\$15,000,000) to the Clean Vehicle Rebate Project Fund. Upon appropriation by the Legislature, moneys in the fund may be used by the state board for the Clean Vehicle Rebate Project program, for distribution as rebates pursuant to the program criteria established by the state board.

(c) Funding provided pursuant to this section shall supplement, and not supplant, the funding of the Clean Vehicle Rebate Project from all other sources, as described in the AB 118 Air Quality Improvement Program Funding Plan for Fiscal Year 2011-12, adopted by the State Air Resources Board on July 21, 2011.

(d) Nothing in this section provides the commission with any authority to order the collection of the moneys consistent with Decision 11-12-035 or to increase the amount collected through the Electric Program Investment Charge (EPIC).

~~SECTION 1. Section 739.1 of the Public Utilities Code is amended to read:~~

~~739.1. (a) As used in this section, the following terms have the following meanings:~~

~~(1) "Baseline quantity" has the same meaning as defined in Section 739.~~

~~(2) "California Solar Initiative" means the program providing ratepayer funded incentives for eligible solar energy systems adopted by the commission in Decision 05 12 044 and Decision 06 01 024, as modified by Article 1 (commencing with Section 2851) of Chapter 9 of Part 2 and Chapter 8.8 (commencing with Section 25780) of Division 15 of the Public Resources Code.~~

~~(3) "CalWORKs program" means the program established pursuant to the California Work Opportunity and Responsibility to Kids Act (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code).~~

~~(4) "Public goods charge" means the nonbypassable separate rate component imposed pursuant to Article 7 (commencing with Section 381) of Chapter 2.3 and the nonbypassable system benefits charge imposed pursuant to the Reliable Electric Service Investments Act (Article 15 (commencing with Section 399) of Chapter 2.3).~~

~~(b) (1) The commission shall establish a program of assistance to low income electric and gas customers with annual household incomes that are no greater than 200 percent of the federal poverty guideline~~

levels, the cost of which shall not be borne solely by any single class of customer. The program shall be referred to as the California Alternate Rates for Energy or CARE program. The commission shall ensure that the level of discount for low income electric and gas customers correctly reflects the level of need.

~~— (2) The commission may, subject to the limitation in paragraph (4), increase the rates in effect for CARE program participants for electricity usage up to 130 percent of baseline quantities by the annual percentage increase in benefits under the CalWORKs program as authorized by the Legislature for the fiscal year in which the rate increase would take effect, but not to exceed 3 percent per year.~~

~~— (3) Beginning January 1, 2019, the commission may, subject to the limitation in paragraph (4), establish rates for CARE program participants pursuant to this section and Sections 739 and 739.9, subject to both of the following:~~

~~— (A) The requirements of subdivision (b) of Section 382 that the commission ensure that low income ratepayers are not jeopardized or overburdened by monthly energy expenditures.~~

~~— (B) The requirement that the level of the discount for low income electricity and gas ratepayers correctly reflects the level of need as determined by the needs assessment conducted pursuant to subdivision (d) of Section 382.~~

~~— (4) Tier 1, tier 2, and tier 3 CARE rates shall not exceed 80 percent of the corresponding tier 1, tier 2, and tier 3 rates charged to residential customers not participating in the CARE program, excluding any Department of Water Resources bond charge imposed pursuant to Division 27 (commencing with Section 80000) of the Water Code, the CARE surcharge portion of the public goods charge, any charge imposed pursuant to the California Solar Initiative, and any charge imposed to fund any other program that exempts CARE participants from paying the charge.~~

~~— (5) Rates charged to CARE program participants shall not have more than three tiers. An electrical corporation that does not have a tier 3 CARE rate may introduce a tier 3 CARE rate that, in order to moderate the impact on program participants whose usage exceeds 130 percent of baseline quantities, shall be phased in to 80 percent of the corresponding rates charged to residential customers not participating in the CARE program, excluding any Department of Water Resources bond charge imposed pursuant to Division 27 (commencing with Section 80000) of the Water Code, the CARE surcharge portion of the public goods charge, any charge imposed pursuant to the California Solar Initiative, and any other charge imposed to fund a program that exempts CARE participants from paying the charge. For an electrical corporation that does not have a tier 3 CARE rate that introduces a tier 3 CARE rate, the initial rate shall be no more than 150 percent of the CARE baseline rate. Any additional revenues collected by an electrical corporation resulting from the adoption of a tier 3 CARE rate shall, until the utility's next periodic general rate case review of cost allocation and rate design, be credited to reduce rates of residential ratepayers not participating in the CARE program with usage above 130 percent of baseline quantities.~~

~~— (c) The commission shall work with the public utility electrical and gas corporations to establish penetration goals. The commission shall authorize recovery of all administrative costs associated with the implementation of the CARE program that the commission determines to be reasonable, through a balancing account mechanism.~~

~~Administrative costs shall include, but are not limited to, outreach,~~

~~marketing, regulatory compliance, certification and verification, billing, measurement and evaluation, and capital improvements and upgrades to communications and processing equipment.~~

~~(d) The commission shall examine methods to improve CARE enrollment and participation. This examination shall include, but need not be limited to, comparing information from CARE and the Universal Lifeline Telephone Service (ULTS) to determine the most effective means of utilizing that information to increase CARE enrollment, automatic enrollment of ULTS customers who are eligible for the CARE program, customer privacy issues, and alternative mechanisms for outreach to potential enrollees. The commission shall ensure that a customer consents prior to enrollment. The commission shall consult with interested parties, including ULTS providers, to develop the best methods of informing ULTS customers about other available low income programs, as well as the best mechanism for telephone providers to recover reasonable costs incurred pursuant to this section.~~

~~(c) (1) The commission shall improve the CARE application process by cooperating with other entities and representatives of California government, including the California Health and Human Services Agency and the Secretary of California Health and Human Services, to ensure that all gas and electric customers eligible for public assistance programs in the state that reside within the service territory of an electrical corporation or gas corporation, are enrolled in the CARE program. To the extent practicable, the commission shall develop a CARE application process using the existing ULTS application process as a model. The commission shall work with public utility electrical and gas corporations and the Low Income Oversight Board established in Section 382.1 to meet the low income objectives in this section.~~

~~(2) The commission shall ensure that an electrical corporation or gas corporation with a commission approved program to provide discounts based upon economic need in addition to the CARE program, including a Family Electric Rate Assistance program, utilize a single application form, to enable an applicant to alternatively apply for any assistance program for which the applicant may be eligible. It is the intent of the Legislature to allow applicants under one program, that may not be eligible under that program, but that may be eligible under an alternative assistance program based upon economic need, to complete a single application for any commission approved assistance program offered by the public utility.~~

~~(f) The commission's program of assistance to low income electric and gas customers shall, as soon as practicable, include nonprofit group living facilities specified by the commission, if the commission finds that the residents in these facilities substantially meet the commission's low income eligibility requirements and there is a feasible process for certifying that the assistance shall be used for the direct benefit, such as improved quality of care or improved food service, of the low income residents in the facilities. The commission shall authorize utilities to offer discounts to eligible facilities licensed or permitted by appropriate state or local agencies, and to facilities, including women's shelters, hospices, and homeless shelters, that may not have a license or permit but provide other proof satisfactory to the utility that they are eligible to participate in the program.~~

~~(g) It is the intent of the Legislature that the commission ensure CARE program participants are afforded the lowest possible electric and gas rates and, to the extent possible, are exempt from additional~~

~~surcharges attributable to the energy crisis of 2000-01.~~