

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: December 27, 2006

To: The Commission
(Meeting of January 11, 2007)

From: Delaney L. Hunter, Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: 2007 Legislative Package

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: Adopt package as proposed

SUMMARY: This package includes six (6) specific legislative proposals. These proposals:

- 1) Modify Public Utilities Code Section 739.8 to replace “ratepayers” with language that will allow low income water users in multifamily dwellings to receive financial assistance.
- 2) Update the New Area Codes chapter of the Public Utilities Code to remove sections that are no longer applicable, to clarify customer notification responsibilities of service providers, to ensure its accuracy, and to adopt a technology-neutral stance
- 3) Amend 2852(a) (2) of the Public Utilities Code to delete the current definition of “low-income residential housing” and replace it with a definition that clearly includes CARE, FERA and LIEE eligible ratepayers.
- 4) Amend Section 379.6 of the Public Utilities Code to delete the requirement that Self-Generation Incentive Program (SGIP) payments only be awarded to projects using wind or fuel cell technologies by 2008.
- 5) Amend Section 884.5 of the Public Utilities Code to reflect the CPUC’s method of imputing a federal E-rate discount to schools and libraries that have not received an E-rate discount for the issuance of California Teleconnect Fund awards.
- 6) Make technical, “clean up” changes to the Public Utilities Code relative to natural gas and water.

LEGISLATIVE PROPOSAL ONE - WATER LOW INCOME RATEPAYER ASSISTANCE

Recommendation: Modify language in PU Code Section 739.8 to remove the word “ratepayers” and insert language that better defines residential water use.

Statement of Problem: Current statutory language limits application of the water low-income rate assistance program to “ratepayers” of the utility. That is, low-income individuals in multi-family housing that receive their water service from a regulated utility but do not receive the bill (the bill goes to the landlord) are not covered by the existing code.

Justification: Minor statutory modifications must be made to ensure objectives of the Water Action Plan can be realized relative to low income water user assistance. The Commission, through its already existing regulatory authority, will work to develop a program of passing on financial assistance to those low income water users not currently being served.

Fiscal Impact: Unknown

LEGISLATIVE PROPOSAL TWO – UPDATE NEW AREA CODES CHAPTER

Recommendation: Update the New Area Codes chapter [PUC Division 4 Chapter 3.5] to remove sections that are no longer applicable, to clarify customer notification responsibilities of service providers, to ensure its accuracy, and to adopt a technology-neutral stance.

Statement of Problem: The New Area Codes chapter needs revisions in five specific areas. The Legislature enacted the New Area Codes chapter in the year 1990. Since its enactment, the Legislature made eleven changes in the year 1999 and one amendment in the year 2002. However, starting in the year 2000, the Federal Communications Commission (FCC) developed a more comprehensive set of rules related to numbering and area codes. The New Area Codes chapter neither fully recognizes nor comports with the rules created by the Federal Communications Commission. Moreover, the New Area Codes chapter currently has directives for the California Public Utilities Commission (Commission), which it already met. Also, the New Area Codes chapter does not explicitly state customer notification responsibilities of service providers for when the Commission needs to hold local jurisdiction and public meetings as required by Section 7931.(e)(2). Furthermore, the New Area Codes chapter has some incorrect statements. Lastly, the New Area Codes chapter has a limited definition of the term, “providers.”

Proposal: Update the New Area Codes chapter to resolve the five issues described above in the statement of problem.

Justification: The Public Utilities Code should be consistent with federal law or rules, where applicable, and should recognize changes both in the telecommunications industry, and in commission policy.

Fiscal Impact: There will be no fiscal impact. The proposed amendments remove outdated directives and do not add directives for the Commission.

LEGISLATIVE PROPOSAL THREE – LOW INCOME SOLAR – MODIFY DEFINITION OF “LOW-INCOME RESIDENTIAL HOUSING”

Recommendation: Amend 2852(a) (2) of the Public Utilities Code to delete the current definition of “low-income residential housing” and replace it with a definition that clearly includes CARE, FERA and LIEE eligible ratepayers. This proposal would allow the Commission to better implement the low-income portion of the CSI by defining “low-income residential housing” as a quantifiable, identifiable and reachable group of people.

Statement of Problem: AB 2723 (Chapter 864, Statutes of 2006) codified the following definition of low-income residential housing.

(2) "Low-income residential housing" means either of the following:

(A) Residential housing financed with low-income housing tax credits, tax-exempt mortgage revenue bonds, general obligation bonds, or local, state, or federal loans or grants, and for which the rents of the occupants who are lower income households, as defined in Section 50079.5 of the Health and Safety Code, do not exceed those prescribed by deed restrictions or regulatory agreements pursuant to the terms of the financing or financial assistance.

(B) A residential complex in which at least 20 percent of the total units are sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, and the housing units targeted for lower income households are subject to a deed restriction or affordability covenant with a public entity that ensures that the units will be available at an affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, or at an affordable rent, as defined in Section 50053 of the Health and Safety Code for a period of at least 30 years.

The above definition is problematic because it will be difficult for the Commission to determine eligible ratepayers in order to conduct meaningful outreach and program marketing. In addition, it will be difficult for Commission staff to verify eligibility when required to account for the various required financing mechanisms, grants, dwelling composition, housing cost and long-term rental agreements as outlined in statute.

The CSI contains a 10% set-aside for low-income and affordable housing projects and efforts to determine the best way to structure financial incentives and/or financing for low-income ratepayers is underway. It is anticipated that up to \$280 million will be spent for these purposes.

The Commission reaffirmed its intent in R.06-03-004 to conduct a thorough investigation into the specific structure of affordable housing markets in order to allow significant additional affordable housing participation. The California Energy Commission (CEC) and the Commission conducted joint workshops to determine the best ways to structure financial incentives and/or financing for all types of new and existing affordable housing. The Commission is working with numerous stakeholders to find the best means to address the solar needs of low-income ratepayers.

Proposal: Replace the current definition of “low-income residential housing” in 2852(a) (2) of the Public Utilities Code with a new definition that will define low-income eligibility as a quantifiable and identifiable group of ratepayers. Eligible applicants would be ratepayers who are currently eligible for the CARE, FERA and LIEE programs.

Justification: Since the current definition of “low-income residential housing” is codified in statute, legislative change is required. In order to meet the goals to the CSI as well as the statutory and regulatory requirements that 10% of CSI funds be spent on low-income solar projects, it is imperative that the Commission be able to identify and conduct outreach to potential low-income applicants. Defining low-income eligibility as those ratepayers who are eligible for the CARE, FERA and LIEE programs will help the Commission identify potential recipients and better implement the low-income portion of the CSI.

Fiscal Impact: Absorbable costs to the Commission.

LEGISLATIVE PROPOSAL FOUR – MODIFY SELF GENERATION INCENTIVE PROGRAM (SGIP) TO REINSTATE GAS FIRED DISTRIBUTED GENERATION

Recommendation: Amend Section 379.6 of the Public Utilities Code to delete the requirement that Self-Generation Incentive Program (SGIP) payments only be awarded to projects using wind or fuel cell technologies by 2008. This proposal would delete the recently enacted statutory prohibition on providing SGIP rebates for clean, gas-fired distributed generation (DG) and combined heat and power (CHP) projects after January 1, 2008.

Statement of Problem: AB 2778 (Chapter 617, Statutes of 2006) formally extends the SGIP until 2012 but limits the payment of SGIP incentives to wind and fuel cell technologies in 2008. Barring statutory change, the Commission is required to exclude clean gas-based generation from the SGIP beginning January 1, 2008. This is problematic since gas-based DG is clean, efficient and the most cost-effective available technology. Relative to a typical California utility plant, natural gas CHP reduces California's gas use for power generation by up to 65%.

Proposal: This legislative proposal would delete paragraph (b) in 379.6 of the Public Utilities Code that limits SGIP rebates to wind and fuel-cell technologies in 2008. An additional technical amendment would clarify that the SGIP remains formally extended until January 1, 2012.

Justification: AB 2778 (Chapter 617, Statutes of 2006) formally excluded the most cost-effective and equally-worthy DG technologies from the SGIP. Continuing to fund clean, gas-fired DG and CHP projects will help the state reduce greenhouse gas emissions, diversify our energy portfolio and reduce demand on the electrical grid. This proposal would ensure that the SGIP would continue in its current form until 2012.

Fiscal Impact: Although the Commission planned to extend the SGIP using existing resources when AB 2778 was moving through the process we estimated that extending a limited SGIP until 2012 would require two additional full-time analysts and result in additional work for the ALJs and legal counsel. Since the initial SGIP staffing was for two limited-term positions, we believe that the Commission will need two permanent staff analysts to manage this program at \$201,000 per year.

LEGISLATIVE PROPOSAL FIVE – MODIFY CA TELECONNECT FUND STATUTE TO REFLECT COMMISSION PRACTICE

Recommendation: Amend Section 884.5 of the Public Utilities Code to reflect the CPUC's method of imputing a federal E-rate discount to schools and libraries that have not received an E-rate discount.

Statement of Problem: In D.96-10-066, the Commission created the California Teleconnect Fund (CTF) program to provide discounts on telephone and advanced telecommunication services to schools, libraries, government-owned hospitals and community-based organizations. The CTF program was later codified by AB 855 (Ch. 820, Statutes of 2003).

As a practical matter, the CTF discount is applied to the recipient's telecommunications bill by the service provider, who is then reimbursed by the CPUC for the discounts provided. The federal Universal Service E-rate discount is handled similarly. In cases where the recipient has received discounts from both the CTF and E-rate programs, the service provider applies the CTF discount to the costs remaining after the E-rate discount has been applied to CTF-eligible services.

In order to encourage schools and libraries to apply for the E-rate discount and thus take advantage of the availability of federal funding, the Legislature changed the CTF program with the passage of SB 1102 (Ch. 227, Statutes of 2004). This bill requires the Commission, as of January 1, 2006, to apply an E-rate discount to schools and libraries that do not have an E-rate discount before applying the CTF discount. In order to calculate the E-rate discount for each recipient, SB 1102 requires the Commission to collect the necessary information from each school and library to determine the actual E-rate discount to which they are entitled.

Rather than attempt to calculate the actual E-rate discount for schools and libraries with no E-rate discount, the Commission decided to apply a proxy estimate, a statewide average E-rate discount, based on generally available data. Although this method of applying an E-rate discount differs from that envisioned by SB 1102, the Commission determined that it was the most efficient, cost-effective and transparent means for achieving SB 1102's intent.

Proposal: By amending the statute to reflect the Commission's current practice, no one will be able to claim that the Commission is not following the letter of the law.

Justification: After several meetings with schools, carriers and legislative staff, there is general consensus that the best course of action is to amend PU Code § 884.5 to more clearly reflect the Commission's method of calculating discounts eligible for compensation by the CTF program.

Fiscal Impact: Negligible, since the law will be changed to reflect current CPUC practice.

LEGISLATIVE PROPOSAL SIX – CODE CLEAN UP RELATIVE TO WATER AND NATURAL GAS**WATER FIX**

Recommendation: Correct typo in Pub. Util. Code Section 455.1(a).

Statement of Problem: There is a seemingly straightforward “clean-up” problem regarding Pub. Util. Code Section 455.1. The statute concerns recycled water service. Subdivision (a) of Section 455.1 contains a cross-reference to protests **pursuant to subdivision (c)**. But there aren’t any protests under subdivision (c). The correct cross-reference should be to **subdivision (d)**.

Justification: Fixing the cross-reference will clarify procedure under the statute.

Fiscal Impact: None

Proposed Amendments:

455.1. Whenever a water corporation files with the commission, pursuant to an advice letter submitted in accordance with commission procedures for this means of submission, a schedule stating rates, classifications, contracts, practices, or rules for the service of recycled water, the policies and standards for which are provided for in Article 7 (commencing with Section 13550) of Chapter 7 of Division 7 of the Water Code, the commission shall observe the following procedures:

(a) Unless the commission determines, pursuant to subdivision (b), that the schedule filed by a water corporation for the service of recycled water is not justified or, pursuant to **subdivision (d)**, any other party protests in writing the filing of the schedule, the schedule shall become effective upon the expiration of 40 days from the time of filing thereof.

NATURAL GAS FIX

Proposal 1: Eliminate a required annual report on California-produced natural gas.

Recommendation: Delete PU Code Section 785 (b).

Statement of problem: PU Code Section 785 (b) requires the Commission to provide an annual report to the Legislature on its implementation of efforts to encourage as a first priority the increased production of California natural gas and to require California utilities to purchase California-produced gas as long as the price is competitive with other supply sources. There is no significant need for the required report which would be a burden on Energy Division staff, the most likely staff assigned to complete the report.

Justification: Section 785 was adopted in 1985. The required report was produced by the Commission until the early 1990’s, and was also subject to the 1995-1999 moratorium

mentioned above. Again, no reports were produced by the Commission after the moratorium expired.

There is no significant need for this report. The intent of this legislation was to ensure that, as the wellhead price of natural gas was deregulated in the mid-1980's by the FERC, California supplies would continue to be produced and purchased, and wouldn't be completely priced out of the market. California natural gas utilities initially purchased significant amounts of California-produced natural gas. Utility purchases of California produced gas supplies now constitute only a very small portion of the total amount of total California production. California production, like all other gas production, is driven by market forces, and doing reasonably well without the need for Commission- or Legislature-mandated purchases. In any case, the major gas utilities now all operate under gas cost incentive mechanisms, so if California supplies are priced lower than other available supplies, the utility have an incentive to purchase those supplies.

Fiscal impact: Elimination of the required annual report would save many days of Energy Division staff and management time. The annual report would take about a week of Energy Division staff time to conduct research and prepare the report, and for management to review the report.

Proposal 2: Delete the requirement for a one-time natural gas infrastructure report, already submitted by the Commission.

Recommendation: Delete PU Code Section 3368 (a).

Statement of problem: PU Code Section 3368 (a) required the commission to prepare a one-time report for the Legislature in late 2001 assessing the adequacy of California's natural gas infrastructure. That report was prepared by the Commission and submitted to the Legislature in November 2001.

Justification: The required report, "2002-2006 California Natural Gas Infrastructure Outlook", was submitted by the Commission to the Legislature in November 2001, so there now no longer a need for Section 3368(a).

The Commission is reviewing the adequacy of California's natural gas infrastructure in Rulemaking 04-01-025. In addition, the California Energy Commission evaluates the adequacy of California's infrastructure at least every two years as part of its Integrated Energy Policy Report process. There is no need for Section 3368 (a) and it should be deleted.

Fiscal impact: There is no fiscal impact on the Commission if Section 3368(a) is eliminated.