

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: January 20, 2009

To: The Commission
(Meeting of January 29, 2009)

From: Pam Loomis, Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: **2009 Legislative Package**

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: Adopt package as proposed

SUMMARY: This package includes specific legislative proposals. These proposals:

1. Modify PU Code §781 to encourage installation of water meters.
2. Create a narrow exception in the Bagley-Keene Act to permit DDTP Advisory Board members to conduct teleconference meetings.
3. Create the Clean Distributed Energy Resources program for incentives for ultra-clean technologies.

LEGISLATIVE PROPOSAL ONE – MODIFY PU CODE § 781 TO ENCOURAGE WATER METER INSTALLATION

Recommendation: Modify existing PU Code § 781 to encourage the installation of water meters.

Current CPUC Process: PU Code § 781 requires that the Commission hold a hearing in the service area of the utility for which it wants to order installation of water meters. The Commission must find that the installation of meters:

- (1) will be cost effective;
- (2) will reduce water consumption; and
- (3) will not impose an unreasonable financial burden upon the utility's customers, unless the metering is necessary to assure continuation of an adequate source of water.

Statement of Problem: The installation of water meters encourages water conservation by providing the homeowner or business owner with an accurate account of how much water they consume. In addition, gains in water conservation can be further achieved. Meters create indirect water savings by telling the homeowner how much water is being used and identify opportunities to reduce unnecessary water uses, leaks and water losses.

PU Code § 781 hinders the installation of water meters due to the three findings noted in statute. Presently, the Commission is restricted in its ability to encourage water conservation through the use of meters, since all three of the findings must be fulfilled before a metering program can be authorized. This constraint is illustrated by a couple of recent Commission actions.

- In Resolution (Res.) W-4670 for Tahoe Swiss Village, the Commission required the water utility to perform a metering study to determine the cost effectiveness of meter installation. Since the meter installation was found to not be cost-effective, the Commission did not order the water utility to install meters.
- In Decision 07-12-055 for California Water Services Bakersfield District (Cal Water), the Commission ordered Cal Water to make a compliance filing within 90 days of the effective date of this decision discussing whether the funding for meter installation agreed to in the settlement by Cal Water and the Division of Ratepayer Advocates would be spent on new meters that are compatible with future deployment of advanced metering technology. This decision also included related discussion of the cost-effectiveness of water meter installation.

As noted, the Commission has been unable to implement metering programs because it is nearly impossible to meet all three findings, in particular the cost- effectiveness requirement.

A cost-effectiveness study normally consists of determining the net present value (NPV) of the cost of the new meter (installation, return on investment, depreciation) against the savings realized by the customer through using less water (one assumes a 20 percent reduction in water use when switched from flat rate to metered service). The NPV of the

cost generally exceeds that of the savings generated by installing the meter, and is therefore not cost-effective.

Proposal: Reducing or modifying the number of findings required by PU Code § 781 would provide the Commission more flexibility to authorize metering programs. Instead of meeting all three findings, as the code currently requires, a better approach may be for only one of the findings to be met.

Justification: The Legislature has long recognized that water metering is good public policy that encourages water conservation and the judicious use of a precious commodity. The Water Code has been amended to require metering of all new water connections after January 1, 1992, (Water Code § 525), and the installation of water meters on or before January 1, 2013, for existing customers (Water Code § 526). Furthermore, the Water Code requires that the cost of the water meter be borne by the user of the water. In addition, Water Code § 527 requires certain urban water suppliers to install water meters by 2025 on all service connections constructed before 1992.

The Water Code supersedes the PUC Code. Eliminating or modifying PU Code § 781 would quickly help water meters be implemented by 2025. This proposal would be consistent with the PUC's 2005 Water Action Plan (WAP), which promotes metered water service to encourage conservation and provide water usage information at the end of each billing cycle. It would also provide a tool to help Governor Schwarzenegger's goal of achieving a 20 percent reduction in per capita water use statewide by 2020, which he announced in February 2008.

Fiscal Impact: None.

LEGISLATIVE PROPOSAL TWO – CREATE A NARROW EXCEPTION IN THE BAGLEY-KEENE ACT TO PERMIT DDTP ADVISORY BOARD MEMBERS TO CONDUCT TELECONFERENCE MEETINGS.

Recommendation: We are proposing to add a new subdivision (g) to P.U. Code § 271 to create a narrow exception to the Bagley-Keene Open Meeting Act (Bagley-Keene) (Government Code §§ 11120-11132) pertaining to the CPUC’s Deaf and Disabled Telecommunications Program (DDTP). Specifically, we are recommending additional language in the P.U. Code to allow members of the DDTP’s advisory committees to meet by teleconference or videoconference, without each member who is participating by teleconference or videoconference having to be in a public location, so long as at least one location at which members are present and participating is publicly accessible.

The DDTP advisory committees are the Telecommunications Access for the Deaf and Disabled Administrative Committee (TADDAC) as well as two subcommittees, the Equipment Program Advisory Committee (EPAC) and the California Relay Service Advisory Committee (CRSAC).

Current CPUC Process: All three of the DDTP’s advisory committees are “state bodies” under Bagley-Keene. (See § 11121(c).) Section 11123 of the Bagley-Keene Open Meeting Act (Bagley-Keene) sets forth the requirements for a state body to hold a meeting by teleconference. Section 11123(b)(1)(C) provides in relevant part:

Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public.

Consistent with that statutory provision, the CPUC’s Legal Division consistently has advised members of the DDTP’s advisory committees that any meeting held by teleconference (or videoconference) requires that any member participating from a remote location must also be in a location accessible to the public.

Statement of Problem: Many members of the DDTP’s three advisory committees are disabled. Some of them are dependent on assistance from care-givers or support services in order to attend DDTP advisory committee meetings. Ordinary travel for some committee members can be quite difficult because of the committee member’s specific disability. Regular attendance at monthly meetings can be extremely taxing because of problems that can and do arise as a result of a committee member’s circumstances. Many committee members cannot drive. In addition, the routine inconvenience of air, train, or bus travel is compounded when a committee member is in a wheelchair, deaf, or visually impaired. Costs can be high if a caregiver must accompany the disabled committee member.

Many of the committee members who serve on the DDTP’s advisory committees incur considerable inconvenience, and sometimes hardship, just to represent their respective communities by regularly attending monthly committee meetings. Further, because these

advisory committee members are not public figures, but simply individuals volunteering their time to advise the CPUC, they are reluctant to open their homes to the public in order to participate by teleconference pursuant to the Bagley-Keene requirement.

Proposal: The proposed legislative amendment will allow some disabled members of the three DDTP advisory bodies, who serve at the request of the CPUC in order to enable the CPUC to better respond to the needs of various disabled constituencies, to participate in monthly committee meetings without having to do so from a publicly-accessible location. This accommodation is not intended to override or conflict with the Bagley-Keene mandate that meetings of a state body must take place in public. The DDTP committee meetings would still occur in a publicly-accessible location, but this amendment would enable some members who are unable to attend a particular meeting to participate more easily by teleconference.

In making this proposal, the CPUC envisions that the location where most committee members are gathered would remain publicly accessible, as it is today. In addition, other participating committee members might participate by teleconference from another location that is publicly-accessible, for example, from the Los Angeles CPUC offices. But, if a member is unable to reach a publicly-accessible location because of his or her disability, that person could participate in the meeting by teleconference without having to be in a publicly-accessible location.

Justification: The members of the TADDAC and its subcommittees are committed participants in the DDTP as a whole, and on the DDTP committees in particular. They set aside time to prepare for and to travel to the DDTP committee meetings on a monthly basis, often at greater effort and subject to greater inconvenience than individuals who are not disabled. The proposed amendment would enable these individuals, and future committee members, to participate in committee meetings on those occasions when travel to the monthly meetings is impossible or very difficult for reasons beyond the committee member's control.

Fiscal Impact: None.

LEGISLATIVE PROPOSAL THREE - THE CLEAN DISTRIBUTED ENERGY RESOURCES PROGRAM FOR INCENTIVES FOR ULTRA-CLEAN TECHNOLOGIES.

Recommendation: Establish the Clean Distributed Energy Resources (CDER) program to coordinate incentives for all distributed energy resources that meet ultra-clean performance requirements. This recommendation requires renaming and redefining the current Self Generation Incentive Program, which was established in 2001 to provide incentives for clean distributed generation technologies, and extending the program through 2017.

Current CPUC Process: The Self-Generation Incentive Program was established in 2001 and is one of the largest distributed generation incentive programs in the United States, with approximately 1,200 projects totaling 300 megawatts on-line at the end of 2007. The program provides up-front, capacity-based incentives for clean, distributed generation technologies at customer sites.

Historically SGIP eligibility has been determined by the CPUC and has included both renewable and highly efficient fossil fuel powered systems. Eligible technologies have included solar photovoltaics (PV), wind, fuel cells, microturbines, internal combustion engines and small gas turbines. With the passage of SB 1 (Murray, 2006) and the creation of the California Solar Initiative in 2007, solar PV was removed from SGIP. AB 2778 (Lieber, 2006) further limited SGIP eligibility to wind and fuel cell technologies only, effective January 1, 2008.

Statement of Problem: AB 2778 excluded all biogas fueled technologies that are not fuel cells from SGIP, and restricted the CPUC's ability to consider all other clean, renewable distributed energy resources. This limitation, in effect, restricts the CPUC's ability with regard to PUC Section 379.6 (e), which states:

"In administering the self-generation incentive program, the commission may adjust the amount of rebates, include other ultraclean and low-emission distributed generation technologies, as defined in Section 353.2, and evaluate other public policy interests, including, but not limited to, ratepayers, and energy efficiency and environmental interests."

Distributed Energy Resources (DER) include any small-scale electric power technologies or technology applications "located close to where electricity is used (e.g., a home or business) to provide an alternative to or an enhancement of the traditional electric power system." In addition to providing benefits to the electric power system, clean DER can reduce greenhouse gas emissions, and help California meet its Renewable Portfolio Standard goals.

The current statutory limitation misses opportunities to develop clean distributed energy resources including:

- Renewable resources such as landfill gas, digester gas from dairy waste or wastewater treatment processes, and biomass used in non-fuel cell applications are excluded from SGIP.
- Non-generating technologies, such as energy storage, which is excluded from SGIP unless coupled with a wind or fuel cell generating technology. Storage is similarly excluded from the California Solar Initiative. Energy storage provides peak load reduction capabilities and is critical to firming the output of intermittent renewable generation.
- Ultra-clean, high-efficiency distributed generation (DG) and combined heat and power (CHP) technologies, which have the potential to provide significant peak load reduction and greenhouse gas emissions savings.

Proposal: Establish the Clean Distributed Energy Resources (CDER) program to coordinate incentives for all distributed energy resources that meet ultra-clean performance requirements. CDER, as proposed, would be an umbrella program for all DER efforts, besides the California Solar Initiative (CSI), which provides incentives for solar electric technologies and has a well functioning administrative program structure. CDER would facilitate better coordination of DER efforts to ensure that we are meeting all of our policy goals.

Creating an umbrella program to streamline and coordinate current and future DER efforts will maximize the benefits these programs provide. CDER is smart public policy, because it creates a flexible, adaptable vehicle for the incorporation and coordination of current and future DER efforts at no additional cost.

PUC Section 379.6 currently establishes the Self Generation Incentive Program and limits that program to wind and fuel cell generating technologies. The recommended amendments to PUC Section 379.6 outlined below, would change the name of the authorized program to the Clean Distributed Energy Resources program and provide flexibility for the CPUC to determine technology eligibility to any “ultra-clean and low-emissions distributed generation technology.” This recommendation would also extend the program through 2017.

Justification: The California Energy Commission (CEC) spends \$83.5 million in public interest energy research funds annually to develop new technologies to address California’s energy challenges. Besides the California Solar Initiative (CSI), which provides incentives for solar electric technologies, SGIP is the only current CPUC program aimed at bringing clean distributed energy resources from R&D to commercialization.

Several currently commercially available DER technologies that could benefit from market based incentives include bioenergy and advanced energy storage include:

- Renewable biogas generation was included in SGIP prior to January 1, 2008. Based on the Sixth-Year Impact Evaluation of SGIP, biogas generation provided the greatest greenhouse gas emissions reductions benefit per unit of electricity produced of all technologies in the program - greater even than solar PV or wind.

- Advanced Energy Storage (AES) technologies, while not generating technologies, provide unique benefits to customers and the grid. Energy storage can be coupled with existing DG or installed as stand-alone systems to provide additional benefits to the grid. There are approximately 40,000 existing DG solar PV projects and 300 non-solar renewable DG projects online in California, representing over 420 MW of capacity. Energy storage could add value to these projects. Distributed energy storage could also provide necessary grid support to the approximately 16,000 new MW of renewable generation that will be required to achieve 33% RPS. Developing storage at the DG level as soon as possible will pave the way for applications of storage at a larger scale.
- The CEC has identified over 4,000 MW of economic market potential for ultra-clean CHP in California by 2020, with aggressive policy actions such as re-including ultra-clean CHP in SGIP. The California Air Resources Boards (ARB) has adopted this 4,000 MW CHP target in its scoping memo as an integral part of enabling California to reach its AB 32, greenhouse gas emissions goals.

Fiscal Impact: CDER would streamline the CPUC's current distributed energy resources efforts by creating a single umbrella program for all technologies and technology applications, except for those solar electric technologies included in CSI. This streamlining would result in no administrative cost increase.