

**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).
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**COMMENTS OF THE
LOCAL GOVERNMENT SUSTAINABLE ENERGY COALITION TO
ALJ RULING REGARDING PORTFOLIO EXTENSION**

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For THE LOCAL GOVERNMENT
SUSTAINABLE ENERGY COALITION

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I. INTRODUCTION

As directed by the May 25, 2011, *Administrative Law Judge's Ruling*, the Local Government Sustainable Energy Coalition ("LGSEC") submits these comments on an extension to the current portfolio cycle and related matters.¹ The LGSEC has been actively engaged for months with other parties in this proceeding to develop joint proposals on the mechanics of extending the current portfolio by one year. We are hopeful that in the reply comments due July 1, we will be able to bring forward a proposal that addresses more completely the issues essential to a one-year extension.

The LGSEC's work on this suite of issues is informed by two overarching principles:

- Extension, not bridge. The additional year should be an extension of the current program cycle. It should not be considered a separate program cycle for program administration, reporting, budget, and other purposes. For local governments, it is much simpler to approve amendments to existing agreements than enter into new agreements. From a larger policy perspective, there is much work to accomplish in advance of the next program cycle, and parties should be able to focus their attention on those issues, rather than on negotiating new one year agreements for 2013.
- Genuine Partnership. Utilities must work in a timely and coordinated manner with local governments to revise scope/budget and develop amendments to existing agreements. This will require adequate time for program staff review, legal review, and local government approval processes.

¹ The LGSEC is a statewide membership organization of cities, counties, associations and councils of government, special districts, and non-profit organizations that support government entities. Each of these organizations may have different views on elements of these comments, which were approved by the LGSEC's Board. The City and County of San Francisco is a member of the LGSEC and independently a party to this proceeding. San Francisco joins these comments and will not be submitting separate opening comments.

II. RESPONSES TO SPECIFIC QUESTIONS

Below the LGSEC responds to the specific questions posed in the ALJ's *Ruling*. On some issues LGSEC does not take a position at this time. We reserve the opportunity to take a position on all issues, or revise positions provided in these opening comments, as the proceeding progresses.

1. What should annual budgets during the bridge period be based on?

- a. 2012 expenditures?
- b. 2010-2012 average expenditures?
- c. 2012 expenditures plus growth rate?
- d. Other?

The LGSEC recommends that an addition of one year to the 2010-2012 energy efficiency Program Cycle should be considered an extension of the current program cycle and not a bridge year. In particular, the LGSEC seeks continuation of existing programs and contracts, with any necessary extensions and amendments, without program disruption. The LGSEC recommends that the budget for 2010-2013 energy efficiency program cycle be expanded to total four-thirds of the budgets approved for the respective utility program administrators in D.09-09-047. The distribution of the funds among the programs in operation should not follow this single formula, but rather be determined by a system described in response to questions 3 and 4 below.

2. Should unspent funds from 2010-2012 be applied to the bridge period, potentially reducing the level of new collections required? Why or why not? If so, what allocation methodology should apply to natural gas and electric revenue requirements from left over (a) natural gas Public Purpose Program surcharges, (b) electric Public Goods Charge, and (c) procurement funding sources?

LSGEC recommends, as stated in our response to Question 1, that the total budget for the 2010-2013 cycle should be four-thirds of the 2010-2012 budget approved in D.09-09-047. To the extent that an investor-owned utility ("IOU") has prior period unspent uncommitted funds available, that IOU may request CPUC authorization to use these funds to reduce the amount of authorized energy efficiency funding collected in customer rates or to request

authority to augment its energy efficiency program funding above otherwise authorized amounts.

3. What specific criteria should the Commission use to determine which programs to extend?

- a. Track record of performance?**
- b. Cost-effectiveness?**
- c. Energy savings?**
- d. Other?**

The LGSEC recommends that all programs – Statewide, IOU core, third party, and government partnerships – that are generally on target to achieve their goals within their budgets should continue at the budget levels described in response to Question 1 (the budget for 2010-2013 would be 4/3 of the budget initially approved for the period 2010-2012), subject to adjustments to reflect forecasted program performance. Programs that are exceeding expectations or operating below expectations should be re-evaluated and adjusted based on demonstrated progress or potential to succeed during the extension year and considering the program’s established objectives.

The LGSEC recommends that the decision to increase or decrease a particular program’s funding level, to adjust its scope of work and/or goals, or to eliminate the program, be done through a transparent process, relying on criteria and considerations appropriate to the type of program and its desired outcome. For third party and local government programs, the process for decisions on adjustments should also involve engagement and collaboration between the IOU and each affected third party or local government program implementer. Such collaboration should strive for mutual understanding and agreement on the objectives being judged. The process should include a provision to notify and time to cure in the event of perceived poor performance.

The LGSEC further recommends that for each program for which an IOU is proposing an adjustment for the extension year, the IOU should file with its Advice Letter a statement explaining its proposed adjustment, including: (1) a list of the criteria used and considerations included; (2) the rationale for the choice of criteria; (3) the expected goals/objectives to be achieved; (4) the revised budget; and, (5) any pertinent information that would substantiate their decision. For third party or local government partnership programs, the IOU should also note whether the affected implementer supports or disputes the proposed program adjustment, so that the Commission and the Energy Division will be alerted to program issues that may require their further attention.

4. Do parties have any specific concerns or proposals with regard to extending bridge funding contracts for the following types of programs? Do these concerns or proposals require Commission action? If so, what action is required and why?

a. Local Government Partnerships

b. Other third-party programs

The LGSEC strongly supports the participation of local governments and third-party implementers in the discussion of whether programs are effective and how to adjust programs to make them more effective. The IOUs currently meet with local government partners on program initiatives. However, it has been the experience of local governments that the utilities make adjustments more unilaterally than a real partnership would suggest. The Parties recommend the following specific procedures:

a. Existing IOU contracts with Local Government Partnerships and Third Party Implementers should be extended through 2013, rather than terminated at the end of 2012 and renegotiated for 2013. Extensions of contracts should be treated as though they were part of a four-year energy efficiency program cycle from 2010-2013, amended as required based on previously defined success criteria and forecasted program performance (see discussion above).

b. The IOUs should collaborate with local government partnerships and third party implementers in negotiating appropriate adjustments to budgets, scopes of work, and specific goals and program objectives for the extension year based on previously defined success criteria and forecasted program performance.

c. Programs and other work that supports the Commission's *Energy Efficiency Strategic Plan* should continue through the 2013 extension year.

d. A Community Choice Aggregator should not be precluded from exercising its options under Public Utilities Code Section 381.1 during the course of any existing or extended program cycle.

e. The Commission should establish immediately a timeline for extending and amending (if required) local government partnership and third party implementer contracts that allows sufficient time for the contracting parties to complete their internal approval processes, revamp their staffing (if required), and execute their contract extensions and amendments with no interruption in program delivery.

f. The Commission should maintain the current rules for shifting funds between programs and also allow fund shifting among categories of programs (IOU, local government partnership, third party) through 2013.

5. If the IOUs were to submit a bridge funding request, what key information should they include to facilitate parties' review, ensure transparency, and substantiate any adjustments to their portfolios?

LSGEC recommends that the extension year filing by the IOUs be a compliance Advice Letter. As noted above in our answer to Question 3, LSGEC further recommends that the IOUs be required to file with their Advice Letters (1) a statement explaining the criteria used and considerations included in their evaluation of programs; (2) the rationale for the choice of criteria; (3) the expected goals/objectives to be achieved; (4) the proposed budget; and, (5) any pertinent information that would substantiate their filing. After the filing, the LGSEC will participate in good faith in meet and confer sessions with all interested stakeholders to discuss areas of disagreement, if any.

6. Is it feasible to update utility 2010-12 cycle high impact measures ex-ante values that consider the most recently available Evaluation, Measurement and Verification (EM&V) results in the portfolio adjustments submitted in a bridge funding request? Why or why not?

LGSEC does not take a position on this issue at this time.

7. If most recently available EM&V results were to be used to inform changes to the program portfolios, what steps would be necessary to accomplish this task?

LGSEC does not take a position on this issue at this time.

8. Is it feasible to update version 2008.2.05 of the 2008 Data Base for Energy Efficient Resources (DEER) with codes that are applicable in 2013, and with corrections to software errors identified by the DEER team?

LGSEC does not take a position on this issue at this time.

**9. Elaborate on the basis for attributing savings to goals during the bridge funding period.
10. Are there any other issues that have not been addressed regarding bridge year funding, mechanics, and the procedural schedule?**

LGSEC does not take a position on this issue at this time.

Dated: June 16, 2011

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of "Comments Of The Local Government Sustainable Energy Coalition To ALJ Ruling Regarding Portfolio Extension" on all known parties of record in R.09-11-014 by transmitting an e-mail message with the document attached to each party named in the official service list, and by serving a hard copy on the Administrative Law Judge.

Executed on June 16, 2011.

A handwritten signature in blue ink that reads "Jody S. London". The signature is written in a cursive style with a long horizontal flourish at the end.

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