



MEMORANDUM

TO: Local Government Sustainable Energy Coalition Members

FROM: Jody London

DATE: October 9, 2008

SUBJECT: CPUC Scheduling Meeting on Utility Energy Efficiency Applications for 2009-2011 (A.08-07-021 et al.)

This memo summarizes yesterday's prehearing conference, or scheduling meeting, at the California Public Utilities Commission ("CPUC") on the utility applications for 2009-2011 energy efficiency programs (A.08-07-021 et al). It is clear that approval of the 2009-2011 applications is several months away, possibly not until the second quarter of 2009. This memo also provides recommendations for what each of you individually, and all of us as a group, should consider doing during this period.

Status of CPUC Review of Applications

The CPUC Energy Division has nearly completed its review of the problems with the applications submitted in July. Basically, there are several areas where the utilities did not provide information the CPUC had requested in several decisions and rulings issued over the course of the past year. The CPUC staff and the Administrative Law Judge were quick to point out that the utilities are being very cooperative, but this just takes time.

Timeframe for Completing Review

The utilities claim they need anywhere from 6 to 9 weeks to submit updated applications once they have a ruling from the ALJ telling them "go." Prior to the ALJ issuing a ruling to that effect, a few things will happen. Getting these things done will take another month or more, I would guess. And then once the applications are submitted, the clock starts ticking again. That is why I think it will be second quarter 2009 at best before the 2009-2011 applications are approved. (All of this will be captured in writing by the ALJ in the next week or two, but I thought you'd all like to know sooner rather than later.)

Current Issues in the Review Process

- The CPUC will take another round of comments on "new" or "innovative" programs that are consistent with the recently adopted *Strategic Plan for Energy Efficiency*. The utilities were not happy about this. They are concerned that the Commission is somehow re-opening the decision on utility administration of energy efficiency programs and also circumventing their process by which third parties and local government put abstracts/bids in to the utilities. (SCE was most vocal on this last point.) The utilities

brought this up several times, and each time ALJ Gamson was firm that parties should not be precluded from bringing forward ideas that are consistent with the *Strategic Plan*. He stated that there may be some programs that can be proposed outside the utility applications. He noted there are some programs the CPUC's Energy Division is running currently, for example, EM&V.

- The CPUC likely will hold a workshop on local government issues. This is the only workshop the ALJ envisions. As you know, we submitted this proposal as a prehearing conference statement Monday. The ALJ pretty readily agreed. He did not from the bench announce the agenda, but I and several others who were there feel comfortable that several, if not all, of the topics we proposed may be discussed. The ALJ also did not talk about workshop dates or location, and we did not push it because he clearly did not want to be talking at that level of detail. The good news is a workshop is likely, and as noted below I believe we should start thinking about how we propose to structure the agenda, based on our Monday statement. This is another great example of how the LGSEC can be effective for local governments.
- Some of the utilities, particularly SDG&E and SoCalGas, are pushing for the ALJ to hold hearings on the proposed policy changes put forward by the utilities (this includes the utilities getting 100% credit for codes and standards changes). The ALJ does not seem inclined to want to hold hearings or even take more comment, he thinks the record to date is sufficient. In this situation, I do not think hearings are going to help us, they are only going to be a further sink of time and money.
- The ALJ is going to issue a ruling on what issues are even within the scope of the proceeding. This may take care of some of the policy changes the utilities want. This scoping ruling will be in addition to the ruling that will start the clock ticking for the utilities to submit the updated applications.
- After these comments, workshop, and rulings, the utilities will submit the updated applications and then a schedule will be determined for processing them. Again, there will be a push by some to hold hearings. We will have to see at that time what the issues are, and hope we can address the local government issues without hearings. (Every time we have to go into hearings, which last for several weeks and are resource intensive, and also require preparing legal briefs, it usually costs between \$50,000 and \$100,000, depending on the complexity and length of the case.)
- The ALJ suggested the updated applications, when they are submitted, should show better consistency between statewide programs. The utilities responded by saying that they cannot work too closely together or they will be subject to accusations of collusion and/or anti-trust violations. (Yes, it has occurred to me that this is a further reason on needs a neutral, third party running these programs.)

Suggestions on Next Steps

The ALJ encouraged utilities and other parties to be talking about what kind of innovative programs should be included in the updated applications. At some point, regardless of whether the ideas are brought forward in a utility application or a filing from a third party or

group like the LGSEC, they will have to show how the ideas meet cost-effectiveness criteria. Alternatively, whoever brings the idea forward will have the burden of showing why cost-effectiveness criteria do not apply. The ALJ was clear about this. Either way, there is a preparation to do.

To the extent that you have ideas that pertain solely to your partnership, you might want to start to float them by your utility representative. At the same time, the LGSEC as a group should begin to think about how we will group these ideas together and present them to the CPUC.

The LGSEC and other interested local governments also should begin to better develop the “carve out” idea and other suggestions we put forward in our comments earlier this week. I imagine we have a lot of this written up already. We should prepare these ideas for two venues, (1) the workshop we expect the CPUC will hold, and (2) a submittal to the utilities or the CPUC. The latter piece will need more detail, as described above. I will be organizing a call for next week to get this rolling.

Please contact me with any questions or comments.