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MEMORANDUM

TO: Local Government Sustainable Energy Coalition
FROM: Jody London
DATE: August 30, 2009
SUBJECT: CPUC Proposed Decision on 2009-2011 Energy Efficiency Portfolio

This memo summarizes the Proposed Decision (“PD”) issued earlier this week by the California Public Utilities Commission (“CPUC”) on applications from California’s large investor-owned utilities¹ for 2009-2011 energy efficiency programs (A.08-07-021, et al.). Under the Proposed Decision, the total amount approved for all four utilities would be \$2.9 billion, which is 26% less than the utilities had requested. The program cycle would be adjusted to run from 2010 – 2012, as opposed to the originally anticipated 2009-2011. The Proposed Decision also would lower the energy savings goals for the utilities. Details on the nearly 350 page document are provided below.

Comments on the Proposed Decision are due Monday, Sept. 14, with reply comments due Sept. 21. The CPUC will vote on the Proposed Decision on September 24.

It is clear that the CPUC staff and Commissioner Grueneich have put a lot of thought and analysis into this portfolio and the Proposed Decision. I think it is unlikely that the staff or Commissioner Grueneich will make any major revisions to the Proposed Decision. There no doubt will be advocacy by different parties for elements they find particularly troublesome, with the goal being to convince one of the other Commissioners to sponsor an Alternate Decision on those elements. I believe there will be opportunity through the written comment process to effect some procedural refinements, as indicated in the analysis below. I will schedule a conference call for later this week to discuss the Proposed Decision and the LGSEC’s next steps.

Cuts to Utility Proposed Budgets

As indicated above, the Proposed Decision cuts the utilities’ proposals from nearly \$4 billion statewide to just under \$3 billion. The justification given is that cutting the budgets as put forward in the Proposed Decision brings the Total Resource Cost (“TRC”) value of the overall portfolio to 1.5; as put forward by the utilities, the overall TRC is about 1.25, and that is too low. It also is less costly to ratepayers. The cuts in the Proposed Decision, as described below, are mainly in administrative areas. The overall amounts authorized are:

- ♦ \$1.191 billion for Pacific Gas and Electric Company;
- ♦ \$1.126 billion for Southern California Edison Company;
- ♦ \$277 million for Southern California Gas Company; and
- ♦ \$257 million for San Diego Gas & Electric Company.

¹ Pacific Gas & Electric Company (“PG&E”), Southern California Edison Company (“SCE”), Southern California Gas Company (“SoCalGas”), and San Diego Gas & Electric Company (“SDG&E”).

The SoCalGas and SDG&E programs were cut by almost half the amounts requested. The Proposed Decision finds that the two utilities should not offer 100% incentive payments. Rather, the Proposed Decision finds it more appropriate to have a customer contribution, as PG&E and SCE require. The cuts bring the SDG&E and SoCalGas incentives in line with those of the other utilities. This will likely be an area for advocacy by SDG&E and SoCalGas.

With one exception (the Palm Desert Partnership, see below), the Proposed Decision does not make any cuts to the amounts requested for local government partnerships, which are authorized at \$265 million over the three-year program cycle. \$83 million is authorized for statewide partnerships with the University of California, California State University, community colleges, Department of General Services, and Department of Corrections, again the requested amounts. For information on cuts to specific utilities, see pp. 60-70 of the Proposed Decision.

The biggest area of cuts in the Proposed Decision, outside of the incentive funds for the Sempra utilities, is to administrative costs (see below), as well as Evaluation, Measurement, and Verification (“EM&V”) and Marketing, Outreach, and Education (“ME&O”). SCE also takes a cut on its budget for basic compact fluorescent lights (“CFL”), and is directed to put those funds toward more advanced lighting technologies.

Program Cycle is Moved Back

As indicated above, the Proposed Decision would adjust the program cycle to run 2010 – 2012, instead of 2009 – 2011. The Proposed Decision recognizes the value of a three-year program cycle, as well as the need to prepare for it. (PD, pp. 27-29) Prior to the current 2006-2008 cycle, the program had been operating on two-year cycles. There was general agreement on the advantages of longer cycles. Of particular note, the Proposed Decision acknowledges that there is often a two-year ramp up, with large savings accruing in the third year of a program.

Justification is Requested for Third Party Programs

The Proposed Decision finds that third-party programs should be no more than 25% of the overall portfolio. It cites low TRCs for third-party programs as a group, low quality in terms of specific goals and budgets, and disproportionately high administrative costs. All of the utilities will have to trim third-party programs to meet this directive.

Caps on Various Utility Cost Categories

The Proposed Decision places limits on various categories of utility costs. It does this after comparing average costs in California against those in other states. Utility administrative costs are limited to 10%. This is an overall cap, and does not mean that each individual program must have 10% administrative costs. The Proposed Decision questions why administrative costs are higher for third-party and partnership programs. (PD, pp. 51-52)

The Proposed Decision imposes a 20% cap on non-resource support costs, which include: direct implementation non-incentive costs associated with incentive based programs, such as



education and training; engineering support and project management; and long-term strategic plan support. The cap on non-resource support costs only affects PG&E, as its proposed budget is 35% non-incentives and non-rebate costs.

The Proposed Decision limits Marketing, Education, and Outreach costs to 6% of the overall budget. It recognizes input from the public participation hearings held in May and June 2009, on the value of “local messengers,” for example community based organizations. (PD, p. 214) The three-year amount authorized for marketing is reduced from the \$253 million the utilities requested to \$167 million. The Proposed Decision cites “less than stellar results” from the current program – too much emphasis on single activities, i.e., CFLs, as opposed to comprehensive approaches. It also appears that the end may be near for the Flex Your Power program, which the Proposed Decision states will end after 2009. The language on this is particularly clear, noting that general public recognition of Flex Your Power is much too low for a program that has been in existence for seven years. For 2010-2011, the Proposed Decision says there will be a new brand or revised existing brand. The Proposed Decision also authorizes the utilities to combine general energy efficiency marketing funds with funds for low-income energy efficiency marketing.

The Proposed Decision also limits Evaluation, Measurement, and Verification to 4% of the overall budget. Again, this is viewed as being more in line with amounts spent in other states. The Proposed Decision states the CPUC is trying to streamline the EM&V process. It also wants to incorporate the activities of the California Air Resources Board, the California Energy Commission, and municipal utilities. There also is mention of finding a way to measure behavioral impacts (i.e., non-resource programs, long an interest of some LGSEC members). (PD, pp. 270-279)

Energy Savings Goals Also Reduced

The Proposed Decision would reduce electricity savings goals. The stated reason is to comport savings goals with current values in the Database for Energy Efficiency Resources (“DEER”). The goals reduction is 1% for kw for the 2006-2008 portfolio cycle and 5% for kwh for 2010-2012. SDG&E is given a 25% reduction to correct historical injustices. The Proposed Decision says the CPUC will not alter goals again during the 2010-2012 program cycle. The adopted goals table is on p. 39 of the PD.

Local Government Partnerships

As indicated above, the Proposed Decision approves all the local government partnerships as proposed by the utilities, except the Palm Desert Pilot Program. The partnership programs are grouped into three categories of activities:

1. Government Facility Retrofits
2. Strategic Plan Support
3. Utility Core Program Coordination



The tables below, from the Proposed Decision, summarize the overall partnership program budget and savings goals. A list of the modifications the Proposed Decision would make to operational aspects of the local government partnerships can be found at pp. 338-339.

Table 32 – Summary of Local Government Partner Budgets

	Government Facility Retrofit	Strategic Plan Support	Utility Core Program Coordination	Total
PG&E	\$53,706,942	\$37,646,305	\$68,154,631	\$159,507,878
SCE	\$39,046,488	\$5,327,459	\$12,896,485	\$69,232,000
SCG*	\$2,702,982	\$2,638,793	\$5,984,210	\$11,325,985
SDG&E*	\$10,724,426	\$8,566,607	\$5,708,595	\$24,999,628
Total	\$106,180,838	\$54,179,164	\$92,743,921	\$265,065,491

* SDG&E and SoCalGas budgets include incentives budgeted to resource programs in the application.

**Table 33 – Local Government Partner Three-Year Gross Savings by IOU
2010-2012**

	Gross kWh Savings	Gross kW Savings	Gross Therm
PG&E	294,659,940	44,670	(999,086)**
SCE	159,871,371	37,665	n/a
SoCalGas*	n/a	n/a	n/a
SDG&E*	n/a	n/a	n/a
Total	454,531,311	82,335	(999,086)

* SDG&E and SoCalGas report savings from Local Government Partnerships in the commercial sector programs that perform government building retrofits.

** Negative thermals are due to interactive effects of replacing incandescent lights in small businesses and small government buildings.

Local government buildings and facilities are among those that the utilities must benchmark (see below). This includes facilities that are subject to a utility-funded audit and/or building commissioning. The utilities also are directed to “give government agencies the resources they need to perform this task [benchmarking] themselves, as LGSEC suggests, and otherwise to ensure that their cost effective delivery of data coincides with format and other needs local governments might have.” (PD, p. 229)

On the topic of energy use data, as indicated above, the Proposed Decision directs PG&E and SCE to use U.S. EPA’s Portfolio Manager. The Proposed Decision does not, however, direct the utilities to automatically release data for commercial buildings within a local government’s jurisdiction if the local government so requests. The utilities are directed to “work cooperatively” with us when it comes to data on our own facilities, and to “facilitate the transfer of usage data for private buildings” either by written paper or electronic authorization. (PD, p. 231)



Additionally related to energy usage data, the utilities are directed to “jointly devise a cost-effective means...in a format that meets local government needs, and is compatible with AB 32 and related efforts.” It must be applicable statewide and operational by January 2010. The LGSEC may wish to request, in written comments, for the Commission to direct that the utilities consult with a representative sample of active local governments in developing this format.

On the issue of *Strategic Plan* activities, the Proposed Decision recognizes that currently there are not good metrics to measure progress in meeting *Plan* goals. The utilities are chastised for not providing this information in sufficient detail this past summer, as the CPUC had directed. To correct this, the utilities are directed to file by February 2010 an advice letter that provides one list of statewide *Strategic Plan* activities that local government can choose among for work under the *Strategic Plan* portion of their program. This filing also must include budgets for each partner’s work on *Strategic Plan* activities, including a breakdown for each item by both partner and utility. Furthermore, the utilities must provide goals for each partner’s work on each item, milestones, and end points. These milestones are supposed to be developed with input from others such as “the statewide association of local governments, and the CEC.” The LGSEC should request specific direction that the utilities include us in developing these milestones. We may also want to argue against a menu list, but I do not think that would be well-received.

The Proposed Decision also directs the utilities to suggest by June 2010 criteria for partnership programs during a three-year program cycle, criteria to evaluate when work is complete in a given partnership category, and when funding for that component of the partnership should end. This is probably done partly in response to the LGSEC’s observation that the utility applications did not include detail on partnership budget breakdowns or criteria for evaluation. We also know that the CPUC is interested in seeing partnership programs expanded to more local governments, so this is probably designed as a tool to determine when a given jurisdiction is “done.”

As indicated above, the CPUC is skeptical of the Palm Desert Partnership Pilot, as well as PG&E’s Innovator Pilot and Green Communities programs. The Palm Desert pilot is called out for its high cost (both absolute and per capita), the lack to date of an empirically-based assessment of program accomplishments, the fact that the measures in the pilot are just standard measures, and the fact that the pilot did not spend all of its budget in the 2006-2008 program cycle. The Proposed Decision directs that while the CPUC awaits the EM&V results for the Palm Desert pilot, it be funded at one-sixth the proposed budget, which is \$3.9 million for the first six months of the next program cycle. The CPUC will issue a separate decision on the fate of the Palm Desert pilot, and SCE is directed to reapply for any future funding in a separate application.

PG&E’s Innovator Pilot and Green Communities programs are approved, but PG&E must come back to the CPUC with an advice letter that provides more detail on how the pilots meet criteria outlined elsewhere in the Proposed Decision. PG&E also must provide more detail on who the pilot partners will be, their budgets, and specific activities. No contracts can be awarded under either program until the advice letter is approved.



The utilities are directed to fund a statewide “coordinator” position for local government energy efficiency best practices. The position is to be a non-utility position that reports to ICLEI, the Local Government Commission, and the Institute for Local Government. The position is to be funded at \$200,000/year for three years. The coordinator must track progress statewide on government facility energy use, retrofits, and progress in meeting *Strategic Plan* metrics. This person will conduct at least one annual statewide meeting for local governments. The utilities are directed to cooperate with this person, providing information on individual partnerships in an easily accessible format, helping create best practices case studies, and hosting the annual meeting.

The Proposed Decision questions the level of administrative costs included in the Utility Core Program component for local government partnerships. The Proposed Decision questions whether “there are sufficient ratepayer benefits from the local government partnership oversight of direct install to justify the high administrative costs for this program, which TURN states may be as high as 35% at PG&E and 54% at SDG&E.” The utilities are directed to provide to the CPUC Energy Division within three months an assessment on “whether local government administration of residential and small business direct install should continue and why, on a partner-by-partner basis.” (PD, pp. 241-243) This is likely an area where LGSEC will want to comment. At minimum, I expect we will want to request an opportunity to rebut or somehow provide our own assessment of administrative costs of direct install programs.

The utility practice of using local governments to market utility programs is called in to question. (PD, pp. 243-244) The Proposed Decision directs the utilities to report within three months on the cost-effectiveness of the 2006-2009 local government marketing and outreach efforts, including estimates of savings that can be tied to this work. If the report warrants, the utilities are directed to file in the first quarter of 2010 a proposal to shift these funds to the Government Facilities work. I expect the LGSEC will similarly want an opportunity to provide input on the utility report, either with the utilities or directly to the CPUC.

Conclusion of Law 74 states that utilities cannot limit the use of partnership funds for regional coordination. LGSEC should support this strongly.

Codes and Standards Proposals Adopted with Minor Modifications

The Proposed Decision approves with minor modifications the utilities’ proposed Codes and Standards programs. (PD, pp. 184 – 189) The Proposed Decision cites the importance of advancing codes and standards in the *Energy Efficiency Strategic Plan*. The programs are approved as proposed at \$37 million statewide. The modifications required include:

1. The utilities must ensure that the activities in the CEP (Compliance Enhancement Program) only target Title 24 and Title 20 measures that utilities did not (and will not) include in their pre-2006 and post 2006 codes and standards advocacy work. No measures included in the Compliance Enhancement Program can receive incentives from utility resource acquisition programs
2. Savings from activities related to voluntary programs, such as new construction, cannot be counted in statewide codes and standards programs conducted by the utilities.



The Proposed Decision directs that utilities should target code activities on those jurisdictions with low compliance with existing code. It also reminds the utilities to target their service territories for reach code work, because they will not receive credit for reach code activity outside their service territories.

Coordination with Stimulus Package Funds

An issue that arose earlier this year is how ratepayer funded energy efficiency programs should interact with programs funded through the American Recovery and Reinvestment Act of 2009 (“ARRA”). The Proposed Decision finds that the utilities can only claim savings from measures that receive ratepayer funds. Therefore, no changes are needed to current the rules. This is a position advocated by the LGSEC.

The LGSEC may have a concern, however, with how the Proposed Decision interprets U.S. Department of Energy (“U.S. DOE”) guidance that local governments can only report savings from the Stimulus package where the program was funded entirely by ARRA funds. (PD, pp. 87-88) The Proposed Decision states:

“In other words, if the local governments use ARRA funds to supplement ratepayer funded programs, they cannot claim any savings to US DOE from these expenditures because the savings from utility programs are in the state-wide baseline against which ARRA funded savings are measured. Where there are projects or programs that receive both ratepayer and ARRA funding, the utilities (or the third party) must allocate costs and savings carefully and ensure against double counting savings. This approach is the simplest method for avoiding double counting of savings as well as for leveraging and combining funds.”

LGSEC may wish to file comments arguing for a different interpretation on savings allocation.

Benchmarking

The Proposed Decision is very adamant on the need to establish benchmarks for as many buildings in California as possible. It directs that the utilities must benchmark all buildings that participate in their statewide or commercial energy efficiency programs. PG&E and SCE are required to increase their budgets for benchmarking by \$500,000 and \$3.2 million, respectively. PG&E and SCE also are directed to use the U.S. Environmental Protection Agency Energy Star Portfolio Manager as the platform for their benchmarking initiative. This is a position that LGSEC advocated. The utilities will be required to file annual reports on their benchmarking activities.

Bridge Funding

LGSEC filed a motion in June calling attention to the problems with the bridge funding program for 2009. The Proposed Decision denies our motion, mainly because the CPUC expects



to issue its decision by the end of September. The discussion of our motion orders the utilities to have contracts in place by 1/1/2010.

This direction is contradicted by language in the legally binding sections of the Proposed Decision. Even though our motion is denied, Conclusion of Law 94 orders the utilities to continue contracts with current government partners and third parties into 2010. Further, Ordering Paragraph 50 states that the utilities “shall continue existing contracts with government partnerships and third-party implementers until March 1, 2010 or 60 days after the approval of the “compliance” Advice Letter required by Ordering Paragraph 15 of this decision, whichever is later.”

The LGSEC should suggest that the discussion of our motion be conformed to match the Conclusions of Law and Ordering Paragraphs, and be explicit that local government contracts will be continued 60 days after approval of the compliance advice letters.

Determining When Market Transformation Has Occurred

The Proposed Decision adopts a revised definition of market transformation. It also sets in place a process to develop criteria for evaluating whether market transformation has occurred. This discussion is most pointed in the area of lighting, because there is great contention between the utilities and some advocacy groups over the amount of money being spent on CFLs. The Proposed Decision issues blanket guidance on market transformation. The CPUC will begin to gather data so it can track performance metrics from different programs, and evaluate market conditions. The immediate focus will be on the “Big, Bold Strategies” in the *Energy Efficiency Strategic Plan*. The CPUC’s Energy Division is directed to establish a Strategic Plan Task Force that will consider market transformation, among other issues. Further, the utilities are directed in future portfolio applications to provide justification for each portfolio-level measure, and why they are continuing to fund it.

Heating, Ventilation, and Air Conditioning

The utilities’ proposed programs for Heating, Ventilation, and Air Conditioning (“HVAC”) are adopted in their entirety. A proposal to refocus all HVAC programs on manufacturers (an “upstream” proposal) is rejected. The CPUC had devoted an entire workshop day to discussing this proposal. While it is not adopted, the utilities are directed to continue discussions around an upstream program that goes beyond Title 24. Depending on what those discussions yield, the Proposed Decision reminds the utilities they can apply for mid-cycle augmentations if needed.

Fund Shifting

The Proposed Decision tightens up rules on mid-cycle fund shifting. (pp. 280 – 285) During the current program cycle, the Proposed Decision observes that too much money was shifted into CFL programs. If the utilities want to shift more than 10% of current program budget from one of the 12 broad program categories, they must file an advice letter. The Peer Review Group’s role in reviewing fund shifting is eliminated, as that group recommended. The



Proposed Decision adopts SCE's request to be able, in final year of program cycle, to commit up to 15% of funds for next program cycle. It also adopts DRA's proposal for "automatic" bridge funding, where if new budgets have not been approved six months before program cycle ends, an automatic bridge funding process is triggered. (pp. 284 – 285)

Procedural Next Steps In the Proposed Decision

The Proposed Decision orders the continuation and/or establishment of several task forces. Specifically, the Proposed Decision would establish five new statewide Task Forces: Lighting, Commercial Zero Net Energy, Industrial, Integrated Demand Side, and Financing. It would continue three existing Task Forces: Heating Ventilation and Air Conditioning (HVAC), Workforce, Education and Training, and Marketing, Education and Outreach.

The Proposed Decision also orders several advice letters to implement changes made to the utility proposals. Within 60 days of the decision being adopted, the utilities must file a compliance advice letter that provides detail on the allocation of administrative costs. This advice letter must include information on 2009 bridge funding amounts and changes. The CPUC Energy Division is directed to conduct an audit of utility administrative costs. Several other reports and advice letters are required, some of which were noted above.

Next Steps for LGSEC

As indicated above, I will schedule a conference call for later this week so we can discuss everyone's reactions to the Proposed Decision. I also welcome your feedback in writing. Based on your input, I will develop comments on the Proposed Decision to be submitted September 14.

We also should determine whether there are any issues in the Proposed Decision of such magnitude that LGSEC members would want to lobby Commissioners. If so, we need to make those requests immediately. There may also be issues where we want to coordinate with other parties. Given the number of issues, the earlier we can reach out, the better.

Please contact me with any questions or comments.

