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# MEMORANDUM

**TO:** Local Government Sustainable Energy Coalition

**FROM:** Jody London

**DATE:** October 3, 2009

**SUBJECT:** CPUC Final Decision on 2010-2012 Energy Efficiency Portfolio

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This memo summarizes the recent decision by the California Public Utilities ("CPUC") authorizing the investor-owned utilities' energy efficiency portfolios for a 2010-2012 program cycle (Decision 09-09-047). The final decision is well over 300 pages, so this memo addresses key points and issues that have been of particular interest to the LGSEC group.

## Overall Budget and Cost Caps

The final decision made some minor modifications and clarifications to the Proposed Decision. The authorized budgets remain at about $3 billion, and the savings goals are the same. The utilities are authorized to incorporate into the 2010-2012 budgets any unspent, uncommitted funds from prior years. The idea is this will reduce the revenue requirement for the portfolios. San Diego Gas & Electric and Southern California Gas are still required to modify their incentive programs to require a customer contribution, leading to a reduction for those two utilities of their proposed budgets by nearly half.

The final decision retains the cap on various cost categories of 10% for utility administration, 6% for marketing, outreach, and education ("ME&O"), and 4% for measurement, evaluation, and verification ("EM&V"). However, the final decision is explicit that the 10% is only utility costs and local government partners and third parties have their own administrative costs:

> Administrative costs for utility energy efficiency programs (excluding third party and/or local government partnership budgets) are limited to 10% of total energy efficiency budgets. Administrative costs shall be closely identified by and consistent across utilities. Administrative costs shall not be shifted into any other costs category. Utilities shall not reduce the non-utility portions of local government partnership and third party implementer administrative costs, as compared to levels contained in budgets approved herein, unless those levels exceeded 10% in the July 2009 utility supplemental applications in this proceeding; (Ordering Paragraph 13(a))

The final decision clarifies that the 6% for ME&O is a target, not an absolute cap. The justification given is the CPUC needed a way to trim the overall budgets to ensure the portfolios are cost-effective. The final decision also clarifies that the requirement for the portfolio to meet a 1.5 Total Resource Cost test is a target, not an absolute. So, while the final decision did not explore the Industry Council's analysis of the purpose of the TRC and how it has been misapplied, it does acknowledge that 1.5 is not a hard and fast requirement. I believe there will be opportunity to pursue the TRC in future workshops ordered in the final decision. Additionally, the final decision orders that "… program planning, design and project management cost may be categorized as direct implementation non-incentive costs for this program cycle." (Ordering Paragraph 14)

Local Government Partnerships

The final decision makes only tweaks to the overall local government partnerships. The Statewide Coordinator now reports "and/or" to one of the three statewide groups (Local Government Commission, ICLEI, and Institute for Local Government), not necessarily all three.

The utilities must benchmark all local government buildings "impacted by a utility program in a substantial way," and directs the utilities to work toward a single, standardized approach. The utilities are directed to have a system for transferring energy usage data to local governments in place by January 2010; it still does not require electronic data transfer, only says it can be used, or written approvals can be used. This includes building sectors in a jurisdiction or neighborhood. The City of Irvine project on energy usage data protocols that commenced under bridge funding should be completed using at least $200,000 from SCE's Strategic Plan pilot programs pot. This is a small victory for the LGSEC.

The utilities are direct to file an advice letter by end of February 2010 on proposed metrics by which local government partnerships will meet Strategic Plan strategies. The advice letter must include, among other things, a detailed budget by partner, a "menu" list of activities from which partners can choose, and milestones that are developed with input from others such as "statewide associations of local government and the CEC." The statewide plan for the LGC/ICLEI/ILG program should be included in the advice letter, although the work should start sooner.

By June 2010 the utilities should report on criteria for all local government partnership activities, not just those related to the Strategic Plan for Energy Efficiency. (p. 257). This report should: (1) assess reasonable scopes of work for a local government partnership to accomplish within a three year program period; (2) include criteria to estimate when partner work in a given category of program funding will be complete; and (3) proposed when funding for that component of the partnership should end. This is a small improvement over the Proposed Decision in that it does not ask for criteria by which the partnership, in its entirety, should end. But it does indicate that partnership programs over time will change.

SCE is directed to solicit proposals from local governments for innovative programs, using an additional $32 million. SCE is directed to file an advice letter within 120 days on selected programs and budget allocations.

On the issue of direct install programs as part of local government partnerships, the utilities are ordered to report to the Energy Division within 120 days, on a partner-by-partner basis, whether that partner should continue with direct install activities. If any are identified as being poor performing, they should be revised or eliminated. Similarly, the utilities must report to the Energy Division within 120 days on whether local governments should continue marketing efforts. In doing this, they are directed to look at evaluation of 2006-2009 programs and their own data. This puts SCE on point to defend its Energy Leader model, which we identified in comments on the Proposed Decision as being pendent on local government marketing and outreach activities. If warranted based on this report, the utilities are directed to submit an advice letter in the first quarter of 2010 proposing how to shift funds.

Each utility proposed several zero net energy programs, most of which were approved, many on pilot basis. The decision establishes "Path to Zero" (zero net energy) task force for commercial buildings. The decision directs the utilities to make sure local government buildings are included in zero net energy programs.

Stimulus Funds

On the issue of using ratepayer funds in conjunction with funds from the American Recovery and Reinvestment Act of 2009, the final decision recognizes that this will occur. The language in the Proposed Decision that provoked comment from several parties was deleted. Instead, the decision orders: "…utilities should only claim savings from measures receiving ratepayer funds but not savings from any projects that do not receive ratepayer funded incentive dollars.

Other Programs

The final decision maintains the changes to the utilities' lighting programs, reducing budgets for compact fluorescent bulbs and including a lot of push toward advanced lighting technologies (the authorized lighting budgets can be found on pp. 140-141). The final decision also establishes limits for the mercury content of bulbs – a 3 mg. for basic medium screw base CFLs of 25 watts or less and a 5 mg. limit for bulbs of 25 watts or more. The Energy Division is directed to create a Strategic Lighting Plan to address how to deploy advanced lighting technologies.

The final decision eliminates the 25% cap on third party programs. HVAC programs are approved as proposed by the utilities. On-bill financing programs also are approved pretty much as proposed, with some changes to the terms of the loans so they are consistent across utilities. The CPUC's Energy Division ordered to submit a report on how to ensure effective financing options are available.

Timing, Bridge Funding, and Further Direction

There is strong language in the decision that the Commission expects the utilities to bring all authorized programs on line by January 1, 2010, and to make all efforts to include the local government partnerships and third party programs in that on-time program deployment. On the issue of bridge funding, the final decision is explicit that a continuance is granted for local government partnerships and third party programs until March 30, 2010 or 60 days after decision is effective. Additionally, as was included in the Proposed Decision, in the future the utilities are ordered in the future when portfolios are up for renewal to use a "trigger" process to keep programs operating, taking a monthly average of the final year's budget for each program that is proposed to continue.

The final decision acknowledges that the numerous task forces that had been included in the Proposed Decision would create an administrative burden, and instead directs the Energy Division to find a better way to achieve what the task forces would have done. The Energy Division also is ordered to produce a Strategic Plan progress report by June 2011. Additionally, starting in the second quarter of 2010, the Energy Division is supposed to issue quarterly reports on near-term Strategic Plan milestones.

The final decision does not include a matrix or summary of required next steps, but the Ordering Paragraphs at the back of the decision detail what is required. The key filings include:

- The utilities are ordered to file a compliance advice letter in 60 days that outlines many of the details required by the decision. A full list of what the utilities must include can be found on pp. 370-371.
- Within 120 days, the utilities must jointly file a "Program Performance Metrics" advice letter that outlines how the metrics that will be used for the statewide programs and associated sub-programs.

<u>Next Steps</u>

If you are not already in discussion with the utilities your 2010 – 2012 program, I would be surprised. There will be more activity in upcoming months around EM&V, defining performance metrics, how to benchmark buildings and transfer energy usage data to local governments, and of course the marketing, education, and outreach program, which if the decision is to be believed will be significantly overhauled and expanded to encompass all aspects of energy management, including integrated demand side management, demand response, distributed renewable generation, low-income energy efficiency, and related programs. There will be other follow-on activities, as well.

I strongly encourage the LGSEC to approach the utilities and the CPUC about what should be included in the various reports and workshops moving forward. We should identify opportunities to play a larger role in the implementation of the local government programs, the peer-to-peer networking, and other activities. I think this should happen in the next two or three weeks.

Please contact me with any questions or comments.