**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

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| Order Instituting Rulemaking Concerning Energy Efficiency Rolling Portfolios, Policies, Programs, Evaluation, and Related Issues. | Rulemaking 13-11-005<br>(Filed November 14, 2013) |

# RESPONSE OF THE LOCAL GOVERNMENT SUSTAINABLE ENERGY COALITION TO PARTIES' REPLY COMMENTS IN RESPONSE TO THE MAY 24, 2016 ADMINISTRATIVE LAW JUDGE RULING SEEKING INPUT ON APPROACHES FOR STATEWIDE AND THIRD-PARTY PROGRAMS.

Pursuant to Rules 11.1 and 1.7 of the Commission's Rules of Practice and Procedure, the Local Government Sustainable Energy Coalition (LGSEC) responds to the Reply Comments to LGSEC's request that the Commission authorize a Statewide Energy Efficiency Local Government Program Area (LGPA).[1] Under LGSEC's proposal, existing Local Government Partnerships (LGPs) would continue to be honored as currently authorized, the American Recovery and Reinvestment Act (ARRA) continuation and other ratepayer-funded programs would continue as would other local government implementation of energy efficiency programs. All would transition to a new statewide administrative platform. In addition, LGSEC requests that the Local Government Commission (LGC) be specifically designated and authorized to file a proposed Business Plan for Commission consideration detailing a statewide LGPA

[1] LGSEC has filed as separate and concurrent Motion for Leave to File this Response of the Local Government Sustainable Energy Coalition To Parties' Reply Comments In Response to the May 24, 2016 Administrative Law Judge Ruling Seeking Input on approaches for Statewide and Third-Party Programs.

administration structure that would be overseen by the LGC. LGC would act as the single lead program implementer under contract to a single lead IOU program administrator, as the ALJ Ruling (Ruling) sets forth in its definition of "Statewide." (Ruling at page 3.)

## I. REPLY COMMENTS

### a. LGSEC's Proposal Accommodates the Existing Local Government Partnerships and Preserves the Use of Locally-Tailored Approaches to Local Government's Customer-Facing EE programs.

LGSEC's proposal to establish a statewide Local Government Program Area to be assigned an IOU funding administrator and authorize LGC to file a business plan outlining a full implementation proposal has met with opposition from the four IOU's and some local governments entities currently participating in LGPs throughout the state. Their comments raise important concerns that warrant response.

Pacific Gas & Electric Company (PG&E) reduces LGSEC's stated purpose for its proposal to "coordination and administration of existing LGPs" and criticizes the proposal claiming it "significantly discounts the progress PG&E LGPs have made over the last ten years." As an alternative to LGSEC's proposal, PG&E recommends that parties use the Coordinating Committee and Public subcommittee to air suggested improvements in LGP administration and implementation. (PG&E Reply Comments at pages 5-6) San Diego Gas & Electric Company (SDG&E) also describes the success of its existing LGPs and questions whether LGSEC's proposal aligns well with the local approach SDG&E's LGPs employ. (SDG&E Reply Comments at page 3.) SDG&E questions whether local governments currently participating in SDG&E's LGPs would qualify for programs offered under the LGSEC statewide proposal. (SDG&E Reply Comments at page 4.) Similarly, SCG points to the comments by some of LGSEC members expressing concern that a uniform, statewide approach runs counter programs tailored to local needs. Southern California Gas Company (SCG) suggests that any "best practices" inventory and implementation statewide is already being performed by the State Energy Efficiency Collaborative (SEEC) and therefore the proposal does not add anything. (SCG Reply Comments at page 6.)

LGSEC's proposal to establish a statewide LGPA encompassing all local government programs would alleviate all these concerns. First, the LGSEC proposal addresses specific, concrete problems arising with IOU-administered energy efficiency programs, some of which are LGPs. (LGSEC Comments, pp. 5-11). First, existing, currently authorized LGPs would continue. LGPs are all implemented via contracts between local governments and the IOUs. The terms of these implementing agreements vary drastically between IOU's, within single IOU service territories and between different local governments within the same program. Thus, local governments partnering with IOUs face regular uncertainty with respect to the scope and longevity of their programs. LGSEC's proposal can provide the coordination, budgeting, and transparent funding allocation criteria across programs now lacking under the current patchwork of IOU EE offerings. It is clear that the concerns regarding "uncertainty" of the future of current LGPs is present today and in many cases, may be greater under the status quo of current LGP contractual agreements than under a standardized, statewide approach to the new LGPA.

Under LGSEC's proposal, predictable budgeting, funding criteria and program design would eliminate the current vulnerability to short contract terms with uncertain renewal potential, or unilateral IOU decisions to shift or cut program budgets. Contract terms remain limited even after D.14-10-026 approved the 10 year Rolling Portfolio to prevent the stop/start nature of shorter cycles. Contract negotiation typically takes several months and often is not completed until well after the start of a new year. In turn, the non-IOU program administrators cannot enter into contracts with their vendors until after the IOU contract is executed causing further potential delay in program implementation. These issues highlight the fact that the status quo of LGP contracting is rife with uncertainty right now. The LGSEC statewide LGPA proposal targets elimination of these IOU-program administrative problems to create greater certainty for local governments and better program outcomes.

As the ALJ Ruling noted: statewide programs ideally would be designed to have long-term strategies and could also pursue market transformation over a period of at least five to ten years, to allow for continuity in program delivery and planned evolutions during the life of the program, including data needs to track programs." ALJ Ruling at page 4. In contrast, current LGPs have contract terms that vary from utility to utility and even within one utility between LGPs. SCE and SCG have only been executing one year agreements for the past two years. SDG&E just this year executed five year agreements. PG&E varies between one and three years. This situation is working well in the short run, but only for a subset of local governments with the most favorable terms. LGSEC's proposal would do nothing to undo those agreements. However, the lack of consistency represents an equity concern between similarly situated public entities, their constituencies and between public entities in different utility service areas. Funding eligibility and processes often vary not just by IOU, but within IOU territories by program or LG participant. In contrast, a single program implementer could develop standard eligible categories and criteria for funding that will implement programs local governments are best positioned to provide their communities. Current IOU LG EE programs lack coordination and consistency in design, measurement and verification and cannot be linked to long-term energy, GHG goals and other local government mandates. As well as the current LGPs perform, they cannot achieve the Commission's long-term objectives for continuity, market transformation and data tracking targeted through the Ruling's proposed statewide program design.

Current IOU programs are often overly prescriptive in terms of qualifying measures and target installations. IOU programs for LG EE are often limited to public sector retrofits or promoting small business IOU incentives. This inhibits innovation and performance and fails to fully engage the attributes that local governments can bring to program design and implementation. A single local government program implementer would allow local governments to engage their special characteristics to support state climate and energy goals without the filter of IOU priorities that may favor short-term energy savings to long-term or large-scale market transformation. Simply put, the existing array of IOU LGPs is not optimal for the rapidly-evolving role of local government in the energy sector that takes "bottom-up" integrated demand-side management, climate action, sustainability and adaptability and local energy use reductions as an integrated policy mandate. "Silo-ed" individual measures, defined from the top-down by the utilities are not adequate to fulfill either local government energy initiatives or the Commission's new energy efficiency goals.

It is instructive to remember that the entities voicing a desire to preserve their current delivery under LGPs are organizations that have already brought multiple jurisdictions together to overcome the limitations of participation in single utility, one-size-fits all EE program offerings. Regional organizations such as San Joaquin Valley Clean Energy Organization (SJVCEO) demonstrate why coordinated administration is needed. Faced with the need to serve local governments with different EE offerings in different IOU service territories, SJVCEO serves as lead local implementer of the Valley Innovative Energy Watch (VIEW), a three utility, 13-municipality LGP and of an SCE LGP for a five city Eastern San Bernardino County Region called the High Desert Regional Energy Leader Partnership. SJVCEO formed a separate non-profit entity to bridge the three utility EE programs and provide a coordinated, locally-tailored program through its unique contractual arrangement. LGSEC's proposal is no threat to this arrangement as it would be retained for the terms of its underlying contracts. But more importantly, LGSEC's proposal seeks to scale this coordinated approach statewide.

The Energy Watch and associations of governments have similarly stepped in to provide additional coordination, aggregate benefits where possible, streamline administration and straddle multiple IOU service territories. LGSEC envisions that expansion of these strategies at the statewide level will bring similar regional action benefits to all California local governments while targeting additional efficiencies through statewide coordination, lower cost program delivery and more equitable participation potential for hard-to-reach or harder-to-serve communities.

Finally, LGSEC's statewide proposal has the support of other members that operate across multiple IOU service territories, e.g., Santa Barbara and San Luis Obispo Counties.

b. **LGSEC's Proposal would coordinate but not eliminate locally tailored, customer facing program design and delivery.**

Several parties take issue with LGSEC's proposals for statewide programs because of a concern about losing opportunities to provide localized approaches to engaging participants in downstream statewide programs. (See, e.g. AMBAG at page 16, ABAG, pp 2-3, Sierra Business Council, pp. 1-2, East Bay Energy Watch, pp 4-5. ) Each of these commenters has an existing LGP with PG&E that would not change under the LGSEC Proposal.

LGSEC has requested that the Commission authorize the filing of a business plan detailing its proposal. These are anticipatory concerns without basis in the current proposal. To the contrary, LGSEC proposes that the LGPA business plan will be the product of active engagement with all interested stakeholders and the strategies for developing locally tailored programs utilizing existing resources will be fully developed at that time. This will provide a higher level of predictability than that which currently exists for IOU LGP EE programs where local governments often have limited input on programs operating within their jurisdictions before an IOU's Business Plan or Program Implementation plan is approved.

TURN's proposal for an all third-party provided statewide EE program met similar concerns. TURN pointed out that such concerns could be answered by including discretion for a single statewide implementer to in turn hire subcontractors, or to contract directly with multiple implementers offering local or regional expertise or specialties in the market(s) to be targeted. (TURN, pp. 13-14). It is conceivable, in the LGSEC proposal context, that the utilities could offer such services to the single state implementer, as appropriate. The utilities could continue to locally support highly functional, existing LGP programs as an unbundled service under a statewide LGPA administered structure.

The IOU comments tout the success of long-term local relationships through their LGPs. SCE describes its view that "local governments are influenced to participate in EE programs by local PAs through strong existing relationships that have been fostered for many years." (SCE Reply Comments at page 4.) PG&E laments that LGSEC has "discounted their LGP's successes to date" and sees LGSEC's proposal as a threat to continued success through the new statewide LGPA specific program. (PG&E Reply Comments at page 5.) LGSEC submits that the very successful, locally-tailored programs that are implemented through community connections are successful due in large part to the inherent strengths of local governments within their respective jurisdictions independent of IOU program support.

It is time that local governments are recognized as a unique and discrete energy efficiency program area. Local governments share a number of unique advantages that can help encourage adoption of energy efficiency actions that other non-local government program implementers, including the IOUs, are not as well suited to achieve. For example, local governments:

- Are typically large energy consumers that own and operate highly visible public facilities with significant potential for energy savings. Local governments tend to be highly motivated to lower tax payer-funded operating costs, and highly interested in modeling energy leadership and best practices in their communities;

- Are implementing climate action plans and policies that can stimulate energy efficiency actions
- Advance direct and reciprocal benefits between energy efficiency programs and a broad range of priority duties and mandates, including economic stimulus and job creation efforts and goals, public health initiatives, water conservation, sustainable transportation and emergency preparedness and response programs
- Are afforded special authorities and powers (e.g., tax collection, law-making, code enactment as well as enforcement, permitting and planning) that can accelerate the adoption of energy efficiency measures.
- Are governed by democratically elected bodies to represent the unique interests of a specific geographical boundary and can use its unique vantage point to develop programs that are integrated with unique issues, characteristics and obstacles of a particular community (including hard to reach markets)
- Offer a trusted and familiar service brand that may be more appealing to individuals and businesses that may not trust their energy provider or other third-party implementers. As a trusted community service provider, local governments also allow for effective outreach and customer service by maintaining a consistent local presence and several touch points with community members.
- Have the ability to maintain long-term relationships with local community leaders, elected officials, other governmental agencies, customers and private sector actors within local markets.

LGSEC emphasizes that these advantages help local governments implement a wide variety of programs, which are not limited to "public sector" facility retrofits, but may range from local outreach, to code development and enforcement, technical assistance and innovative financing programs. There is nothing about the proposed statewide approach to program delivery that would eliminate the ability to utilize inherently local characteristics either in design or "last mile" program delivery. Almost by definition, local government programs will retain their community-specific character.

## II. LGSEC URGES THE COMMISSION TO AUTHORIZE LGC TO BE THE CONTRACT LOCAL GOVERNMENT PROGRAM AREA IMPLEMENTER. IN THE ALTERNATIVE LGSEC DOES NOT OPPOSE

**A COMPETITIVE SOLICIATION PROCESS AND IF ADOPTED BY THE COMMISSION, LGC WOULD PARTICIPATE.**

LGSEC requested and won LGC's Board approval to prepare and submit a Local Government Program Area Business Plan to implement the proposal presented in this proceeding should it be authorized. It was important to both LGSEC and LGC that this proposal include the means with which to achieve its goals. The proposal could well founder, even if adopted, without assurance to the Commission that an appropriate and qualified entity, such as LGC, stood ready to fulfill the objectives of the proposal. LGSEC provided ample support for choosing LGC given its longevity, its core expertise implementing similar programs on both a local and statewide level and its track record as a skilled and accountable advocate for California local governments, representing their collective interests as its mission. (LGSEC Opening Comments, pp. 11-14.)

SCG and others have questioned the appropriateness of authorizing LGC to contract with the single IOU PA to administer and implement the statewide LGPA without conducting a competitive solicitation process. (SCG Reply Comments at 6.) While the Ruling calls for the IOUs to retain a single implementer under a solicitation protocol to be included in their energy efficiency business plans, it notes exceptions and existing precedent for direct contract assignment. Third-party, non-utility statewide administrators without a prior competitive solicitation referenced are CAEATFA for New Finance Offerings and CSE for Marketing, Education and Outreach program areas. (Ruling at page 8.) The parties calling for such a competitive process have not produced any prior decision or other citation requiring such a solicitation. Clearly, the Commission has the discretion to authorize LGC's assignment. However, should the LGPA be adopted, LGSEC has no objection to a competitive solicitation, if the Commission found it appropriate.  If the Commission conducts such a competitive solicitation, LGC would participate.

## III. CONCLUSION

For all the foregoing reasons, the Local Government Sustainable Energy Coalition (LGSEC) respectfully requests that the Commission authorize a single, statewide Local Government Program Area (LGPA) and assign a single investor-owned utility Program Administrator as the funding and contract administrator. LGSEC urges the Commission to designate the Local Government Commission (LGC) as the single LGPA program implementer under contract to a single IOU program administrator.  Further, LGSEC requests that the Commission authorize LGC to file a Business Plan to provide a LGPA Implementation proposal for the new LGPA under contract with the IOU PA. Additionally, LGSEC requests that the Commission specifically authorize the continuation of current Local Government Partnerships and locally-run ARRA continuation programs for the term of current authorization without prejudice to possible renewal beyond current termination dates as appropriate.

Respectfully submitted,

By: ________________________________
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