

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

**RESOLUTION E-3592
APRIL 1, 1999**

RESOLUTION

RESOLUTION E-3592. PACIFIC GAS AND ELECTRIC COMPANY, SAN DIEGO GAS & ELECTRIC COMPANY, SOUTHERN CALIFORNIA GAS COMPANY AND SOUTHERN CALIFORNIA EDISON COMPANY REQUESTS APPROVAL OF 1999 ENERGY EFFICIENCY PROGRAMS, AS RECOMMENDED BY THE CALIFORNIA BOARD OF ENERGY EFFICIENCY. APPROVED AS MODIFIED.

BY PG&E ADVICE LETTER (AL) 1819-E/2117-G FILED NOVEMBER 17, 1998; SDG&E AL 1132-E/1124-G FILED NOVEMBER 16, 1998; SOCALGAS AL 2760 FILED NOVEMBER 16, 1998; SCE AL 1348-E FILED NOVEMBER 16, 1998; AND CBEE AL1-E/1-G FILED OCTOBER 16, 1998.

SUMMARY

1. As required by the Assigned Commissioner's Rulings in Rulemaking (R.) 98-07-037, dated September 23, 1998 and October 1, 1998, the California Board for Energy Efficiency (CBEE) filed Advice Letter (AL) 1G/1E, dated October 16, 1998. On November 16 and 17, 1998, Pacific Gas and Electric Company (PG&E) filed AL 2117-G/1819-E, San Diego Gas & Electric Company (SDG&E) filed AL 1132-E-1124-G, Southern California Gas Company (SoCalGas) filed AL 2760, and Southern California Edison Company (SCE) filed AL 1348-E requesting approval of 1999 Energy Efficiency Program Plans, Budgets, and Performance Award Mechanisms. The utilities' advice letters were filed to be consistent with the CBEE Advice Letter recommendations.
2. Protests and comments to the CBEE and utility advice letters were submitted by: The Utility Reform Network (TURN), Residential Energy Efficiency Clearing House, Inc. (REECH), the Office of Ratepayer Advocates (ORA), the California Energy Commission (CEC), the MarketPlace Coalition (MC, RESCUE)¹, the Natural Resources Defense Council (NRDC), the National Association of Energy Services Companies (NAESCO), the City of San Jose (San Jose), the Association of Bay Area Governments (ABAG) and the Community Energy Services Corporation (CESC).

¹ The MarketPlace Coalition (MC) includes Residential Energy Services Companies' United Effort (RESCUE), Insulation Contractors' Association, and SESCO, INC.

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3. CBEE, PG&E, SoCalGas, SDG&E and SCE responded to the protests.
4. This Resolution approves, as modified, the CBEE's recommendations regarding 1999 program year (PY99) energy efficiency and demand side management institutional and transitional issues; policy rules; utility performance incentives; market assessment and evaluation plan; budgets; and program area descriptions.
5. The total estimated statewide budget funding for 1999 is estimated to be \$273.4 million— Electric \$228 million and Gas \$45.4 million. Additional carryover funding from 1998 increases the total to over \$300 million. The adopted PY99 budget for CBEE is \$2.1 million, or 0.8% of the total statewide program budget.
6. Aspects of the CBEE administrative budget, program measurement detail, program descriptions, and the transition plan remain outstanding as of the date of this Resolution. This Resolution acknowledges that these issues are contemplated for discussion in various forums. The outcome of these discussions and supplemental filings will be filed as appropriate in R.98-07-037, the 1999 Annual Earnings Assessment Proceeding, and as compliance filings in the subject advice letter dockets.
7. The authority established in this Resolution applies from the effective date of this resolution through December 31, 2001. The PY99 programs and budgets are extended through the year 2000. The utilities may file an update of PY98 expenses and PY99 budgets by advice letter.

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BACKGROUND

1. As required by the Assigned Commissioner's Rulings in Rulemaking (R.)98-07-037, dated September 23, 1998 and October 1, 1998 the California Board for Energy Efficiency (CBEE) filed Advice Letter 1G/IE, dated October 16, 1998. On November 16 and 17, 1998 Pacific Gas and Electric Company (PG&E) filed Advice Letter (AL) 2117-G/1819-E, San Diego Gas & Electric Company (SDG&E) filed AL 1132-E/1124-G, Southern California Gas Company (SoCalGas) filed AL 2760, and Southern California Edison Company (SCE) filed AL 1348-E requesting approval of 1999 Energy Efficiency Program Plans, Budgets, and Performance Award Mechanisms. The utilities' Advice Letters were filed to be consistent with the CBEE's recommendations contained in its AL 1-E/I-G.
2. The Commission has required California's investor-owned electric and gas utilities to offer programs intended to help their customers improve the energy efficiency of their buildings and facilities. These programs have included services ranging from rebates and low-interest financing to on-site technical assistance or energy information centers, where customers and design professionals can obtain reliable information about new technologies. In response to electric restructuring, the Commission adopted a new approach to energy efficiency, which seeks to promote the development of programs and other activities that rely more on private energy efficiency providers and that transform existing markets to a higher level of demand for energy efficiency products and services. The objective is to create sustainable, vibrant markets in which private energy efficiency providers offer and customers adopt increased levels of energy efficiency products, services, and practices, with a decreasing need for public funds.
3. As a result of electric restructuring, the existing investor-owned electric utilities no longer are obligated to plan and acquire generation resources for captive customers. This change in the traditional relationship between the utility and its customers provides the utility with a greater disincentive to offer energy efficiency programs, while trying to retain generation sales customers.
4. In Decision (D.)97-02-014, the Commission created a public board, the California Board for Energy Efficiency (CBEE), to advise it on how to pursue these major changes to ratepayer-funded energy efficiency programs under a restructured industry.
5. Subsequent Commission decisions (D.97-04-044, D.97-05-041, D.97-09-117, D.97-12-093, D.97-12-103, and D.98-02-040) provided additional guidance and direction for the CBEE. In D.97-02-014, the Commission directed gas utilities to participate in the joint planning process and to coordinate with the CBEE, reiterating its intent to establish a surcharge to fund gas energy efficiency programs in the same manner as electric programs. Current funding for the gas utility Demand-Side Management Programs (DSM) is authorized by Commission decisions in utility

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rate cases. The utilities are serving as program administrators, offering electric and gas energy efficiency programs designed to provide a smooth transition between the old and new policy frameworks. The CBEE is charged with overseeing a joint planning process with the utilities to develop specific programs and budgets, and with making recommendations to the Commission on these issues.

6. During 1998, the CBEE conducted six public workshops to assess the existing utility energy efficiency programs and to provide recommendations on market transformation policy objectives to the Commission for its consideration. In addition, the CBEE held 40 public meetings where additional public input was received. This resolution contains the CBEE's comprehensive set of policy, budget, and program recommendations for Program Year 1999 (PY99), with the utilities' conforming advice letters.

7. Resolution (Res.) E-3581, dated December 17, 1998, authorized the utilities and the CBEE funding in January and February of 1999, to continue 1998 programs at 1998 existing levels and planning for 1999 programs, in lieu of fully authorized 1999 budgets and programs.

8. On December 17, 1998 and on December 21, 1998, the CBEE filed Preliminary and Final Recommendations and Comments on its review of the utilities' advice letters.

9. On January 13, 1999, the utilities submitted comments to the CBEE's December 21, 1998 comments on their 1999 Energy Efficiency Program and Budget Advice Letter filings, providing an Alternate Performance Award Structure with additional program descriptions, milestones and performance incentive data. By request of the Energy Division, each utility mailed their comments to the Service List in R.98-07-037, and informed recipients they would be allowed ten working days to submit comments. Only the CBEE provided comments in a response dated January 15, 1999.

10. Resolution E-3589, dated February 18, 1999, extended pro rata funding into 1999, anticipating Commission delay in its consideration of these five advice letters.

11. An Assigned Commissioner's Ruling (ACR) was issued on February 11, 1999 ordering the Energy Division to convene a workshop to address reporting requirements for energy efficiency programs. An Energy Division report is scheduled to be filed in R.98-07-037.

12. On March 18, 1999 Resolution E-3578 adopted energy efficiency program area and program budgets and an alternative performance incentive award mechanism. In addition, it adopted uncontested, CBEE-proposed Policy Rule changes as Interim, and also ordered the utilities to file supplemental advice letters detailing program descriptions missing from their original filings and a map linking PY98 programs to PY99 programs no later than March 25, 1999.

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13. The Commission issued D.99-03-056 on March 18, 1999, which provides program clarity regarding continuing utility administration of the energy efficiency programs through the end of 2001. This resolution incorporates D.99-03-056 and related and remaining issues from Resolutions E-3589 and E-3578.

14. On March 26, 1999, the Assigned Commissioner issued a ruling (ACR) addressing the PY2000 Workshop held March 10, 1999. This Resolution incorporates the guidance and planning schedule of that ACR.

NOTICE

1. Notices of PG&E AL 2117-G/1819-E, SDG&E AL 1132-E/1124-G, SoCalGas AL 2760-G, SCE AL 1348-E, and CBEE AL 1-E/1-G were made by publication in the Commission's calendar and by mailing copies of the filing to adjacent utilities and interested parties.

PROTESTS

1. Parties filing protests/comments to the CBEE's and the utilities' advice letters include: The Utility Reform Network (TURN), Residential Energy Efficiency Clearing House, Inc. (REECH), the Office of Ratepayer Advocates (ORA), the California Energy Commission (CEC), the MarketPlace Coalition (MC, including Residential Energy Services Companies' United Effort [RESCUE], Insulation Contractors' Association, and SESCO, INC.), the Natural Resources Defense Council (NRDC), the National Association of Energy Services Companies (NAESCO), the City of San Jose (San Jose), the Association of Bay Area Governments (ABAG), and the Community Energy Services Corporation (CESC).

2. CBEE, PG&E, SoCalGas, SDG&E and SCE responded to the protests.

3. The CBEE, the utilities, and the parties are commended for their contributions to this process. Their combined efforts have assisted the Commission's focus on energy efficiency market transformation.

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GENERAL DISCUSSION

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In its advice letter, the CBEE puts forth a comprehensive set of recommendations for the Commission to adopt, encompassing Institutional and Transition Issues, Budget Recommendations, Policy Rules Application and Modifications, General Program Recommendations, Performance Incentives, Market Assessment and Evaluation Recommendations, and Program Area (Residential, Non-Residential, and New Construction) Recommendations. The CBEE's recommendations are founded upon its efforts over the past year. They were made under the premise that the utilities would remain as interim administrators through the end of 1999, or that the programs would transfer to "program administrators" (a utility could be a program administrator) upon three months notice.

PG&E, SCE, SoCalGas and SDG&E filed advice letters largely consistent with the CBEE's recommendations one month later.

Advice Letter Process

Protest

ORA protests using the advice letter process for review of such a large amount of funds (approximately \$300 million). ORA also objects to the fact that although the CBEE advice letter language states that its recommendations will not conflict with any rate schedule or rule, the CBEE has proposed a new set of rule revisions.

CBEE Response

CBEE responds that its advice letter was filed pursuant to the Assigned Commissioner Ruling, dated September 23, 1998, which ordered the CBEE to submit an advice letter with recommendations on the 1999 program plans, 1999 budget (including CBEE operating budget), and modifications to the new policy rules on October 15, 1998. CBEE adds that the use of an advice letter filing was first articulated by the Commission in D.98-04-063, Ordering Paragraph (OP) 5, directing "CBEE and new administrators of PGC-funded [Public Goods Charge] energy efficiency shall jointly develop annual program plans and budgets to be submitted to the Commission as an Advice Letter filing by October 1 of each year."

Discussion

The Energy Division recommends the Commission deny ORA's protest, since the CBEE was ordered by the Commission to file by advice letter recommendations on energy efficiency 1999 program plans, budgets, and modifications to the new policy rules.

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Structure/Forum

Protest

ORA comments that given the uncertainty of the energy efficiency program administration of the past few months, the CPUC should hold a limited hearing to clarify the CBEE's role and recommendations. ORA submits recommendations on the future structure of CBEE for the Commission's consideration. REECH raises a series of legal allegations and protests to the CBEE's conduct and authority, and also submits recommendations on the future operation of energy efficiency programs and their market transformation.

Responses

CBEE states that the primary issue raised by its AL filing for Commission resolution is whether the policy rules and proposed guidance on programs proposed by CBEE are consistent with the Commission's stated policy goals. CBEE, in its response to REECH, asserts "that it has at all times conducted its affairs lawfully and within the scope and directions provided to it by the Commission. Where direction has not been clear, the CBEE has sought timely clarification from the Commission. Absent clarification from the Commission, the CBEE has acted to the best of its abilities in accordance with its understandings of the Commission's guidance." SCE replies that its advice letter conforms to CBEE and CPUC policy direction. SCE states that REECH inappropriately uses their protest to raise policy issues that should be reviewed in the Energy Efficiency OII/OIR where all parties can comment.

Discussion

The Energy Division agrees with SCE. The appropriate place for resolution of ORA's and REECH's legal and structural recommendations concerning the CBEE is R.98-07-037. The Energy Division recommends the Commission deny ORA's and REECH's legal and structural protests without prejudice.

Filings Deficient

Resolution E-3578 addressed the fact that the utilities' original advice letters were missing program detail descriptions, and ordered each utility to file this information in supplemental advice letters no later than March 25, 1999. The utilities made these compliance filings on March 25, 1999 by PG&E AL 1819-E-A/2117-G-A; SDG&E AL 1132-E-A/1124-G-A; SoCalGas AL 2760-A; and SCE AL 1348-E-B.

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Workshops

Protest

The CEC recommends that workshops should be held to get stakeholder input on program design and implementations for effective market absorption. The CEC argues that the utilities' plans have ignored market input.

Responses

CBEE responds that it shares the CEC's interest in ensuring that broad stakeholder input is reflected in the design and implementation of programs and refers the CEC to its program design recommendations in the October 16, 1998 filing. The CBEE recommends the utilities complete their program design information prior to implementation of programs. SoCalGas replies that the CBEE-sponsored process is the appropriate vehicle for gathering public input. It argues that no added benefit occurs convening additional meetings outside CBEE.

Discussion

As noted below, several public workshops are scheduled to plan refinements to the programs. The Energy Division believes that the CEC's recommendation is unnecessary. Program workshops are scheduled by the utilities and the CBEE. These and the Commission's other processes, such as scheduled workshops and proceedings, should satisfy the CEC's concerns regarding insufficient stakeholder input. The Energy Division recommends the Commission deny the CEC's protest.

Planning Process

Protest

The NRDC recommends that the Commission direct the CBEE to move up the planning process for Program Year (PY) 2000 to April 1, 1999, rather than in June. NRDC recommends using the steps and deadlines developed by the CBEE's Technical Advisory Committee and incorporated in the Independent Administrators Request For Proposal (RFP), proactively gathering input, so that next year's process will not cause delays.

Response

CBEE states that it did not address overall PY 2000 program planning in its advice letter, and is supportive of an initial planning for PY 2000 programs being much earlier in the year from PY99. However, the CBEE does not plan to propose a schedule prior to the Commission's pending decision on the future role of CBEE.

Comments

In comments filed on the draft version of this resolution, which recommended an extension of the programs and budgets beyond PY99, the Joint Respondents (SEMPRA), PG&E, and SCE each

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agreed that an extension of the programs and budgets beyond PY99 would be welcomed. The ACR dated March 26, 1999 came to the same conclusion, that the programs and budgets should continue through the end of PY2000.

The CBEE stated:

"The Commission should extend the program and budget authorization in this Resolution for programs (14 programs), MA&E, and CBEE operations, through December 31, 2000. The Commission should also extend the structural framework for performance incentives until December 31, 2000, but the performance incentives award levels, weights among individual incentives, and specific milestones should be authorized only until December 31, 1999. The Commission should direct the utilities to file advice letters proposing selective program and budget changes, as well as specific performance incentives for PY2000 consistent with the structural framework, in September 1999. The use of a program and budget *change* advice letter process avoids any potential for hiatus due to unforeseen delays, and the current programs would continue into PY2000 until the changes were adopted by the Commission.

The Commission's Resolution on PY1999 programs will lead to major and fundamental changes in the organization, administration, and implementation of energy efficiency programs. There is a pressing need to allow the programs to run for awhile and only consider selective adjustments, in response to public input, MA&E findings, utility assessments, and CBEE analysis. These changes could be minor or major, but should be selective in number, and limited to those of the highest priority. Other adjustments within programs, at the level of program elements or interventions strategies, could be made at the discretion of the utility administrators, and would not require the Commission to adopt new programs. Consistent with this vision of selective, not wholesale, changes to programs and budgets, the CBEE recommends the Commission extend the program and budget authorizations (at the level of the 14 CBEE-recommended programs, MA&E, and CBEE operations) in this Resolution through December 31, 2000.

The draft Resolution orders advice letters for PY2000 consistent with this recommendation in October 1999. The CBEE recommends moving the timing of these advice letters up one month, as a precaution, to increase the prospects for timely resolution prior to the end of the year. More fundamentally, authorization of the programs through December 31, 2000 in Resolution E-3592 provides the ultimate guarantee for avoiding program hiatus or eliminating the need for additional, time-consuming "bridge funding" resolutions to avoid hiatus, should unforeseen delays in Commission approval of the PY2000 program and budget changes arise."

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PG&E believes the only real solution to avoiding a program hiatus and market disruptions in 2000 is to continue the 1999 program for the entire year in 2000. PG&E recommends the Commission authorize in this resolution a program budget for 2000 that is at the same level as PY99.

PG&E recommends a two-track process in 1999 to resolve PY99 and PY2000 program issues. The first track is related to the level and structure of utility incentive awards for PY2000 (and 2001) and will be dealt with in the 1999 AEAP process. The second track should start with a September 1, 1999 advice filing that primarily addresses any necessary changes to PY2000 programs and budgets as well as PY2000 incentive awards and milestones based on the 1999 AEAP. In summary, PG&E believes a smooth transition from PY99 to PY2000 can be achieved by an early authorization of PY2000 programs and budgets while a two-track process in 1999 can provide the needed and timely adjustments to PY99 and PY2000 programs.

Discussion

The Energy Division agrees that delaying the PY2000 planning process should be avoided and recommends that the PY2000 planning process begin as soon as possible. The NRDC's protest should be approved. The Energy Division observes that a tremendous effort has been made by all the parties and the CBEE over the past year to transition the direction of energy efficiency programs, but nonetheless, major disruptions have occurred, causing programs to be delayed or suspended. Some energy efficiency programs, such as the Residential Standard Performance Contract, are still in the planning stage.

On March 18, 1999, the Commission adopted D.99-03-056, which directed:

"...we will authorize the continuation of programs and funding adopted for 1999 energy efficiency and low-income assistance activities through December 31, 2001, unless and until subsequent program and budget changes are approved by the Commission. We delegate to the assigned Commissioner the task of considering options for future budget and program change proposals, and issuing a ruling setting forth procedures and schedules that accommodate the availability of resources to address these, as well as other, public purpose priorities." (D.99-03-056, mimeo., p.20.)

On March 26, 1999, the ACR under R.98-07-037 echoed the extension of programs and budgets through the end of 2001, (excepting the performance incentive mechanisms) with the acceptance of selective changes to the programs and policies brought to the Commission for consideration, such as:

"...(1) changes needed to clarify aspects of our policy rules that were not addressed during the PY1999 program planning process, (2) program initiatives that may have been

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neglected because of the compressed time schedule for PY1999 program planning (for example, new third party programs and local government initiatives), or (3) program design modifications that are needed to "fix" a problem already observed in their implementation.

The process includes prospective changes that may be needed in 2000 and 2001 to further the Commission's objectives for outsourcing and competitive bidding of implementation activities. (See D.99-03-056, mimeo., Conclusion of Law 4.) A processing schedule encompasses initial CBEE recommendations (due May 10, 1999), with parties filing comments and a proposed decision during the summer, and the utilities filing compliance applications for budget and program changes one month after a Commission decision is issued.

The Assigned Commissioner's Ruling incorporates a schedule for the energy efficiency programs and budgets for the or 1999-2001 timeframe. This procedure will provide a sound, prospective planning process for these evolving programs and should also provide some greater certainty for the markets. The Energy Division recommends the Commission adopt an extension of the PY99 programs and budgets through the end of PY2000.

Small Utility Energy Efficiency Programs

Issue

Decision 97-12-092 required the smaller and multi-jurisdictional electric utilities to submit energy efficiency funds to CBEE for distribution, and to work with CBEE to propose transfer mechanisms and schedules. CBEE recommends these utilities submit their PY99 and unexpended/uncommitted PY98 program funds to the geographically-closest, larger utility. CBEE recommends that it and the larger and smaller utilities work together to ensure that energy efficiency programs and services are available to the smaller utility's service territory, as appropriate.

Discussion

The Energy Division observes that the smaller utilities have not participated in the CBEE forum to date and that it would be presumptuous of the CBEE to impose its recommendations for programs and budgets on these utilities at this time. The Energy Division recommends postponement of the smaller utilities' involvement in the revised energy efficiency programs until the major utilities' programs are in place and have transitioned as envisioned by the Commission. In this way, the smaller utilities should be able to administer programs for themselves and can avoid the problem of commingling funds. The CBEE's request for small utilities to submit their energy efficiency budgets to the closest, larger utility should be denied at this time.

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Anti-competitive Policies

Protests

RESCUE asks the CPUC to reduce the anti-competitive advantages each utility will enjoy due to its position as an interim administrator. RESCUE argues that the utilities know the bids, designs, and costs of the programs, and they have the expertise for Request For Proposal (RFP) bidding. RESCUE asks the CPUC to require all utility program cost and price information be open and public so that others may compete, such as what was used in the Demand Side Management (DSM) pilot bidding, which worked well. MC recommends that the CPUC should reduce the utilities' anti-competitive advantages by requiring all program cost and price information be provided to the public at large. MC asks the Commission to require full disclosure on all contracts, pricing, measurement, and evaluation methods.

Responses

SCE replies that the CBEE program design addresses anti-competitive concerns. The CPUC has adopted an Administrator Code of Conduct and Affiliate Guidelines, and SCE has developed programs that comply with Commission direction to develop a sustained privatized Energy Efficiency (EE) marketplace.

Discussion

The Energy Division believes that MC's arguments regarding anti-competitive policies are misplaced. If, in fact, the Commission's anti-competitive policies did fail, the Commission would act. The Energy Division recommends that if MC believes the policies developed through the CBEE and implemented by the utilities fail to provide an open bidding process, MC should file a petition under R.98-07-037. MC's protest should be denied.

Conclusion

As ordered by the Commission under R.98-07-037, the CBEE and the utilities filed energy efficiency programs, policies and budgets for PY99 by advice letter. Protests regarding the legality and the structure of the CBEE are subject to proceedings under R.98-07-037 and are not addressed under this resolution.

The utilities' initial advice letter filings were deficient. Resolution E-3578 directs the utilities to complete program detail descriptions by supplementing their original advice letters. Utility and Commission-sponsored workshops are scheduled to resolve several outstanding issues affecting energy efficiency programs, measurement and verification, and the role of CBEE. The Energy Division recommends that the small energy utilities should not be ordered to participate in the new energy efficiency programs until the major energy utilities' programs have adjusted.

The PY99 energy efficiency programs are in transition. The Energy Division recommends that the Commission extend the PY99 programs and budgets into PY2000 to allow adjustments to

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proceed and to avoid delays between PY99 and PY2000 implementation. The utilities should expand their PY99 programs and budgets by one year under an advice letter filing to be submitted in September 1999.

POLICY RULES, APPLICATION AND MODIFICATIONS

CBEE Recommendations

The CBEE provides recommendations and proposed modifications to the Adopted Policy Rules for Energy Efficiency Activities from D.98-04-063.² CBEE's specific recommendations are listed below. ORA's protest recommended adoption of the CBEE's proposed changes, but with additional modifications to accommodate continuing utility administration and to lessen an "expanding role for the CBEE and the CBEE technical consultants." The utilities generally support the CBEE modifications, with two reservations - that the additional reporting requirements are burdensome and that the logo/co-branding issue needs to be resolved in 1999. The reporting requirements and the logo/co-branding issues are also protested by the parties.

The CBEE's proposed modifications are:

CBEE requests the Commission approve the suspension of Rule IV-6 for PY99, pending completion of additional public workshops. Rule IV-6 requires programs with customer transactions to be cost effective. The workshops would work to clarify which transactions invoke this rule, how such transactions for individual customers must be treated, and when and how the participant test should be calculated, since retail rates are no longer well defined under electric restructuring.

CBEE requests the Commission clarify that the Standard of Cost Effectiveness referred to in Rules IV-1, IV-3 and IV-4 as the Public Purpose Test and correct a typo in Table B-3.

CBEE requests the Commission to adopt a revised definition of Energy Efficiency (EE) and Energy Efficiency Measure, to allow for coordination of PGC EE programs and activities and non-PGC activities involving DSM application of renewable energy technologies as called for by Rule IV-8.

CBEE requests the Commission adopt limited modifications appropriate for interim administration in PY99:

² See Attachment B for a red-lined version of CBEE's proposed policies, definitions, a comparison of the Total Resource Cost, the Societal, and the Public Purpose Tests, and recommended avoided cost values.

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a. Rule IV-1 applies to the entire portfolio of each interim administrator, requiring all PGC funded activities to be cost effective. The CBEE endorses application of this rule.

b. Rule III-1, item 4 does not apply to interim administrators and Rule III-5 needs modification. Each of the three program areas applies to interim utility administrators. Change the words in III-5 to program administration.

c. Application of the Administrative Code of Conduct. – The CBEE recommends Section VIII be applied in full to the Interim Utility Administrators. This section was originally developed to apply to an administrator to prevent self-dealing and inappropriate discrimination. CBEE recommends Rules VIII-2 and VIII-4 be applied as follows:

- Rule VIII-2, (name, logo, service mark/brand) states that the utilities may not use a name, logo, service mark or brand without CBEE written recommendation and CPUC approval, and
- Rule VIII-4, which concerns the definition of the terms of "administration" and "implementation" on a program basis.

CBEE requests no modification of Rules VIII-2 and VIII-4, but recommends achievement of progress in this area during 1999. CBEE is recommending co-branding with an independent or state brand in conjunction with the utility brand to ensure public disclosure (D.97-12-103, OP 4) to minimize market confusion regarding the source of funds and to display credibility. CBEE recommends:

- co-branding in all 1999 programs;
- the ability to let a contract for logo development which would be used for all 1999 programs, once it is developed; and
- in the interim, co-brand with the State of California or the CPUC Seal to facilitate increased positive recognition for consumers in 1999.

The CBEE recommends suspension of the Affiliate Rules (Section IX) for the reasons that they were written for Independent Administrators, not the Interim Utility Administrators, and because the rules in Section IX come from D.97-12-088 reflecting existing requirements. The CBEE adds Section X-1 through X-5, applicable to the utilities and their affiliate relationships. Rules X-1 and X-2 provide for 5% limits on the amount of Public Goods Charge funds an affiliate may receive for either administrative services or Market Assessment and Evaluation activities and a 15% limit for program area participation. Rule X-4 prohibits an affiliate to use a statewide logo

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without CBEE recommendation and CPUC approval, and incorporates restrictions on utility/affiliate logo uses. Rule X-5 outlines uniform provision of information to all market participants by utility administrators and requires separate books and record keeping between utility administrators and their affiliates, subject to open examination by the CBEE and the Commission.

The CBEE recommends that the Commission adopt selected statewide input values and conventions for demonstrating cost effectiveness:

- Statewide values for avoided electric generation;
- Statewide values for avoided Transmission and Distribution costs;
- Statewide values for avoided natural gas consumption by end-users;
- Statewide values for energy environmental externalities;
- A common estimate of the ratio of net-to-gross benefits from PGC-funded energy efficiency programs of 1.0; and,
- A real, societal discount rate of 5%.

Discussion of Uncontested Policy Rule Recommendations

Policy Rule IV-6

Policy Rule IV-6 requires: "Programs that involve transactions or exchanges with individual customers must be cost effective from the participating customer's point of view. This must be demonstrated by showing that these program activities pass the Participant Test (including financial assistance), as defined in the Standard Practice Manual." The CBEE recommends suspension of Policy Rule IV-6 for PY99, until ongoing workshops can address which customer transactions invoke this rule. No party contested the CBEE's recommendation to suspend.

Discussion

Resolution E-3578 recommends this rule suspension as interim, since it was not contested. The Energy Division clarifies that the suspension of this rule is requested for PY99 and that the CBEE recommends that it be reapplied for PY2000, once the customer transaction issue has been

* CPUC/CEC. *Standard Practice Manual for Economic Analysis of Demand-Side Management Programs*. December 1987.

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resolved. The Energy Division further clarifies that suspension of this rule impacts measurement of the customer's perspective of cost effectiveness, not whether the programs are cost effective. The Energy Division recommends that the Commission suspend Policy Rule IV-6 for PY99 until clarification can be made and/or the CBEE can provide the Commission with another recommendation concerning the measurement of the customer's perspective of cost effectiveness.

Policy Rule IV-8, Definitions

CBEE requests the Commission adopt a revised definition of Energy Efficiency (EE) and Energy Efficiency Measure, to allow for coordination of PGC EE programs and activities and non-PGC activities involving DSM application of renewable energy technologies, as called for by Policy Rule IV-8.

Policy Rule IV-8 states:

"Programs shall also be designed to facilitate coordination, as appropriate, with related activities, including: (1) the electricity Customer Education Plan; (2) the Electric Education Trust; (3) the CPUC outreach and education efforts; (4) PGC-funded low income activities; (5) PGC-funded renewable energy activities; (6) PGC-funded research, development, and demonstration energy efficiency activities; (7) local, state, regional, and federal energy-efficiency programs, such as regional market transformation activities; and (8) local, state, and federal energy-efficiency laws and standards."

No party contested the CBEE recommendation to modify the definitions of Energy Efficiency and Energy Efficiency Measure. The CBEE states it believes it has resolved the issue for the Commission. The definitions for Energy Efficiency and Energy Efficiency Measure would delete the sentence "Until further notice of the Commission, energy efficiency shall not include demand side applications of technologies that use a renewable energy source."

Background

In D.98-04-063, the Commission directed the CBEE to resolve industry concerns about the use and funding of renewable energy technologies in conjunction with energy efficiency technologies. The CBEE states that it held discussion of this issue in five public workshops and secured a preliminary indication of support from the CBEE's institutional member from the CEC based on the CBEE's preliminary recommendations. The CBEE states that it has addressed the CEC's concerns about program overlap and redundant funding with its recommendations (in AL Sections VI.B.5 and IX.C.1), which call for explicit coordination with related renewable activities and that financial incentives for renewable self-generation technologies would not come from PGC EE funds. The CBEE states that it has addressed the NRDC's concerns through

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program-specific recommendations for qualifying renewable technologies that are consistent with the definition of energy efficiency and by prohibiting the use of PGC EE funds for the payment of financial incentives for renewable self-generation technologies.

CBEE Recommendation

The CBEE recommends deletion of the last sentence of the definitions for Energy Efficiency and Energy Efficiency Measure because:

"(a) it may unintentionally prevent the use of PGC EE funds for energy efficiency activities that work synergistically with renewable energy sources that provide light or heat but do not generate electricity (e.g. daylighting technologies, solar domestic water heating, etc.);

(b) it may prevent application of Policy Rule IV-8, which calls for coordination with PGC-funded renewable energy activities;

(c) it may prohibit the CPUC from exploring potential synergies between energy efficiency and self generation technologies on a limited pilot basis (as recommended in AL Section IX.C).

Finally, the CBEE notes that this modification of the definitions does not commit the Commission to any particular level or type of PGC funding for ensuring coordination."

The CBEE further states that the energy efficiency definitions are supplemented by:

"(1) an over-arching program recommendation (in AL Section VI.B.5) to coordinate PGC energy efficiency activities with those of the PGC-funded CEC renewable energy and public-interest energy research programs, and

(2) a program-specific recommendation for a residential program element under the new construction program administrative area to explore coordination opportunities and potential cost reductions for homeowners with the CEC, but which precludes use of PGC EE funds to pay financial incentives for renewable self-generation technologies."

Comments

The Commission should adopt the CBEE recommendation to modify the definition of Energy Efficiency and Energy Efficiency Measures. The discussion of policy rule IV-8 and the definitions correctly notes that no party protested or commented on the CBEE's recommendation to change the definitions of Energy Efficiency and Energy Efficiency Measures.

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Discussion

The Energy Division has reviewed the CBEE's proposal, supporting documentation and program-specific recommendations and believes that compliance with the Commission's directives to the CBEE under D.98-04-063 has been met. The Energy Division notes that no party protested this proposal. The CBEE's program recommendations are included as a pilot in the new construction program administrative area only for photovoltaic power systems and solar domestic hot water heating, with no more than 2% of the New Construction Program Budget funding these technologies. The Energy Division recommends that the Commission adopt the deletion of the last sentences, as described above, in the definitions of Energy Efficiency and Energy Efficiency Measure. Also, the Energy Division recommends the Commission allow the pilot in the new construction program administrative area for the limited renewable technologies, with the CBEE providing an assessment of the pilot to the Commission upon its conclusion.

Policy Rule IV-1

Policy Rule IV-1 requires that the entire program portfolio of PGC-funded activities be cost effective. The CBEE recommends that for PY99, this rule should be applied to the utilities. No party protested this recommendation. The Energy Division recommends that the Commission adopt this rule for PY99.

Policy Rules III-1, III-5, and Section VIII

Policy Rules under Section III anticipate independent administrators under the individual program areas of Residential, Non-Residential and New Construction. For these rules, all of the program areas apply to each utility. The Energy Division recommends that the Commission note that Rule III-1, item 4 does not apply to interim utility administrators and Rule III-5 needs to be changed by adding the words program administration.

The Policy Rules under Section VIII, "Administrator Code of Conduct", need to be applied in full to interim utility administration. The Energy Division endorses this recommendation.

Policy Rules, Contested

Protest

ORA recommends that the Commission adopt a new set of Energy Efficiency Policy Rules with more modifications and deletions than those recommended by the CBEE and/or the utilities. ORA argues that the changes proposed by the CBEE contemplate independent program administration and expand the CBEE's responsibilities. ORA remarks that some of these rules need to be revised to accommodate continuing utility administration. ORA also recommends modifications to the Administrative and Affiliate Policy Rules where there are references to the CBEE or their technical consultants. ORA argues that the CBEE recommended changes enhance

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CBEE's authority, especially regarding "fund-shifting" authority, which should be the prerogative of the CPUC.

ORA would delete all references to CBEE and its technical support from the policy rules. In addition, it would substitute Commission and/or CADMAC⁴ for CBEE in a number of rules. ORA would fully delete the following rules: Policy Rule III-1, III-2, III-4, III-5, III-6, which relate to the Roles and Responsibilities Under the Administrative Structure. ORA would also delete Policy Rule V-8, which states that the CBEE will sponsor workshops to refine value and performance measurements for PGC-funded programs.

Response

CBEE recommends the Commission clarify its direction in D.98-07-036 and apply the adopted policy rules, with the modifications and clarifications recommended by the CBEE in its AL filing, to the period of interim utility administration in PY99.

Comments

CBEE comments that the Commission should direct the CBEE to prepare minor changes to the policy rules, as necessary, in a timely fashion consistent with continuing utility administration, but defer potential additional modifications to the policy rules until completion of the workshop on the future role of the CBEE.

Discussion

Decision 98-07-036 adopts the CBEE's earlier policy rule modifications, as applicable to independent administration of the energy efficiency programs and DSM programs, and assumes the issuance of an RFP for selection of independent administrators. D.98-07-036 specifies that the adopted policy rules do not apply to interim administration. In its October 16, 1998 advice letter, the CBEE requests the Commission apply the policy rules adopted under D.98-07-037, with additional modifications, to the utilities, which will be interim program administrators.

The Energy Division agrees with ORA's assessment of the CBEE's proposed revisions to the policy rules. (See Attachment B) The Energy Division believes that since the utilities will be program administrators through the year 2001, the CBEE should revisit all of the Policy Rules for Energy Efficiency Activities and make revisions as discussed below. A discussion of why the policy rules should be rewritten follows:

⁴ CADMAC stands for the California DSM Measurement Advisory Committee. CADMAC provides the Commission with energy efficiency earnings verifications and program cost effectiveness reports, as well as develops potential modifications to the adopted protocols for consideration in each Annual Earnings Assessment Proceeding (AEAP).

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Policy Rule III-1 Discussion Example

Policy Rule III-1 identifies in list form entities responsible for overseeing, administering, and implementing the expenditure of PGC funds for energy efficiency. Program Administrators (item 4) are among the entities listed. The CBEE also includes the Commission and itself. The CBEE proposes to add the sentence: "In PY99, item (4) does not apply to interim administration." ORA would delete the complete rule. Energy Division believes that exclusion of the utilities from this list implies that the utilities do not perform any of these functions, which is untrue.

The Commission provides oversight and authorization of the programs, funds and policies. The utilities are responsible for implementing the programs and the expenditure of funds. ORA and other interested parties are responsible, as parties, for providing the Commission with factual input, proposals, and formal filings and recommendations. The CBEE's role is to make recommendations to the Commission on market transformation. This involves the processes of joint program planning with the energy utilities, providing a forum for stakeholder input, and assisting the parties. The CBEE is not a party. The CBEE's role does not include oversight, administration of program fund expenditures or program implementation. The Energy Division believes that the CBEE's inclusion of itself in the context of its Policy Rule III-1 is misleading and inappropriate. ORA's protest that the policy rules need to be modified to accommodate continuing utility administration should be adopted.

In its comments, the CBEE references the above discussion, stating that it should be rewritten to be consistent with the CBEE's adopted By-Laws and prior Commission decisions, and that ORA's proposed revisions should be rejected. The Energy Division advises the Commission and the CBEE that the CBEE's current By-Laws and the Policy Rules adopted by the Commission were written to apply to Independent Administrators, not the utilities. The role of the CBEE has been affected by D.99-03-056. Therefore, changes in the By-Laws and in the Policy Rules need to be made.

For the purpose of the Adopted and Proposed CBEE changes to the Energy Efficiency Rules, the utilities are the administrators through 2001. The CBEE's Policy Rules should apply to the utilities throughout this timeframe. The Energy Division recommends that the Commission direct the CBEE to review and revise all Policy Rules in a supplemental filing to R.98-07-037 to account for continuing utility administration in compliance with the D.99-03-056. In addition, the CBEE should incorporate appropriate language defining the CBEE's role with energy efficiency programs, which is the subject of an Energy Division workshop scheduled for April 12, 1999.

The Commission should direct the CBEE to prepare minor changes to the policy rules, as

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necessary, in a timely fashion consistent with continuing utility administration, but defer potential additional modifications to the policy rules until completion of the workshop on the future role of the CBEE.

Affiliate Rules

Protest

RESCUE states that the affiliate rules applicable to independent administrators should not be amended for 1999 administration and argues that the regular affiliate rules should apply to utility administration. RESCUE states that the CBEE's affiliate rule changes do not address self-dealing or "mutual" accommodation (inter-utility hiring).

CBEE Response

CBEE replies that its recommendations for modifications to the adopted policy rules appropriately apply to the period of interim utility administration.

Comments

In comments provided March 16, 1999, ORA agrees that the CBEE's Policy Rules fail to address self-dealing or mutual accommodation. ORA suggests that the CBEE's proposed affiliate rules under Section X should add Rule IX (18) from the "Affiliate Rules for Independent Administrators", to prohibit the intermittent use of utility employees by the affiliates. The Commission's Affiliate Rules adopted under D.97-12-088 were modified by D.98-08-035, which affected the rule covering the intermittent use of utility employees by affiliates.

PG&E recommends that Policy Rules X 1-3 not be adopted. PG&E states that these rules assume valid, agreed to, useful definitions of administration and implementation and address a problem that may not occur. The Commission could, instead, require that utility administrators report to the Commission within 60 days when the utility hires an affiliate through a noncompetitive process. This reporting requirement would not apply to Standard Performance Contracts (SPC) which are already covered by Rule IX-5, nor to corporate activities conducted by the utilities' holding companies.

Discussion

The Energy Division has reviewed the Adopted and Proposed CBEE changes to the policy rules and agrees with RESCUE's and ORA's assessment of a lack of safeguards addressing utility self-dealing or mutual accommodation. However, at the present time, self-dealing can only be addressed through continued efforts with the development program outsourcing. Mutual accommodation (cross-affiliate utility hiring) can be partially addressed through the inclusion of CBEE Policy Rule IX (18) under the CBEE's proposed Section X, Affiliate Rules for Interim Administrators, which reinstates and restricts employee movement between the utility and the

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affiliate. ORA's recommendation to apply this rule to continuing utility administration should be adopted by the Commission.

The CBEE policy rules under added Section X, "Affiliate Rules for Interim Administrators", Rules 1-5, serve to limit affiliate participation in the programs and promote market competition. These rules restrict an affiliate's participation to 5% for administrative participation, 5% for Market Assessment and Evaluation activities, and 15% for program participation. Energy Division recommends adoption of these rules.

Affiliate Rules applicable to the utilities were adopted under D.97-12-088. These rules also apply to the utilities' operation of energy efficiency and DSM programs. The Commission does not preclude competitive bidding of one utility's affiliate for another utility's programs (mutual accommodation). The Energy Division recommends that the CBEE work to develop a rule similar to Rule IX (18), restricting inter-utility hiring to respond to RESCUE's concerns.

The Energy Division believes that the Commission's existing affiliate rules and the CBEE's proposed affiliate rule additions under Section X of the rules for energy efficiency do provide a reasonable basis for safeguarding anti-competitive behavior. RESCUE's protest of the policy rules regarding a lack of safeguards addressing utility self-dealing or mutual accommodation should be granted. The Energy Division recommends the Commission adopt the additional affiliate rules proposed by the CBEE under Section X, with the addition of Rule IX (18) fully applicable to interim utility administration.

Tying

Protest

ORA recommends that the Commission require supplementary Administrator Code of Conduct and Affiliate Rules sections of the Policy Rules with restrictions that will preclude the utilities or an Energy Service Company (ESCO) from restricting customer choices of an Electric Service Provider (ESP) for generation or other available services. In particular, a rule is needed to address program-specific anti-competitive measures for those programs with rebates and Standard Performance Contract (SPC) programs, where customer financial assistance is made. ORA wants the CBEE to provide an explicit rule to forbid Utility Distribution Companies (UDC) from conditioning rebate eligibility to only ESP customers of the UDC, with a similar one for an ESCO subcontracting a program, which might condition the service to availability through use of a particular ESP. In addition, ORA would have a customer affidavit signed by the customer that names the current ESP and affirms program participation does not preclude the customer from changing to an alternate ESP. Verification of this should be made at the time other verifications are made with the policy rules.

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CBEE Response

CBEE responds that it shares ORA's concern that PGC funds could be used inappropriately to restrict a customer's ability to choose providers of energy, but makes no recommendation on this issue.

Comments

PG&E agrees that competition should be encouraged. However, the attempt to shape this competition with rules and requirements beyond the utility affiliate rules may be unnecessary and carries an additional administrative cost on market participants that may, in fact, discourage competition. Tying is only a real problem when the players have market power. There is no evidence of such market power in the energy efficiency market at this time.

ORA argues that is appropriate to include an energy efficiency policy rule to prevent tying of services by an entity that is an ESP and also an energy efficiency service provider (EESP). That is precisely the purpose of adopting affiliate rules for EESPs. Language similar to Rule III.C of D.98-08-035 (or CBEE's Policy Rule IX-6) should be incorporated into Policy Rule X.

Discussion

The Commission's affiliate rules prohibit the tying nature envisioned by ORA and CBEE, but these rules apply to the regulated utilities, not the ESPs, which are not regulated by the Commission. Similarly, the CBEE's Policy Rules apply to the utilities and their affiliates. Adding another section applicable to ESPs and ESCOs does not appear practical at this time. However, the Energy Division agrees that the same tying prohibition should apply to an ESP or their affiliate receive energy efficiency funding for the promotion of energy efficiency services. The Energy Division recommends that the CBEE and ORA work with the parties and the utilities to develop appropriate language to incorporate into the affidavits and contracts held with ESPs to alleviate this problem at the present time. This should be done to ensure that receipt of energy efficiency services is not tied to provision of electric energy service, and so that the end use customer is not precluded from customer choice. ORA's protest requesting a policy rule to prohibit tying services between ESPs and ESCOs should be adopted.

Logo/Co-Branding

Protests

RESCUE requests that the CPUC direct all 1999 programs be performed in the name of CBEE. RESCUE states that because no logo was developed in 1998 by the CBEE as the CPUC requested, the utilities will continue Co-Branding. REECH recommends that Commission policy should emphasize public markets, energy efficiency themes rather than CBEE or utilities' or public agencies' logos. REECH argues that the utilities' logos should be used only if authorized, and that Interim Utility Administrators (IUA) should not benefit from the use of PGC funds if they use their own logos. REECH further argues that "the valuation of the association with

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public energy efficiency programs by the Interim Utility Administrators should be set at not less than 10% of outsourced solution programs and not less than 25% of the budgets for information and audit programs, where IUA identification is significant or where referrals route through an IUA marketing channel."

Responses

CBEE states that direction on co-branding and use of a logo is adequately addressed in its AL filing. The CBEE recommends that the Interim Administrators make significant progress toward independent, statewide brand and implementer brand identification, and away from utility-only branding in 1999. The CBEE recommends the Commission direct the utilities to contract with a qualified firm, using a co-management approach to analyze and develop an independent statewide logo and brand for use in 1999. Until a logo is developed, the CBEE recommends a co-branding approach for all programs in 1999, with an independent or state brand being used along side the utility brand(s), to ensure public disclosure to minimize confusion in the market regarding the source of funds, and to display credibility. (See D.97-12-103, OP 4) CBEE requests an expedited Assigned Commissioner's Ruling granting permission to use the Commission or state seal as the logo for at least part of 1999. Program marketing materials need to be prepared if the programs are to be implemented with co-branding.

SoCalGas responds that it has been working with the other utilities to develop common language for co-branding. However, until a logo is developed, SoCalGas believes that it is critical to continue to use the utility name on its program materials. SoCalGas adds that not using the utility name would have a detrimental affect on the market, since the market actors do not yet have sufficient name recognition on their own. SDG&E responds that the utilities have developed common language to "co-brand" the energy efficiency programs until such time as the CBEE/state logo is developed, as directed by D.97-12-103. SDG&E believes serious legal consequences could result if utility personnel were representing and acting on behalf of CBEE instead of the utility.

Comments

In comments dated March 16, 1999, the Joint Respondents (SEMPRA for SDG&E and SoCalGas) request that development of a statewide logo should be part of the CBEE's Budget. The utilities reply that they have not included the cost for a logo development in their 1999 budgets. Also, in comments dated March 16, 1999, ORA suggests the CPUC request proposals for a logo and language development from the CEC.

Discussion

Decision 97-12-103, in OP 4 states that "CBEE shall develop one or more appropriate statewide logos for energy efficiency to be used by PG&E, SDG&E, SCE, and SoCal, collectively referred to as "the utilities", in their 1998 program materials as soon as feasible. There shall be co-

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branding for public disclosure purposes once the logo(s) are developed." The direction to use a statewide logo for energy efficiency programs is consistent and appropriate for the Commission's market transformation efforts. However, the CBEE's proposal to use the Commission's seal or the Great Seal of California is inappropriate.

The Energy Division reports that Government Code Section 402 states:

"Every person who maliciously or for commercial purposes uses or allows to be used any reproduction or facsimile of the Great Seal of the State in any manner whatsoever is guilty of a misdemeanor."

The Energy Division advises that the Commission's seal includes a reproduction of the "Great Seal of the State". Therefore, any use of either the California State Seal or the Commission's seal may not be used. The CBEE's request to use the state seal or the Commission's seal should be denied.

The Energy Division recommends the CBEE continue work with the utilities to develop a statewide logo and, in the interim, work to develop appropriate endorsement language to address this issue. The Energy Division also recommends that the CBEE contact the CEC regarding possible logo development, if the CEC has had experience with this type of development as ORA suggests. The Energy Division recommends that the Commission allow an expenditure of CBEE PY99 Budget monies to develop a statewide logo.

Cost Effectiveness Values

Protests

REECH states that the CBEE and Commission have not provided a reasonable and calculable basis for cost-effectiveness determinations in the expenditure of energy efficiency funds as required by Public Utilities Code Section (PU Code) 381(E)(1). RESCUE criticizes that the avoided cost calculations should not include transmission and distribution uniformly across utilities and argues that the residential sector's conservation is worth more than other customer classes because it costs more per unit of energy for this class.

ORA recommends that the Commission adopt the cost effectiveness values contained in the CBEE's recommendations. (See Attachment B) ORA also recommends that the Commission adopt the new cost effectiveness policy rules recommended by the CBEE (using ex post measures), but that it establish conformance with these policy rules using current program definitions and current cost effectiveness test names (i.e. replace Public Purpose Test with Societal Test).

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Responses

CBEE responds that it agrees with ORA that the CPUC should adopt the CBEE's cost-effectiveness policy rules. However, CBEE does not recommend that the Commission change the name of the Public Purpose Test (PPT) and does not recommend application of the test using only current program definitions. PG&E agrees with the CBEE that the recommended new program definitions most clearly support "the design, implementation, and coordination among intervention strategies toward the common objective of market transformation" and that the current system, as defined in the DSM Reporting Requirements Manual, does not meet this standard.

Comments

PG&E notes in its March 16, 1999 Comments that CBEE's original recommendation for selected statewide input values and conventions for demonstrating cost effectiveness was that parties should use a real, societal discount rate of 5%. Since all of the CBEE values for avoided costs in Appendix C, Attachment B are expressed in nominal dollars, the societal discount rate should also be expressed in nominal dollars. Therefore, the Commission should use a nominal discount rate of 8.15% per year in conjunction with the cost effectiveness values contained in Attachment B of Appendix C. It is PG&E's understanding that the CBEE's Technical Consultant concurs with the use of an 8.15% per year discount rate.

The CBEE comments that the Commission should leave the "Public Purpose Test" as the standard of cost effectiveness, and clarify that the name of the standard should remain PPT to indicate that it is different from the societal test in its application.

The CBEE states that the analysis of ORA's recommendation misconstrues the standing of the Public Purpose Test (PPT). The CBEE's recommendations for modifications to policy rules IV-1, IV-3, and IV-4 were ones of clarification, not of policy. They were made in response to requests from stakeholders to be explicit that the PPT, described in section V, was to be used for the rules in section IV. The Commission previously adopted the policy rules, including the PPT, in D.98-07-036. Policy rule V-2 clearly defines the PPT uniquely as the standard of cost effectiveness. ORA disagreed with the name of the test, but did not protest its formulation. No other standard of cost effectiveness (with the exception of the participant test in now-suspended policy rule IV-6) is contained in the policy rules. References to the societal test and the total resource cost test are discussed, not as alternatives, but as points of reference for the PPT. After much discussion in workshops and other public processes before the CBEE, most stakeholders agreed that it was appropriate to propose to change the name of the societal test to the PPT at this time given the differences in its application under the current Commission policy framework. Failure to reaffirm that the name of the standard of cost effectiveness is the PPT will increase the potential for future confusion in applying the standard in the section IV rules.

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Discussion

The Energy Division observes that the cost effectiveness values found in Attachment B, Appendix C conform to the existing Commission standards used for the basis of cost effectiveness evaluations. PG&E, reiterates its December 1998 comments regarding the discount rate used in Attachment B, Appendix C, which no other party commented on. The Energy Division agrees with PG&E that these values should be expressed in nominal dollars using an 8 ½ % per year discount rate rather than the real, 5% societal discount rate, and recommends the conversion.

REECH's allegation that the cost effectiveness values do not provide a reasonable and calculable basis for cost-effectiveness as required by PU Code Section 381(e)(1) should be rejected and their protest denied. The Energy Division recommends that the Commission adopt the Cost Effectiveness values contained in Attachment B, Appendix C for PY99, as modified.

The Energy Division has reviewed the CBEE's comparison of the Public Purpose Test, as found in Attachment B, Appendix B. The Energy Division has also reviewed the Societal Test and the Total Resource Cost Tests as found in the CPUC/CEC's *Standard Practice Manual for Economic Analysis of Demand-Side Management Programs*. The CBEE has provided a detailed comparison between the Public Purpose Test (PPT) and Total Resource Cost Test (TRC), not with the Societal Test. The Societal Test and the PPT are essentially the same; they both modify the TRC for externalities. In consideration of the semantics argument between the parties and in hopes of providing ultimate clarification for all, the Energy Division recommends that the Commission adopt the CBEE's recommendation to change the name of the Standard of Cost Effectiveness to the Public Purpose Test in the body of Policy Rules IV-1, IV-3, and IV-4, but that it retain the name "Standard of Cost Effectiveness" in parentheses.

The Energy Division advises the Commission that RESCUE's proposal to modify the avoided cost values used for transmission and distribution is beyond the scope of the advice letter filings and should be denied without prejudice. RESCUE's proposal to modify the avoided cost values used for transmission and distribution should be raised in the Qualifying Facilities proceeding under I.89-07-004 and the ACR emanating from the electric restructuring decision, D.99-02-085, where avoided cost values used by the Commission will be addressed.

On February 11, 1999, an ACR was issued under R.98-07-037 ordering the Energy Division to schedule a public workshop to address reporting requirements. Parties should seek consensus at the Energy Division facilitated reporting requirements workshop, and should make a filing on the issues in R.98-07-037.

Resolution E-3592
PG&E AL 1819-E/2117-G; SCE AL 1348-B
SoCalGas AL 2760; SDG&E AL 1132-E/1124-G;
CBEE AL 1-E/1-G/awp *

April 1, 1999

Reporting, Program Definitions

Protest

ORA requests that the CPUC direct CADMAC to develop new ex post measurements to assure cost effectiveness and compliance with the legislative intents of Assembly Bill (AB) 1890 (Stats.1996, Ch.854). The existing database is incompatible with a new set of program definitions. There is no credible basis for demonstrating (on an ex ante basis) conformance with the Policy Rule requirement that such a demonstration be made as a condition for authorization. ORA further recommends that the Commission reject the CBEE's new program definitions, reinstating the use of the current definitions for purposes of budget adoption since the programs will still be under utility administration. ORA recommends the Commission allow fund-shifting flexibility within each of the three major program areas; program monitoring during the PY; cost-effectiveness and performance reporting prior to, during and after program implementation.

Responses

SoCalGas states "[t]he performance mechanism for PY98 authorized by the Commission in D.97-12-103 and the guidelines supported by the CBEE for PY99 earnings are based on ex ante estimates. Earnings under this new mechanism for PY98 and proposed earnings for PY99 are significantly reduced from past levels for most utilities in part based on the fact that there is no ex-post measurement requirement. Therefore, ORA's recommendation for a new ex-post regime is inappropriate and inconsistent with CPUC established policy.

CBEE states that a new regime for ex post measurement is being developed by the CBEE as part of its Measurement, Assessment and Evaluation (MA&E) activities. Among other things, the CBEE's planning will address appropriate roles for advisory groups such as CADMAC. (See CBEE's AL filing and its Attachments A, C, and D) CBEE continues to recommend use of new program definitions as basis for program planning, budgeting, fund-shifting (in the form of budget ranges for programs, and the form of budget caps or floors for a limited number of intervention strategies), budget reporting, and performance awards and incentives. CBEE also recommends budget planning and reporting by program definitions in current DSM reporting requirements manual. CBEE shares ORA concerns regarding the adequacy of documentation and recommends that the Commission direct the utilities provide additional information to address these concerns.

CBEE makes two other points: (1) "[t]he choice of program definitions is irrelevant to a determination of whether or not PY99 plans conform to the cost-effectiveness standard articulated in the adopted policy rules, since the standard is binding only for the entire portfolio of PGC-funded activities, not for individual programs (regardless of which set of program definitions is used", and (2) "[t]hreats to the ability of the utilities to maintain accurate and useful cost-accounting procedures are independent of the choice of program definitions."