

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

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| Order Instituting Rulemaking to Examine the Commission's Post-2008 Energy Efficiency Policies, Programs, Evaluation, Measurement, and Verification, and Related Issues | Rulemaking 09-11-014<br>(Filed November 20, 2009) |
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**REPLY COMMENTS OF THE UTILITY REFORM NETWORK ON  
ASSIGNED COMMISSIONER'S RULING AND SCOPING MEMO, PHASE II**

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October 15, 2010

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**I. INTRODUCTION**

Pursuant to the schedule adopted in the September 22, 2010 Assigned Commissioner's Ruling and Scoping Memo, Phase II, The Utility Reform Network (TURN) respectfully submits these reply comments. The Ruling sought comments on the adequacy of current safeguards to prevent inappropriate use of energy efficiency funds, and on the enforcement of such safeguards. Parties submitted opening comments October 11, 2010.

**II. DISCUSSION**

The City and County of San Francisco (CCSF)'s and the Marin Energy Authority (MEA)'s comments highlighted the opportunities IOUs have to interfere with efforts to become a CCA. Both CCSF and MEA detailed the myriad ways an IOU's discretionary powers over large sums of energy efficiency funds enables attempts to hinder a local government's efforts to become a CCA. In the present framework with its reliance on the IOUs for administering energy efficiency portfolios, TURN finds these observations to be reasonable, especially in light of

recent behavior.<sup>1</sup> TURN recommends an examination of the broader underlying issues, including (1) *who* can independently administer energy efficiency programs, and (2) the need at present for greater transparency and accountability with respect to IOUs' use of energy efficiency funds. While policy and decision language with greater enforcement "teeth" might level the playing field a bit, the fact remains that, as CCSF stated, an "independent entity would have an incentive to collaborate productively with local governments and other key stakeholders to achieve the goals of the Strategic Plan"<sup>2</sup> while not necessarily being driven by shareholder incentives. As long as California continues to allow IOUs to administer energy efficiency programs, we must be ready to develop and enforce additional checks on these built-in conflicts of interest. The IOUs all cite statutory and regulatory language as adequate safeguards against misuse of energy efficiency funds. But the recent track record of interfering with efforts to establish a CCA occurred against a backdrop of statutory and regulatory checks. The Commission must not underestimate the plethora of methods and strategies (not to mention the resources and program infrastructure at their disposal) available to the utilities should they decide to attempt to circumvent such rules.

MEA's concern that IOUs can withhold information essential to resource planning and determining whether to become a CCA is also valid. The Commission must ensure that potential CCAs have meaningful access to the information they need, and have a process by which to expeditiously and efficiently resolve challenges to obtaining such information from IOUs.

## **V. CONCLUSION**

TURN appreciates the opportunity to provide these comments on the subject of

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<sup>1</sup> See Response of the Utility Reform Network in Support of the Petition of the City and County of San Francisco to Modify Decision 05-12-041 (Feb. 10, 2010) and Decision 10-05-050.

<sup>2</sup> Comments of CCSF in Response to the ACR an Scoping Memo, Phase II, at p. 5.

preventing misuse of energy efficiency funds. It is TURN's hope that this discussion will lead to a broader dialogue on the underlying issue of the appropriate IOU role with regard to program administration in energy efficiency. The issues raised by CCSF and MEA are by no means isolated to the CCA arena and should as much as possible be addressed with this larger, long-standing challenge in mind.

Date: October 15, 2010

Respectfully submitted,

By: /s/ Marybelle C. Ang

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