

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

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
(Filed November 20, 2009)

**WOMEN'S ENERGY MATTERS
REPLY COMMENT ON PROPOSED DECISION
RE CONTINUATION OF FUNDING**

December 12, 2011

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Women's Energy Matters (WEM) appreciates this opportunity to reply to comments on the Proposed Decision (PD) regarding Continuation of Funding.

Questions remain about the Commission's authority to "backfill" Public Goods Charge funding, as well as the methodology for the backfill.

Issues regarding the Commission's authority

The PD attempts to justify continued funding by claiming that the Public Goods Charge will not really sunset. This is simply not true.

As CLECA pointed out, the PGC funding sunsets on January 1, 2012, pursuant to §399.8(c)(1):

Both the initial and subsequent statutory authorizations for the collection of PGC EE funds, however, were originally and remain specifically limited in time and quantity. The Legislature's intent to terminate and limit PGC EE funding is unequivocal from the plain language of the statute... CLECA, p. 3.

WEM agrees with CLECA that the failure of the current legislature to renew the PGC leaves us with the sunset language and intent of the 1996 statute and its 2002 update. As the PD says, "the statute does not sunset, and all if its provisions remain on the books." PD, p. 2, fn. 2. Therefore the sunset language is fully in effect.

WEM also agrees with CFC that there is a rate impact if the rates do not decrease, as they would if the PGC sunset were not replaced with another surcharge. CFC p. 4.

CFC says the PD fails to cite an authority to replace the PGC. CFC, p. 3-4. It believes the decisions authorizing the PEEBA were not sufficient, since "PEEBA was originally formed as a supplement to the PGC" and is insufficient as a "stand alone source of funding." CFC, p. 4.

WEM disagrees. D0210062 provides a strong mandate for funding:

Utilities should consider investment in all cost-effective energy efficiency, regardless of the limitations of funding through the public goods charge (PGC) mechanism. *The commission may authorize additional energy efficiency expenditures beyond the PGC as part of this overall procurement process...* D0210062, p. 27.

Utilities believe D0909047 provided sufficient authorization. For example, PG&E, p. 1.

The Commission has broad authority to set rates; the PD references NRDC's Reply Comment¹, which provided a variety of citations. PD, p. 7. The PD could cite one or more of those, in addition to the procurement decisions, instead of trying to deny the sunset provisions. It is unclear what the Commission hopes to gain by denying the sunset.

Need to know that *procurement EE resources* are online and functioning

The PD stated that the issue of whether continued funding will ensure that the IOUs meet their goals is not an issue before us – the Commission will review the IOUs performance “when [the 2010-12] funding cycle concludes.” PD, p. 9.

CLECA responded:

It does not seem to CLECA that authorizing the collection of this money in 2012 rates is just and reasonable without a determination that the funds will be spent in a cost-effective manner. State law provides for the continuation of “*prudent investment*” in “*cost-effective*” EE. CLECA, p. 2.

CLECA expanded on these points on pp. 4-6.

WEM believes is untenable to wait three years before confirming whether or not a *procurement resource* is functioning as planned. (See discussion below regarding the PEEBA originating in procurement.) Generally, procurement resources are required to be online and producing the power they promised — or they don't get paid. Since the remaining authority for EE resources is linked directly to *procurement*, the Commission should begin treating EE as a procurement resource.

The *procurement process* is where the additional EE funds originated – in D0210062. D0312062, also in a procurement docket, created the tracking mechanism (PEEBA). It is worth quoting at length:

After reviewing the various proposals, we find that SDG&E's proposed approach to implement a non-bypassable surcharge on all customers to pay the costs of energy efficiency program funding authorized in this proceeding provides a simple to understand, fair, and expeditious mechanism for providing utilities cost-recovery for procurement related energy efficiency activities. Moreover, this approach provides symmetry to the current Commission approach for funding

¹ NRDC Oct. 19, 2011 Reply Comment, pp. 2-3.

Public Goods Charge programs as enunciated in Public Utilities Code § 381. In authorizing a non-bypassable surcharge to pay the costs of procurement efficiency program, the Commission remains mindful of the need for continued coordination of procurement efforts related to cost-recovery with related issues that may arise in R.01-08028. We therefore order the respondent utilities to establish a one-way Procurement Energy Efficiency and Balancing Account (PEEBA) to track the costs and revenues associated with authorized programs in this proceeding. Costs associated with these accounts should be submitted simultaneously with utility monthly ERRA filings to the Energy Division for review on a monthly basis. Further, within 20 days of this decision, we order the utilities to file advice letters establishing the methodology and surcharge rate for incremental procurement energy efficiency programs for program year (PY) 2004 and 2005. D0312062, pp. 69-70.

Thus, the PEEBA originated in *procurement proceedings*, was intended to coordinate with the EE rulemaking (R0108028 at the time), and provided “a mechanism for providing utilities cost-recovery for procurement related energy efficiency activities.”

Furthermore, the *total amount* of the procurement EE surcharge for each utility for upcoming EE cycles was set in the EE proceedings. Finally, as the PD states, “The PEEBA is collected in accordance with the rate design established in each IOU’s General Rate Case (GRC).” PD, p. 3.

Backfill methodology

CLECA supports the PD using the PGC allocation methodology, rather than expanding the “procurement EE” surcharge, or PEEBA. CLECA, pp. 1, 8.

It would be helpful for the final decision to describe the way the PEEBA is collected. Perhaps it could be modified in a way that works better for all ratepayers. Apparently, CLECA doesn’t like the rate design for the PEEBA, and prefers the PGC methodology, which was collected “on the basis of usage.” PU Code §399.8(c)(1).

WEM finds it problematical that the backfill methodology is nearly identical to the PGC, rather than the PEEBA. This further gives the impression that the Commission is attempting to override the intent of the legislature. WEM recommends using the PEEBA.

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Respectfully Submitted,

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