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

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| Order Instituting Rulemaking to Reform the Commission's Energy Efficiency Risk/Reward Incentive Mechanism. | Rulemaking 12-01-005 (Filed January 12, 2012) |

# COMMENTS OF THE CALIFORNIA ENERGY EFFICIENCY INDUSTRY COUNCIL (EFFICIENCY COUNCIL) IN RESPONSE TO THE ADMINISTRATIVE LAW JUDGE'S RULING CALLING FOR COMMENTS ON INCENTIVE REFORM ISSUES

July 16, 2012

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## I. Introduction and Summary

The California Energy Efficiency Industry Council (Efficiency Council) respectfully submits these comments on ALJ Pulsifer's "Administrative Law Judge's Ruling Calling for Comments on Incentive Reform Issues" (ALJ Ruling), dated June 15, 2012. These comments are submitted in accordance with Rules 1.9, 1.10, and 1.13 of the California Public Utilities Commission's (CPUC or Commission) Rules of Practice and Procedure. The ALJ Ruling reviews several stakeholder proposals for 2013-2014 Risk-Reward Incentive Mechanism (RRIM) that were submitted prior to the issuance of D.12-05-015 in R.09-11-014 and seeks comments on whether these proposals warrant any changes, clarifications, or further developments in light of the policy guidance and principles in that decision. The ALJ Ruling also provides a framework for parties to comment on or propose a more significant redesign of the RRIM using incentive mechanism principles and criteria from a 2009 Energy Division white paper.

The Efficiency Council is a statewide trade association of non-utility companies that provide energy efficiency services and products in California.[1] Our member businesses, now

[1] More information about the Efficiency Council, including information about the organization's current membership, Board of Directors, and antitrust guidelines and code of ethics for its members, can be found at www.efficiciencycouncil.org. The views expressed by the Efficiency Council are not necessarily those of its individual members.

numbering over 70, employ thousands of Californians throughout the state. They include energy service companies, engineering and architecture firms, contractors, implementation and evaluation experts, financing experts, workforce training entities, and manufacturers of energy efficiency products and equipment. The Efficiency Council's mission is to support appropriate energy efficiency policies, programs, and technologies that create sustainable jobs and foster long-term economic growth, stable and reasonably priced energy infrastructures, and environmental improvement.

The Efficiency Council has not taken and does not take at this time a position on the appropriateness of an incentive mechanism or its specific design. We do, however, support the Commission's desire to resolve the policies in a timely manner "to enable the Commission to develop and adopt a reformed mechanism no later than the beginning of 2013" (p. 12-13) and in line with the guidance in D.12-05-015. We especially believe that any reforms must be completed immediately in order to provide utilities and all implementers appropriate advance signals prior to the program implementation start of the 2013-2014 portfolio. Thus, with such limited time, the Commission should ensure that any RRIM reforms for 2013-2014 are incremental, and that longer-term and any possible more substantive RRIM reforms are developed for 2015 and beyond. As a result, our comments focus on high-level policy concerns raised in the ALJ Ruling while attempting not to rehash assertions presented in previous comments in this proceeding.

Our comments are summarized as follows:

1. The Efficiency Council commends the Commission for offering a process to address the incentive mechanism that enables creative and new solutions to ensure that the State meets its energy efficiency goals. Given the limited time prior to the start of the 2013-2014 portfolio, however, we urge the Commission to make incremental changes to the existing mechanism rather than develop and implement an entirely new RRIM approach that applies to a portfolio beginning January 1, 2013.
2. The Efficiency Council recommends that efforts to examine the options for entirely new incentive approaches be included later in the proceeding, after resolution of the 2013-2014 mechanism, and be directed toward the 2015 and later portfolio cycles.

## II. Discussion

1. **The Efficiency Council commends the Commission for offering a process to address the incentive mechanism that enables creative and new solutions to ensure that the State meets its energy efficiency goals. Given the limited time prior to the start of the 2013-2014 portfolio, however, we urge the Commission to make incremental changes to the existing mechanism rather than implement an entirely new incentive approach that applies to a portfolio beginning January 1, 2013.**

The Efficiency Council is pleased that the Commission is providing leadership to resolve the incentive mechanism issues. Uncertainties in the RRIM or other efficiency policies affect program design and implementation, which creates a lack of certainty in the business climate for the efficiency industry. This lack of certainty and instability in the industry and among all implementers makes it more difficult to deliver programs and ensure customer energy savings and achievement of broader energy and cost-effectiveness goals in the state. As a result, while the Efficiency Council does not take a position on the appropriateness of an incentive mechanism in the overall context of the state's energy efficiency programs, we recognize the impact of any RRIM on program implementation and customer participation. We support the Commission's effort to examine the options for changing the RRIM relative to that used for 2006-2008 and 2009 or wholesale adoption of a new mechanism. We agree that this effort should "incorporate the lessons learned from prior RRIM cycles…" (p. 2). It should also reflect the changes to the portfolios due to guidance in D.12-05-015.

However, the Efficiency Council is concerned that with the utilities' 2013-2014 portfolio applications already submitted on July 2, 2012 and a short timeline for revisions prior to the start of the portfolios on Jan. 1, 2013, radical changes or replacement of the incentive mechanism with an entirely new approach, either one offered in previous comments or one yet to be proposed in this proceeding, would introduce much uncertainty and instability into the 2013-2014 portfolios for all program implementers. The previous RRIM was developed over the course of a year and a half and adopted half-way through the 2006-2008 cycle, and the 2013-2014 cycle begins in less than six months. As we have learned from 2006-2008, any mid-cycle changes in the policy structure, including the RRIM, that guides program implementation risks injecting considerable uncertainty and upheaval in implementation. Furthermore, we believe that in order for any incentive mechanism to be truly effective, the specifics of that mechanism must be made clear prior to planning and implementing the portfolio.

Nevertheless, while we would prefer that the Commission establish the full set of policies guiding the portfolio ahead of planning and designing the portfolio, we support the desire to fix problems from prior RRIM periods and update the incentive mechanism to better reflect guidance in D.12-05-015. Therefore we support the first of the two policy directions that the ALJ Ruling seeks comment on (p. 4), "Make only incremental changes to the existing incentive model," for the 2013-2014 portfolio period. We believe that incremental changes can more likely be absorbed into the applications as submitted on July 2, 2012 without creating instability that reduces the effectiveness of the programs for customers or harming the efficiency industry and the job growth that we are experiencing. While D.12-05-015 directs the utilities to begin a process of transition for the portfolios, the 2013-2014 period maintains enough of the existing guiding principles, objectives, programs, and goals such that a revised incentive structure could apply to the period. We do not at this time have comment on the specific proposals for incremental changes that are offered in the ALJ Ruling or in previous comments.

2. **The Efficiency Council recommends that efforts to examine the options for entirely new incentive approaches be included later in the proceeding, after resolution of the 2013-2014 mechanism, and be directed toward the 2015 and later portfolio cycles.**

The ALJ Ruling seeks comment on whether in parallel with consideration of limited incremental changes, the Commission should consider adopting more extensive reforms for the 2013-2014 period (p. 6). The Efficiency Council does not recommend this approach for 2013-2014 transition period and suggests that, while the effort to assess more extensive reforms has merit, it be approached in the context of 2015 and beyond. This will give the parties and Commission time to address the parties' proposals, especially in light of the longer-term principles and objectives that are expressed in D.12-05-015 and as part of the ongoing efforts in the main efficiency proceeding R.09.11-014. With many efforts still to complete in order to have an on-time start of the 2013-2014 portfolio, attempting to engage the parties in a complete redesign of the incentive mechanism would result in a less-than-ideal outcome. Rather, we believe that it would be a more appropriate use of parties' and the Commissions time and resources to engage in a process of evaluation and redesign for 2015 and beyond and to engage in a phased process whereby the assessment of broader reforms begins after the 2013-2014 incentive mechanism is resolved. Addressing the more extensive reforms for 2015 and beyond would also align with many other efforts, including cost-effectiveness and EM&V, which also need to be resolved for this later time period.

## III. Conclusion

The Efficiency Council appreciates the opportunity to offer these comments on the ALJ's Ruling on incentive reforms in the 2013-2014 transition portfolio. We urge the Commission to focus on swiftly resolving incremental reforms in the incentive policies for the 2013-2014 transition period such that the portfolio programs can be smoothly and effectively implemented beginning in less than six months. The Efficiency Council looks forward to working with the Energy Division, Commission and other stakeholders to pursue a longer-term objective of examining options for incentive mechanisms going forward to best situate the state and utilities to meet the state's energy, job creation, Strategic Plan, and AB 32 goals.

Dated: July 16, 2012

Respectfully submitted,

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