



ANALYSIS

CALIFORNIA PUBLIC UTILITIES COMMISSION

AB 1316 (Ma) **As Amended May 13, 2009**

SUMMARY

This bill would require the Low-Income Oversight Board (LIOB) to provide recommendations to the Legislature, as requested, on policy or legislation impacting low-income customers. This bill would also require the LIOB to monitor and evaluate proceedings before the California Public Utilities Commission (Commission) that impact low-income electricity, gas, and water customers, to the extent possible. In addition, this bill would require the LIOB to actively solicit public input and recommendations through town hall meetings and other forums that target underserved areas.

CPUC POSITION AND SUPPORTING ARGUMENTS

OPPOSE. The Commission recognizes the author's and sponsor's intent to ensure that low-income needs are being addressed and represented in Commission proceedings during these difficult economic times. However, expanding the LIOB's responsibilities as this bill proposes is the wrong approach.

The LIOB was created to fulfill an advisory role to the Commission on the implementation and administration of low-income assistance programs. This bill would expand the LIOB's role to include advocacy before the Commission regarding open proceedings that may impact low-income ratepayers. This advocacy role would create an unacceptable conflict of interest for Commission staff that provide workload support for the LIOB while simultaneously executing their primary work responsibilities for the Commission managing low-income programs and staffing proceedings related to those programs. It would also create an unacceptable conflict of interest for the CPUC commissioner appointed to the LIOB. The LIOB's advice to the Commission on low-income programs is critical, and should not be diluted and overshadowed by an expanded mission to advocate on all issues affecting low-income customers.

ANALYSIS

- **This bill would require that the LIOB review and make recommendations on the proposed budgets for low-income electricity, gas, and water programs prior to approval by the Commission.**

The requirement that the LIOB review and make recommendations regarding the proposed budgets for low income electric, gas and water programs would impose a significant new statutory responsibility and workload on this volunteer Board. Also, the Commission's process for approving low income program budgets may require

additional time in order to accommodate the required submission of the LIOB's recommendations.

This bill would also require the LIOB to provide recommendations to the Legislature on legislation and policy issues, as well as advocate before the CPUC in open proceedings affecting low-income customers.

- **The LIOB's role as an advisory board to the Commission should not be modified.**

This bill may result in the creation of the LIOB as an entity which competes with the Commission in its jurisdiction over the regulation of the utilities. The LIOB's legal history demonstrates that an advisory role is preferable to other roles requiring the Board to assume greater responsibility.

- **The requirement that the LIOB provide recommendations to the Legislature on policy and legislation, as requested, may be in constitutional conflict with the LIOB's role as advisory to the Commission.**

The LIOB should not advise the Legislature directly while also advising the Commission. The Commission has the jurisdiction to regulate the IOUs and to develop, design, implement, and monitor low income programs considering the interests of all stakeholders including low income ratepayers, non-low income ratepayers including residential, commercial, and industrial classes, and other interest groups. Thus, the interests of the much narrower constituency of the LIOB and the broader public interest that the Commission serves might come into conflict if the LIOB is to provide policy and legislative recommendations directly to the legislature.

Moreover, in its last meeting in March 2009, the LIOB had an extensive discussion on handling of legislative bills and decided that its appropriate role was to advise the Commission on legislative matters but that since the legislative cycle moved rapidly, the amendments to various bills happened too quickly for the LIOB to comment on specific legislation, and because the Board lacked the expertise to evaluate the specifics of legislative bills, the Board would comment on general themes. The Commission believes this is the appropriate role of the LIOB.

- **The requirement that the LIOB monitor and evaluate all proceedings before the Commission that might potentially affect low income customers is untenable.**

The LIOB currently exists as an advisory body to the Commission, representing the interests of low income customers. Monitoring and evaluating the proceedings will distract from the main charter of the LIOB, namely, to provide input from low income communities to the Commission on low-income programs. Since the LIOB is voluntary, and a majority of Board members have other full time jobs, it is challenging for them to fulfill this primary responsibility effectively. Therefore, requiring the LIOB to review and monitor all proceedings would be a disservice to low-income customers by diverting the attention of the LIOB from low-income programs. Additionally, the LIOB does not have the resources or technical expertise to carry out this provision.

At the LIOB meetings, Commission staff informs the Board of the most important issues affecting low-income customers facing the Commission. For example, the LIOB receives regular briefings on the California Solar Initiative, the Telecommunications Lifeline Program, the status of the Energy Efficiency Strategic Plan, etc. In addition, as new issues arise, they are incorporated into the LIOB meeting agenda.

During the last LIOB meeting in March 2009, the LIOB agreed that it would not comment on specific proceedings because it does not have the time to do so. Rather, it would address general themes in these proceedings. At its January 2009 meeting, the LIOB agreed to concentrate its activities on focused areas rather than receive a lot of information on a variety of proceedings and topics.

- **The requirement to solicit recommendations and input through town hall meetings and other forums that target underserved areas is problematic.**

The members of the Board are selected from Community Based Organizations and other entities. Based on this experience, they interact with the low-income population and communities and bring input and insights from these communities to the Commission. The members who serve on the Board should not need additional forums to achieve this objective. A significant part of each LIOB meeting should be devoted to a discussion of such input from low income communities. This change can be easily implemented by restructuring the Board meetings rather than organizing town hall meetings which the Board members themselves do not have time to conduct nor attend.

It is unclear as to who will organize and facilitate town hall meetings and other forums that target underserved areas. The Commission does from time to time organize town hall meetings and other forums for specific purposes. The We-CARE Week is an example whereby the Commission informed low income communities of initiatives available to them from the CPUC to cope with the current economic crisis.

- **The LIOB's authority to establish an advisory committee to assist the board and request assistance from commission staff, utility representatives, low-income service providers and consumer organizations creates a conflict of interest for Commission staff, as well as others.**

Commission staff cannot be required to reveal recommendations on proceedings to the LIOB. Doing so would require these members of the regulatory advisory committee to wear a different hat when working with the LIOB than when working on behalf of the Commission, thereby creating a conflict of interest and potential legal problems. Also, having utility representatives providing advice to the LIOB, which the LIOB will then pass on to the Commission, will create legal problems because the LIOB will be serving as a conduit between the investor-owned utilities (IOUs) and the Commission.

- **The LIOB is currently supported by Energy Division staff, which does not have the resources to support an expanded role for LIOB.**

The LIOB, which currently meets four times a year, would need additional logistical and administrative support, per diem, and travel expenses for more frequent meetings to fulfill AB 1316's mandates.

Currently, the Commission's Energy Division acts as a resource for the LIOB explaining the issues affecting low-income customers under consideration by the Commission and the impact of various Commission decisions on low-income customers. This enables the LIOB to understand and convey the concerns of low-income customers and weigh in on these issues with the Commission. Energy Division's support allows the LIOB to fulfill its statutory role as an advisory body to the Commission and as a liaison between low-income communities and the Commission. The Energy Division organizes and facilitates the LIOB meetings and provides assistance to the Board in understanding the issues. The enhanced scope and budgets for the low income programs, particularly the Low Income Energy Efficiency Program is an example of the success of this consultative process.

Thus, the LIOB should continue to interact with the Commission and the Energy Division in an advisory role. Energy Division's mission to support the Commission in its decision making, and the LIOB's current mission to advise the Commission, are not in conflict but in fact are synergistic, with shared interests and commonalities.

PROGRAM BACKGROUND:

- Commission Decision 97-02-014 provided policy directives on the administration and funding of low-income services in a restructured electric industry environment. The Commission favored a structure that moved away from utility administration of low income programs over time, selecting a Governing Board to oversee the administrative process. The Governing Board was assigned the task of issuing a request for proposal (RFP) to hire a program administrator. Referred to as the Low Income Governing Board (LIGB), this entity was assigned the task of overseeing the administration of low-income programs, subject to Commission oversight. An Assigned Commissioner Ruling dated July 1, 1999, delineated a new role for the Energy Division of providing technical and administrative support to the board.
- On October 6, AB 1393 (Wright, Chapter 700, Statutes of 1999) was enacted requiring the utilities to continue administering the low-income programs. Therefore, the LIGB no longer held the responsibility of developing a RFP or other processes necessary to achieve the independent administration of low-income programs. Decision 00-02-045 disbanded the LIGB, replacing it with the Low Income Advisory Board (LIAB) entrusted with its new role of advising the Commission and serving as an important liaison to low-income communities. The Decision also reiterated the role of the Energy Division as that of providing technical and administrative support to the LIAB and endowed it with the authority to direct and set priorities for staff resources dedicated to the LIAB. The LIAB was directed to prioritize its projects in proportion with limited Energy Division resources.

- Passed in 2001, SBX2 2 (Alarcon) replaced the LIAB with a Low Income Oversight Board (LIOB). The new LIOB was assigned the task of advising the Commission on low-income electric and gas customer issues. As stated under PUC Section 382.1, the LIOB is designated to serve as a liaison for the Commission with low-income ratepayers and representatives and advise the Commission on low income electric and gas customer needs.
- Resolution No. L-299 (dated April 22, 2002) adopted a charter establishing the governing structure of the LIOB. The charter's Article 8 reads as follows:

“8.1: While the LIOB shall have the power and authority to function consistent with this Charter, and in particular, to carry out the duties and responsibilities specified in Article Four of this Charter, it shall not have the authority to direct Energy carriers to act or refrain from acting. Such authority shall remain solely with the Commission.

8.2 The activities of the LIOB shall be carried out under the Commission's direction, control and approval.”

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