

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

Order Instituting Rulemaking Concerning
Energy Efficiency Rolling Portfolios,
Policies, Programs, Evaluation and
Related Issues.

Rulemaking 13-11-005
(Filed November 14, 2013)

**OPENING COMMENTS OF THE
CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT COUNCIL
ON ADMINISTRATIVE LAW JUDGE'S RULING SEEKING COMMENTS ON
IMPLEMENTATION OF ASSEMBLY BILL 841
(BUDGET DEVELOPMENT AND ADMINISTRATION)**

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I. INTRODUCTION

The California Efficiency + Demand Management Council (“The Council”) appreciates this opportunity to submit these Opening Comments on the Administrative Law Judge’s Ruling Seeking Comments on Implementation of Assembly Bill 841 (“ALJ Ruling”), issued in R.13-11-005 on October 7, 2020. These Opening Comments are timely filed and served pursuant to the Commission’s Rules of Practice and Procedure and the instructions accompanying the ALJ Ruling.

II. OVERVIEW

The ALJ Ruling seeks comments on implementation of Assembly Bill (AB) 841, specifically as to (1) Budget Development and Administration and (2) Programmatic Implementation of AB 841.¹ These Opening Comments pertain only to the questions regarding Budget Development and Administration.

The Council strongly believes that the implementation of AB 841 should in no way be an impediment of the Commission’s ability to oversee the successful implementation of energy efficiency (“EE”) programs under the administration of the four investor-owned utilities (“IOUs”). The Council has argued in numerous venues before the Commission over the past year that, particularly during these times of economic hardship due to the pandemic and rapidly changing climate effects due to global warming, now is the time to aggressively expand our EE

¹ ALJ Ruling, at pp. 1 and 9.

efforts. As such, we should not be contemplating the possibility of unspent funds but rather reform the myriad of outdated Commission rules and regulations governing EE in order to unlock greater levels of potential.

III. THE COUNCIL'S RESPONSES TO BUDGET DEVELOPMENT AND ADMINISTRATION QUESTIONS IN THE ALJ RULING

- 1. Do parties agree that the amount to be transferred by the IOUs to the CEC, for the School Energy Efficiency Stimulus Program budget, is incremental to any amounts the CPUC will approve in response to their September 1, 2020 annual budget advice letters and will require an increase in IOU customer rates?**

The Council agrees that the amount transferred from the IOUs to the California Energy Commission ("CEC") is incremental to the budgets approved through the Annual Budget Advice Letter ("ABAL") process. It is the Council's understanding from the AB 841 language that there will be no increases in the amount collected pursuant to an existing charge beyond the amounts already authorized by the Commission for the IOUs to recover according to D.18-05-041.

- 2. If the amount to be transferred by the IOUs to the CEC for the School Energy Efficiency Stimulus Program budget is incremental to any amounts the CPUC approves in response to their September 1, 2020 annual budget advice letters, how specifically should the IOUs transfer this amount to the CEC by March 1, 2020, given that this amount will not have been collected in rates as of March 1, 2020? The IOUs must propose how specifically to recover the amount to be transferred to the CEC for the School Energy Efficiency Stimulus Program. Each IOU's response must identify the specific balancing account(s) or other accounting mechanism(s) they propose to use for tracking the amount to be transferred to the CEC and describe how that amount would be recovered in customer rates.**

The Council does not have a response at this time, but reserves the right to respond to proposals from other parties in our Reply Comments.

- 3. As proposed in Table 1, the annual portfolio funding limitation for program year 2020 is the total of the IOUs' budget caps as approved by D.18-05-041 and updated in each IOU's program year 2019 annual budget advice letter submitted in September 2018. This total does not include budget limitations set for Regional Energy Networks (RENs) or Community Choice Aggregators (CCAs). Do parties agree that the amounts used in Table 1 to calculate the difference between the annual portfolio funding limitation for program year 2020 as authorized by D.18-05-041, as modified, and the budget approved as of July 1, 2020, are the correct amounts? If not, specify the correct amount for each IOU and provide a source for each amount.**

Based on our review and interpretation of the law, the Council believes that the numbers as presented in the Ruling are correct and accurate.

- 4. Do parties agree that the amount of unspent and uncommitted energy efficiency funds identified in each IOU's September 1, 2020 annual budget advice letter is the correct amount to be allocated toward the School Energy Efficiency Stimulus Program, pursuant to Section 1615(a)(1)(B)? If not, specify the correct amount for each IOU and provide a source for each amount.**

The Council does not have a response at this time, but reserves the right to respond to proposals from other parties in our Reply Comments.

- 5. Explain how the School Energy Efficiency Stimulus Program budget should be reconciled against the energy efficiency portfolio budget in the event that their combined sum for a given program year exceeds the authorized amount in D.18-05-041. Should the CPUC consider authorized annual budget limits that include budgets for RENs and CCAs, or be limited to IOU budgets?**

If the combined sum for a given program year exceeds the authorized amount in D.18-05-041, the Council recommends that the Commission require those IOUs to spend or commit these funds within their EE portfolios in order to avoid rate increases beyond those authorized in D.18-05-041. Further, we believe that given that there would be a short timeframe for ensuring those funds are spent in any given year, The Council recommends that the IOUs issue quick-turnaround solicitations for third-party EE program providers. In order to facilitate expedited spending of those funds, cost-effectiveness assessments should only consider the costs incurred by ratepayers, and external funding not affecting ratepayers such as participant costs and/or third-party financing, should not go against project cost effectiveness.

The Commission should further consider that the total approved utility budgets in D.18-05-041 for the full 2018-2025 business plan period be considered the budget limitation and should not set annual budget caps. Since AB 841 requires the use of prior year unspent and uncommitted funds varying across 2020, 2021, and 2023, and uses only 2020 ABAL and business plan budgets to determine funding levels, it makes sense to consider overall funding limitation to be the sum of all program year authorized funding in the business plans, and not just the budget limitations for each specific program year. The Commission should identify the total approved funding for each utility for the 2018-2025 business plan period and allow spending up to that total authorized spending amount for each utility for program years 2018-2025.

6. Parties should identify any other details that are necessary for the IOUs to include in the joint advice letter, to be submitted by February 1, 2021.

The Council does not have a response at this time, but reserves the right to respond to proposals from other parties in our Reply Comments.

7. Parties that disagree with how the Commission intends to implement funding of the budget for the School Energy Efficiency Stimulus Program shall provide an alternative explanation for how to implement funding for the program. Specifically:

- a. If you believe that funding for the School Energy Efficiency Stimulus Program must not increase rates beyond any amounts the CPUC approves in response to the IOUs' September 1, 2020 annual budget advice letters, explain how the funding amount (for each IOU) for the School Energy Efficiency Stimulus Program should be set.**

The law clearly requires that IOUs recover the full amounts authorized in the business plans and not be limited to their ABAL submissions. By not allowing the School Energy Efficiency program funding to exceed amounts authorized by the commission in Decision 18-05-041, AB 841 authorizes the levy of a charge and increase in the amount collected up to the amounts authorized in D.18-05-041:

1615.(b) (1) This section does not authorize the levy of a charge or any increase in the amount collected pursuant to an existing charge beyond the amounts authorized by the commission in Decision 18-05-041, or as modified by Decision 20-02-029, nor does it add to, or detract from, any existing authority of the commission to levy or increase charges.²

The question above is misleading as nothing in the bill would restrict rate increases to amounts approved in the IOUs' September 1, 2020 annual budget advice letters. The presumed intention of the bill is to require the IOUs to spend the funding authorized in D.18-05-041 on EE programs as originally intended in the approval of the IOU business plans. This presumption is supported in AB 841 where it states that the utilities should allocate any amounts below the authorized amount and any unspent prior year funding to the School Energy Efficiency Stimulus Program. As highlighted by the Commission in the Ruling³, the IOUs under-funded EE programs through the ABAL process by \$236,870,755 in 2020 alone compared to what they submitted in their approved business plans. Per the table in the Commission's ruling, the IOUs expect to further

² AB841 https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB841

³ ALJ Ruling Seeking Comments on Implementation of Assembly Bill 841, page 4

underspend authorized funding by a supplemental \$56,923,000⁴ by the end of 2020. The Council urges the Commission to address the root causes of this underspending and immediately adopt the remedies proposed by The Council and other parties over the past year, including changing the cost-effectiveness test requirements from Total Resource Cost (“TRC”) to Program Administrator Cost (“PAC”), eliminating discount factors that are based on unsubstantiated claims of free-ridership, and eliminating unnecessary layers of pre-approvals for custom and Normalized Metered Energy Consumption (“NMEC”) projects.

b. Alternatively, what dollar amount should be transferred by each IOU to the CEC for the program year 2021 budget of the School Energy Efficiency Stimulus Program? Are these amounts incremental (i.e., in addition) to any amounts the CPUC approves in response to the IOUs’ September 1, 2020 annual budget advice letters?

Any amount transferred from the IOU to the CEC should be incremental to the already restricted utility EE budgets submitted through the ABAL process. As indicated in the previous response, the intention of AB 841 is to allocate authorized funding in the utilities’ business plans for energy efficiency efforts. Prior year unspent funds should be committed to third-party EE programs in order to avoid exceeding funding limitations as required in D.18-05-041.

8. What should be the Commission’s oversight role in tracking the funding of the School Energy Efficiency Stimulus Program budget? What changes or updates does the Commission need to make to existing energy efficiency tracking and reporting infrastructure in order to properly account for the transfer of money from the IOUs to the CEC for the School Energy Efficiency Stimulus Program?

The Council does not have a response at this time, but reserves the right to respond to proposals from other parties in our Reply Comments.

9. What other issues need to be addressed in advance of the IOUs’ February 1, 2021 joint advice letter?

The Council does not have a response at this time, but reserves the right to respond to proposals from other parties in our Reply Comments.

⁴ Ibid.

IV. CONCLUSION

The Council appreciates the opportunity to offer our comments and recommendations on the Budget Development and Administration of the ALJ Ruling.

Dated: October 16, 2020

Respectfully submitted,

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