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 PROPOSED DECISION CONTINUING EFFICIENCY SAVINGS AND PERFORMANCE INCENTIVE MECHANISM AND ALTERNATE PROPOSED DECISION IMPOSING MORATORIUM ON EFFICIENCY SAVINGS AND PERFORMANCE INCENTIVE PROGRAM

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I. INTRODUCTION

The California Efficiency + Demand Management Council[1] ("The Council") respectfully submits these Opening Comments on the Proposed Decision Continuing Efficiency Savings and Performance Incentive Mechanism ("Proposed Decision" or "PD") and the Alternate Proposed Decision Imposing Moratorium on Efficiency Savings Performance Incentive Program ("Alternate Proposed Decision" or "APD"). Both the Proposed Decision and the Alternate Proposed Decision were mailed in this proceeding on October 2, 2020. These Opening Comments are timely filed and served pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure and the instructions accompanying the Proposed Decision and Alternate Proposed Decision.

II. THE COUNCIL VEHEMENTLY OPPOSES THE APD

The Council is strongly and unequivocally opposed to Commissioner Randolph's Alternate Proposed Decision. The Energy Savings Performance Incentive ("ESPI") was first established in Decision (D.) 13-09-023. Before the Commission authorized the creation of incentive payments via the ESPI, it first considered whether or not to end utility incentive payments. The Commission settled this issue in D.12-12-032, and it could have ended shareholder incentive payments at that time. The Commission declined to do so, and re-designed

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[1] The views expressed by the California Efficiency + Demand Management Council are not necessarily those of its individual members.

the incentive mechanism from the Risk/Reward Incentive Mechanism to the ESPI at that time. No material reason has been presented to reconsider this policy. By creating a moratorium on ESPI payments, the APD undermines a critical component of California's energy efficiency ("EE") marketplace.

The ESPI was created not only to encourage the Investor-Owned Utilities ("IOUs") to, "…motivate the IOUs for performance within their control…", but also to devote decision-making resources to EE; by placing a moratorium on ESPI payments the APD removes a key incentive for IOU corporate leadership to continue to invest in this critical resource.[2] The ESPI was designed to provide regular, consistent, and predictable payments to utility shareholders so that they would motivate proper allocation of senior management and resources to managing the state's highest priority resource. In fact, the prudent management of the portfolio is a central feature of the ESPI.

The ratepayer value embedded in these shareholder payments is inextricably linked to this prudent management emphasizing certainty of operations, regularity of size and predictability of timing. By even issuing an APD that would create a moratorium, the Commission is recklessly undermining the value of the incentive payments. This moratorium makes it so that the ESPI payments are not dependable, and therefore will not actually incent shareholders to devote resources. Moreover, the APD creates a de facto cessation of ESPI incentive payments by not specifying any end-date of the moratorium imposed.[3] This is doubly important within the broader context of a decline in EE spending. Between PY2017 and PY2021, total filed IOU EE budget requests across the IOUs declined by nearly 36%, from $963.9M to $619.1M.[4] The APD places further downward pressure on IOU EE budgets and corporate resourcing that deepens, rather than alleviates, this recent trend. This is disappointing given the central role that EE needs to play for the state to realize its increasingly-ambitious climate and energy savings goals.

While the APD is expected to be harmful to the full deployment of EE, it is particularly counterproductive in the face of current COVID-19 realities that further emphasize the need for critical, stimulative EE spending. The APD's shortsighted solution to a reasonable desire to

[2] APD, at p. 38.
[3] APD, Ordering Paragraph 2.
[4] CEDARS California Energy Data and Reporting System data for PY2017 – PY2021.

reform ESPI further harms communities still reeling from this crisis, and explicitly disregards the original intention of ESPI, "…to encourage IOU performance while protecting the interests of ratepayers." Given the significant health and economic impacts facing California's residents and businesses, the IOUs should be encouraged to expand their programmatic offerings to drive invaluable bill reductions and job creation. Yet the APD de-prioritizes utility management of the state's largest bill management program.

While it is impossible to predict how long the COVID-19 crisis will impact Californians, the duration of previous recessions (e.g. 2008) unquestionably demonstrates that it will extend through the duration of the PY2021 Annual Budget Advice Letter ("ABAL") and at least through PY2022–PY2023 – if not longer. Therefore, the Commission should not only encourage the IOUs to maximize discretionary EE spending, but should also undertake all potential efforts – including maximizing incentives– that are necessary to expand the pool of programmatic activities. The deployment of incentives should take place alongside parallel reform efforts including, but not limited to, reforming cost-effectiveness to broaden the scope of viable programmatic activities.[5]

III. THE COUNCIL SUPPORTS THE PD

The Council strongly supports the Administrative Law Judge's ("ALJ's") Proposed Decision. Where the APD is a blunt instrument response to calls for ESPI reform, the PD appropriately pauses the reform process for procedural purposes while retaining appropriate incentivization of invaluable EE programs during a critical period. The Council wholeheartedly agrees with the PD's Conclusion of Law 4, which states, "An incentive mechanism is an appropriate use of ratepayer resources, to the extent that the mechanism drives incremental program performance resulting in net-positive benefit for California's energy customers."[6] As stated in The Council's Opening Comments in response to the ALJ's Ruling Seeking Comment on Reforming or Eliminating ESPI, we appreciate many of the Public Advocates Office's ("PAO's") assertions in calling for a review of ESPI. The Council believes that the Commission has already settled the issue of whether or not there should be an incentive mechanism, and the

[5] Note that the Council has provided the Commission specifics of what cost-effectiveness reforms would look like. Please refer to our Opening Comments for the IDER proceeding (R.14-10-003) dated 4/15/19 and the Potential & Goals Ruling (R.13-11-005) dated 5/22/20.
[6] PD, Conclusion of Law 4.

PD correctly places PAO's arguments into the proper context. The Council believes ESPI must be maintained as it plays an important role in driving procurement of valuable EE. Given indications that –despite California's policy leadership in combating climate change– the state is not on track to meet its 2030 climate goals until 2061, retaining and modifying ESPI to effectively incentivize achieving *and overachieving* portfolio savings targets provides a valuable means of generating EE savings to get our state back on track.[7]

While the mandate for 60% third-party EE portfolio implementation has changed the nature of program delivery, the IOUs are nonetheless the party responsible for cost-effective program delivery. As such the IOUs must continue to be incentivized for both achievement and overachievement of EE portfolio goals, which facilitate achievement of California's climate and energy savings goals. While The Council is under no illusion that ESPI is perfect in its current form, we strongly urge the Commission to approve the PD – over the APD. Doing so will avoid further harm to an EE industry that is already struggling with reduced budgets and overly-stringent cost-effectiveness assessment, and enable a strong response that can reduce bills and create jobs during the current COVID-19 crisis.

VI. CONCLUSION

The Council respectfully requests that the Alternate Proposed Decision be rejected and that the Proposed Decision be adopted for the reasons stated above.

Respectfully submitted,

October 22, 2020

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[7] Next 10, "2019 California Green Innovation Index", at p. 4. October 2019. Available at: https://www.next10.org/sites/default/files/2019-10/2019-california-green-innovation-index-final.pdf