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)

**REPLY COMMENTS OF
THE CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT COUNCIL ON ADMINISTRATIVE LAW JUDGE'S RULING INVITING COMMENTS ON DRAFT POTENTIAL AND GOALS STUDY FOR 2024 AND BEYOND**

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The California Efficiency + Demand Management Council[1] ("The Council") appreciates the opportunity to submit these Reply Comments on the Administrative Law Judge's Ruling Inviting Comments on Draft Potential and Goals Study for 2024 and Beyond, issued in this proceeding on April 17, 2023 ("ALJ Ruling"). These Reply Comments have been timely filed and served pursuant to the Commission's Rules of Practice and Procedure and the instructions contained in the ALJ Ruling. Attachment 1 to the ALJ Ruling is the "2023 Energy Efficiency Potential and Goals Study – Public Draft" ("Draft 2023 Potential and Goals ("P&G") Study").

I. THE COUNCIL FINDS VALUE IN AND SUPPORTS SCENARIO 1

In our Opening Comments, the Council voiced support for Scenario 4 as the preferred scenario to inform the 2024-2034 goals.[2] The Council also, generally, voiced support for a scenario that includes the impacts of the Inflation Reduction Act ("IRA") to be selected for the energy efficiency goals. Upon reviewing the opening comments of participating parties in response to the Administrative Law Judge's Ruling Inviting Comments on Draft Potential and Goals Study for 2024 and Beyond, the Council acknowledges the thoughtful arguments raised by the Public Advocates Office ("Cal Advocates") and Southern California Edison ("SCE") in support of Scenario 1 as their preferred scenario to inform the 2024-2034 goals.[3]

The Council eagerly anticipates significant benefits that could be delivered under the IRA rollout and complementary statewide programs that enable incentive stacking. Despite that anticipation, the arguments raised by Cal Advocates and SCE surfaced a myriad of uncertainties

[1] The views expressed by the California Efficiency + Demand Management Council are not necessarily those of its individual members.
[2] Opening Comments of the Council, at pp. 3-5.
[3] Opening Comments of Cal Advocates, at pp. 2-4 and Opening Comments of SCE, at pp. 5-7.

regarding IRA implementation and the impacts on energy efficiency ("EE"). Those uncertainties may lead to over-estimations or underestimations of IRA benefits and thus EE potential and goals. In either scenario where IRA incentive benefits are not relatively accurately forecasted, funding delivered to EE programs could be outsized. Substantial overestimation and the likely resulting under-delivery of programs can prove detrimental to the EE industry at large. In the hopeful scenario that IRA incentives lead to significant advancements of EE programs and engagement the industry will capture those benefits and, in doing so, produce quality data for the next P&G Study. The Council urges a balanced and pragmatic approach towards resolving this concern, such as that offered in Scenario 1.

In SCE's Opening Comments, they addressed historic underperformance of well-crafted, federal incentive programs:

> after the passage of the American Recovery and Reinvestment Act (ARRA), which provided the Department of Energy with $4.5 billion to modernize the electric power grid,[4] SCE Residential New Construction and Residential HVAC programs did not see a significant increase in program participation. Although the situations are not completely analogous, the IRA provides a similar level of tax credits as the ARRA did on eligible equipment. Thus, although it might seem as though the reduced customer cost **might** expand the number of EE projects that would become economically viable, any such effect is still highly uncertain.[5] [emphasis added]

The Council reiterates SCE's point that though circumstances are different between the passage of IRA and ARRA, and we would argue vastly different, well-intended and thought-out incentives could fall short of their full potential. The Council emphasized the key term "might" above as it illustrates the uncertainty of the scope of realized benefits. In Cal Advocates Opening Comments, they succinctly captured a wide range of potential incentive uncertainties that could result in unintended consequences:

> [The Draft 2023 P&G Study] relies solely on federal tax credit assumptions and ex-ante analyses. The Draft Study also acknowledges how tax credits impact the cost-effectiveness and eventual market adoption of applicable EE and FS measures, but the "precise impacts of the IRA are difficult to predict."[6] Moreover, the IRA tax

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[4] American Recovery and Reinvestment Act available at https://www.energy.gov/oe/2009-americanrecovery-and-reinvestment-act.
[5] Opening Comments of SCE, at p. 8.
[6] Decision Addressing Codes and Standards Subprograms and Budgets and Staff Proposal on Reducing Ratepayer-Funded Incentives for Gas Energy Efficiency Measures, Decision (D.)23-04-035, April 14, 2023, at 23-24.

> credits only impact the cost-effectiveness of measures for customers with sufficient tax liability.[7]

Due to the breadth of uncertainty in to-be-realized IRA benefits, the Council acknowledges the risks and challenges with choosing a scenario that incorporates the IRA at this stage in its rollout and urges the Commission to adopt Scenario 1 in its final 2023 P&G Study.

II. THE COUNCIL URGES THE COMMISSION TO INCORPORATE IRA INPUTS AND SCENARIOS IN UPCOMING P&G STUDIES

<u>Externalities</u>

The Council recognizes Cal Advocate's concern regarding the external nature of the IRA who states that "[i]nclusion of an external variable outside the control of the Commission and IOUs will make it difficult to precisely track customer savings and utilization of tax credits compared to ratepayer-funded programs."[8]

As the Draft 2023 P&G Study states: "Due to uncertainty at the time of this study regarding the design and administration of the program-based IRA rebates, the 2023 PG Study considered only the impact of tax credits mandated by the IRA."[9] The Council believes the implementation specifics of IRA mandated tax credits are largely in their infancy. The Council points to Guidehouse Staff's revision of FS inputs for the Draft 2023 P&G Study as an illustrative and primary reason why even IRA mandated tax credits should not yet be incorporated in the 2023 P&G Study:

> Using a combination of historic program data and 2022 budget filings from in-market IOU FS programs, the 2023 Potential & Goals model resulted in an 81%-90% lower potential for Residential and Commercial FS measures in Scenarios 1, 2, and 4. This reflects a lower market maturity for these program types when compared to EE, which was the basis for the 2021 Study Goals setting Scenario as well as 2023 Scenario 3.[10]

The Draft 2023 P&G Study should reasonably mitigate uncontrollable and external factors. For example, the Draft 2023 P&G Study does not take many other variable and external impacts, such as inflationary pressures, potential economic recessions, or workforce

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[7] Opening Comments of Cal Advocates, at p. 3.
[8] *<u>Id</u>*., at p. 2.
[9] Draft 2023 P&G Study, at p. xii, Footnote 3.
[10] *<u>Id</u>*., at p. xiii (Table ES-2).

participation, into account. It will be difficult for the 2023 P&G Study to capture such externalities relatively accurately without a fair sense of data and experience.

The Council cautions against leveraging external factors outside of the Commission's or investor-owned utilities' ("IOUs'") purview when and where reasonable. The Council believes both that it is reasonable to 1) remove IRA incentive benefits from the current P&G Study scenarios, and 2) incorporate IRA-inclusive scenarios in the next and future P&G studies – assuming sufficient incentive and program data has been collected. The Council therefore urges the Commission to direct Guidehouse Staff (perhaps in the Commission's work to prepare the next P&G Study) to leverage and incorporate IRA-inclusive scenarios in the 2025 P&G Study, assuming sufficient program data has been collected.

Uncertainties

The following are a non-exhaustive list of uncertainties regarding IRA incentives, intended to underscore a sample of "known-unknowns":

- How will IRA incentives be prescribed to deemed measures in the California Electronic Technical Reference Manual ("eTRM")?
- How will IRA incentives interact with or impact custom projects?
- How do IRA incentives account for PA administrative and Implementer administrative costs?
- How will programs account for IRA participation when tax filings could occur up to 16 months from the energy claim?
- How will IRA participation vary by sector and business type?
- How will residential and small business IRA participation vary by class (e.g. hard-to-reach or non-hard-to-reach)?

As noted above, the Council urges the Commission to direct Guidehouse Staff to incorporate IRA tax credits and EE rebates in the next P&G Study assuming there has been sufficient program experience and data collected. The importance of incorporating IRA inputs is not lost on the Council, particularly regarding the expectation IRA incentives could be available over the coming decade. However, to reiterate our concerns, while IRA incentive impacts remain unknown or wholly unclear, the 2023 P&G Study should avoid leveraging IRA scenarios to develop EE goals.

III. CONCLUSION

The Council appreciates the opportunity to provide these Reply Comments.

Respectfully submitted,

May 18, 2023

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