DRA

Division of Ratepayer Advocates
California Public Utilities Commission

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April 29, 2011

Honorable Nancy Skinner
California State Assembly
Capitol Building, Room 4126
Sacramento, CA 95814

RE: AB 904 (Skinner) Support (suggested amendments also attached)

Dear Assemblymember Skinner:

DRA (Division of Ratepayer Advocates) is an independent consumer advocacy Division at the California Public Utilities Commission (CPUC). DRA's statutory mandate is to obtain the lowest possible rate for utility service consistent with reliable and safe service levels. DRA also advocates for customer and environmental protections in connection with utility service.

DRA supports your AB 904 as amended on April 14, 2011, which would require the CPUC to (i) ensure energy efficiency programs result in real reductions in energy consumption, (ii) examine alternatives to traditional administration and delivery of energy efficiency services, (iii) examine alternatives to traditional evaluation of energy efficiency services and (iv) examine the establishment of on-bill financing for residential customers.

DRA also suggests that this bill be amended to provide more specific direction to the CPUC (discussed below) and to strengthen its connection to the key objectives established in your AB 758 (Chapter 477, Statutes of 2009). The attachment to this letter provides more detail, including suggested language.

- The CPUC should establish a non-profit public benefit corporation with a broad mandate to deliver energy efficiency programs and services in the areas served by the four largest investor-owned electric and gas utilities. These utilities have a bias toward increasing their rate base, and this is built into the way their organizations function. This bias is in conflict with the main objective of energy efficiency, which is to build less plant. CPUC attempts to encourage utilities to truly embrace energy efficiency as a business, and to develop innovative programs and approaches to transform energy efficiency markets, will continue to fail. Fourteen states have already established alternative energy efficiency administrative and delivery structures. Now is the time for California to do the same.
- To ensure energy efficiency programs result in real reductions in energy consumption, the CPUC should: 1) develop the appropriate evaluation, measurement, and verification methods and protocols at an individual building level (not individual unit "widget" level as it does today) and 2) develop a method and protocol for measuring in aggregate real reduction in the state's non-transportation-related energy consumption as compared to an established baseline to which the state must aspire. The former will properly and positively influence energy efficiency program designs and redesigns toward "whole building" approaches. The latter will provide a helpful picture of how the state is doing overall in reducing energy consumption.
- The CPUC should examine requiring energy efficiency programs to emphasize reducing energy consumption (in this case electricity) in areas served by constrained utility transmission, distribution, and generation facilities. This can help advance reliability, defer utility plant investment, and reduce operating cost.

- In considering utility on-bill financing for residential and commercial customers, the CPUC should be required to ensure the terms and conditions for on-bill financing do not discourage the private financial markets from developing energy efficiency loan products.

- The CPUC should be required to examine the development and establishment of one or more financing mechanisms that will leverage the resources available from the private financial markets to fund customer energy efficiency and customer distributed renewable energy projects. For the energy efficiency markets to truly transform, it is imperative to engage the vast resources at the disposal of private financial markets.

By making these changes, AB 904 can be indispensable in focusing energy efficiency programs to achieve real reductions in energy consumption and in truly transforming the energy efficiency markets over the long term.

If you have any questions or would like to discuss this matter further, please call DRA's Legislative Director Matthew Marcus, at (916) 327- 3455 or me at (415) 703- 2381.

Respectfully,

Joseph P. Como, Acting Director
Division of Ratepayer Advocates

By
Matthew Marcus
Legislative Director

Attachment

ATTACHMENT

DRA respectfully submits the following comments and recommendations:

1. The bill requires the PUC to ensure energy efficiency programs result in real reductions in energy consumption.

    DRA Concern: The term "real reductions in energy consumption" needs to be defined to ensure consistency with AB 758 (Chapter 477, Statutes of 2009) and ensure practical implementation.

    DRA Recommendation: Add the following language below.

    > Real reduction in energy consumption shall be measured at two levels: (i) At an individual building level, where real reduction in energy consumption means the difference between a building's average annual energy consumption before and after the energy efficiency measures are implemented. The PUC shall define the appropriate methodology for calculating this difference, and it shall consider this difference as the total net energy savings attributable to the energy efficiency measures implemented under the evaluation, measurement, and verification studies conducted by the PUC. (ii) At an aggregate or gross level, where real reduction in energy consumption shall mean the difference in the state's total non-transportation-related, annual, energy consumption and an established baseline to which energy efficiency programs must aspire. The PUC shall use this framework to define the appropriate methodology to determine the real energy reduction amounts.

2. The bill requires the PUC to examine alternatives to traditional administration and delivery of energy efficiency services.

    DRA Concern: Examining alternatives to traditional administration and delivery of energy efficiency services is far short of what is necessary if real progress is to be made in this significant area. Investor-owned electric and gas utilities make money for their shareholders by building transmission, distribution and generation facilities to increase the amount of rate base on which to earn a return. This incentive may trump policies the PUC has established (e.g., decoupling sales from revenue and utility incentives for energy efficiency) to encourage utilities to truly embrace energy efficiency as a business and develop innovative programs and approaches to transform energy efficiency markets. Fourteen states have established alternative energy efficiency administrative and delivery structures.[1]

    DRA Recommendation: The bill should direct the PUC to establish a new administrative framework for energy efficiency and place the responsibility of program administration in an independent, non-profit, public benefit corporation. To this end, the following language is recommended:

    The PUC shall open a proceeding by March 1, 2012 to develop and establish a Statewide, non-profit, independent, public benefit corporation ("Independent Administrator") to serve as an independent program administrator for energy efficiency to administer energy efficiency programs in the service areas of the four largest investor-owned electric and gas utilities. The Independent Administrator shall be in place by January 1, 2014. The PUC, in consultation and coordination with the Energy Commission and Air Resources Board, shall establish a Governing Board, which at minimum, consists of one representative from each of the following organizations: PUC, Energy Commission, Air Resources Board, a ratepayer advocacy entity, and one at-large member from local government appointed by the Governing Board. The Governing Board is responsible for establishing the Independent Administrator, hiring its Chief Executive Officer, approving its goals and budgets, setting its performance standards, and overseeing its overall performance. The Governing Board may hire a Fiscal Agent, a Contract Manager, and other resources at its

[1] New York, Illinois, New Jersey, Washington, Oregon, Wisconsin, Vermont, Maine, New Hampshire, Hawaii, Delaware, Washington DC, Idaho, and Montana..

discretion to carry out its oversight function. The Governing Board may also form advisory councils to ensure broad public and stakeholder participation, which it shall carefully balance with the intent of this Section to ensure the Independent Administrator is independent and has the appropriate authority and flexibility to develop and implement innovative programs that facilitate the transformation of energy efficiency markets. The PUC shall be responsible for providing the Governing Board with evaluation, measurement, and verification of the Independent Administrator's programs. The PUC shall fund the Independent Administrator and the programs it administers through collections from the Public Goods Charge and other surcharges established by the PUC for energy efficiency. At its sole discretion, the Independent Administrator may hire third-parties on a contract basis to implement specific energy efficiency programs as it deems appropriate.

3. The bill requires the PUC to examine energy efficiency feed-in-tariffs to those who can provide for and obtain verifiable consumption reductions.

   DRA Concern: The application of feed-in tariffs for energy efficiency "negawatts" is impractical, and it will be difficult to implement. Using feed-in tariffs would be imprecise, and difficult to measure and verify. Furthermore, there is a potential that customers will be double-paid, if feed-in-tariffs were established for energy efficiency. Examination of this alternative would require PUC resources that could be expended on more promising alternatives that benefit ratepayers such as the one suggested in #4 below.

   DRA Recommendation: Reference to feed-in-tariffs should be removed.

4. Reducing energy consumption (in this case electricity) in areas served by constrained utility transmission, distribution, and generation facilities can help advance reliability and defer utility plant investment, benefiting ratepayers. Targeting energy efficiency and customer-owned distributed energy facilities (preferably renewable) in these locally constrained areas would accomplish this objective.

   DRA Recommendation: The following language should be added to the bill.

   The PUC should examine targeting and promoting energy efficiency and customer distributed renewable generation programs in areas served by constrained utility local transmission, distribution, and generation facilities.

5. The bill requires the PUC to examine the establishment of on-bill financing for residential customers.

   DRA Concerns: Utility on-bill financing for both commercial and residential customers would place ratepayers at risk for losses. Furthermore, it can serve to discourage the private financial markets to develop energy efficiency financing products that have the potential of vastly expanding the pool of capital necessary to transform the energy efficiency markets and increase adoption.

   DRA Recommendation: The following language should be added to the bill.

   The PUC should ensure the rates and terms for utility on-bill financing do not discourage the private financial markets from developing energy efficiency financing products in the future.

   The PUC should examine the development and establishment of one or more financing mechanisms that will leverage the resources available from the private financial markets to fund customer energy efficiency and customer distributed renewable energy projects.