

California Municipal Utilities Association

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December 23, 2011

California Energy Commission
Dockets Office, MS-4
Re: Docket No. 11-IEP-1A
1516 Ninth Street
Sacramento, CA 95814-5512

DOCKET

11-IEP-1A

DATE DEC 23 2011

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Re: CMUA Comments on the CEC's Draft 2011 IEPR – Docket No. 11-IEP-1A

The California Municipal Utilities Association (CMUA) appreciates the opportunity to submit these comments on the California Energy Commission's (CEC or Energy Commission) draft 2011 Integrated Energy Policy Report, publication number CEC-100-2011-001-LCD (draft 2011 IEPR or Report). CMUA's comments are not intended to be exhaustive of its positions on the broad array of topics contained in the draft 2011 IEPR. Furthermore, individual CMUA utility members may provide specific comments to the CEC on the draft Report.

As background, CMUA is a statewide organization of local public agencies in California that provide water, gas, and electricity service to California consumers. CMUA's membership includes over 40 electric distribution systems and other public agencies directly involved in the electricity industry.¹ CMUA members own and operate significant local and interregional transmission facilities for the benefit of their customers and all of California. In total, CMUA members provide electricity to over one-fourth of California's citizens. CMUA and its members have been active participants in the IEPR process, providing oral and written testimony on several issues.

A. The 2011 IEPR and Future Reports should include an Evaluation of the Cumulative Impacts of New and Existing Rules on Consumers.

Over the past decade, the California Legislature and regulatory agencies have adopted several requirements seeking to increase renewable energy production and reduce the environmental impacts of the state's electricity consumption, with a primary emphasis on reducing greenhouse gases. CMUA supports and is committed to the achievement

¹ CMUA electric utility members include the Cities of Alameda, Anaheim, Azusa, Banning, Burbank, Cerritos, Colton, Corona, Glendale, Gridley, Healdsburg, Hercules, Industry, Lodi, Lompoc, Los Angeles, Moreno Valley, Needles, Palo Alto, Pasadena, Pittsburg, Rancho Cucamonga, Redding, Riverside, Roseville, Santa Clara, Shasta Lake, and Vernon, as well as the Imperial, Merced, Modesto, Turlock, South San Joaquin Irrigation Districts, the Northern California Power Agency, Southern California Public Power Authority, Transmission Agency of Northern California, Lassen Municipal Utility District, Power and Water Resources Pooling Authority, Sacramento Municipal Utility District, the Trinity and Truckee Donner Public Utility Districts, M-S-R Public Power Agency, and the City and County of San Francisco.

of these goals. However, the legislature and regulatory agencies have continued to add new discrete requirements that prescribe the manner of achieving overall goals, rather than simply establishing the goal itself. These requirements include the AB 32 Cap-and-Trade Program, the Renewable Portfolio Standard (RPS), SF₆ Regulations, the AB 1368 Emission Performance Standard, once through cooling limitations on power plants, the California Solar Initiative (CSI), various net energy metering laws, smart grid requirements, combined heat and power targets, energy efficiency requirements, demand response obligations, and SB 32 Feed-in Tariff Obligations.

When viewed individually, many of these requirements may provide a reasonable approach to meeting valid goals. However, when applied together, these new requirements may be unnecessarily duplicative, siphon resources from the most productive policy pursuits, can often be in conflict with each other, and almost certain to raise costs to consumers needlessly.

The CEC, particularly through the IEPR process, is an appropriate agency to evaluate how the various regulations work together and whether modifications are needed to ensure that overlapping requirements do not result in excessive costs or compliance burdens for local utilities, and to make recommendations to the legislature as appropriate. Furthermore, the CEC should ensure that regulations provide locally governed utilities with sufficient flexibility to determine what the most cost-effective mechanisms are for achieving the State's overarching goals, based on each utility's specific circumstances. The Energy Commission should also evaluate the adverse impacts that can result from a lack of coordination among the various requirements agencies are tasked with implementing and enforcing, and the potential impact these requirements have on local utilities and their customers. This exercise would also be valuable for the CEC as it implements regulations related to the State's RPS.

B. The 2011 IEPR Should Recognize the Need for Increased Flexibility in Meeting Statutory and Regulatory Requirements for Electric Utilities, Particularly POU's.

As discussed above, there are numerous statutory and regulatory obligations facing electric utilities. Meeting these requirements in a cost-effective manner will require the maximum amount of flexibility in achieving these goals. This is particularly true of publically owned utilities (POUs), which vary widely in size, location, load profile, organization, and ratepayer characteristics. Based on these different characteristics, the optimal path to achieving the State's various energy goals may look different from one POU to the next. The legislature and the various regulatory agencies should be careful to ensure that the implementation requirements do not unnecessarily restrict technology choices for utilities. This flexibility will be essential to meeting the state's goals in a cost-effective manner, while also maintaining grid reliability. The 2011 IEPR should recognize and promote flexibility for regulated entities in meeting the State's goals. Again, this is valuable for the CEC to keep in mind as it implements regulations related to the State's RPS.

C. The Commission Should Ensure that the Governor's Clean Energy Jobs Plan, Including the Goal of 12,000 MW of Localized Electricity Generation, Does Not Create Incremental Mandates or Unfairly Favor Certain Technologies or Ownership Structures over Others.

A key example of the potentially conflicting State goals is the Governor's Clean Energy Jobs Plan and the California Public Utilities Commission's (CPUC) recent *Decision Implementing Portfolio Content Categories for the Renewables Portfolio Standard Program*.² The Governor's Clean Energy Jobs Plan includes a goal of 12,000 MW of localized electricity generation being installed by 2020. This localized electricity generation includes behind-the-meter, solar systems up to 5 MW on residential and commercial building roofs or property, as well as larger solar energy projects up to 20 MW built on public and private property. The Energy Commission released a staff report earlier this year recommending that of the 12,000 MW, 2500 MW should be built on State property.³ To achieve these aggressive goals, there will clearly need to be significant contributions from customer-side (behind-the-meter) renewable resources.

In contrast to the Governor's Clean Energy Jobs Plan, the CPUC's Portfolio Content Category Decision penalizes customer-side renewable generation. This is because the CPUC's Decision treats all sales of RECs associated with behind-the-meter renewable generation that is consumed on-site as a transaction falling in procurement content category three, even those RECs associated with in-state resources. Pursuant to California Public Utilities Code section 399.16, an electric utility can only use procurement content category three for 10% of its total RPS in the compliance period ending on December 31, 2020. This limitation is expected to sharply reduce the economic value of RECs associated with in-state distribution generation.

It is clear that these two positions are in conflict. On the one hand, the Governor's Clean Energy Jobs Plan recommends aggressive deployment of small scale renewable generation that will often be located behind the meter and be used to serve on-site load. On the other hand, the CPUC's Decision will only allow a small portion of that generation to count toward the RPS requirements. Achieving the 12,000 MW goal of the Clean Energy Jobs Plan under the restrictions imposed by the CPUC's Decision, is not likely to contribute significantly to the 33% RPS goal, leading to unnecessary additional costs to achieve both goals simultaneously. The CEC should evaluate whether such a scenario is feasible from a reliability and cost-impact standpoint. Such considerations should inform the Energy Commission as it develops procedures for the enforcement of the State's RPS requirements for POUs.

D. The 2011 IEPR Should Provide a Full Discussion on Pipeline Biomethane.

Earlier this year, the CEC hosted an all-day workshop on pipeline biomethane. At the workshop, several groups provided extremely useful information regarding industry

² Decision Implementing Portfolio Content Categories for the Renewables Portfolio Standard Program (D.11-12-052), December 15, 2011.

³ Developing Renewable Generation on State Property, April 2011, CEC-150-2011-001.

issues and legal barriers that prevent greater utilization of biomethane. In addition, more than twenty parties filed comments after the workshop, the majority of which supported and encouraged the use of this important resource for RPS compliance purposes, and designated such resources as portfolio content category one. Pipeline Biomethane is an extremely cost-effective renewable resource that can support local reliability, protect jobs by utilizing existing thermal plant infrastructure that might otherwise retire, and provide a very effective greenhouse gas reduction strategy.

The draft 2011 IEPR alludes to the beneficial use of using biomethane resources for energy production.⁴ In light of the significant participation and response at the CEC's meeting on biomethane generated, and the importance of biomethane as a renewable resource, the IEPR should include a discussion on the current state of biomethane and make recommendations to remove any barriers to expanded use of this resource, above and beyond the current references to the Bioenergy Action Plan.

E. Energy Efficiency

CMUA appreciates the efforts of the CEC to assist its members in meeting the annual requirements of SB 1037 and AB 2021, and reaching the long-term goals under the state's Global Warming Solutions Act (AB 32). CMUA notes that a consistent and clearly defined process for energy efficiency portfolio planning and reporting is necessary to ensure individual and collective success and goal achievement. However, CMUA would also like to note that certain aspects of the planning and reporting process can have disparate impacts on its members, given the size and character of its member organizations. CMUA hopes to continue the current dialogue between its members and the Energy Commission to help the CEC understand the scope and breadth of information already provided, and the impacts associated with cumulative reporting requirements.

The following seven sections provide CMUA's recommended changes to the draft 2011 IEPR relating to energy efficiency.

1. Publicly Owned Utilities' Progress:

The CEC's draft 2011 IEPR states that they are "still not receiving some significant material"⁵ regarding data on energy efficiency progress.

CMUA members need to know the specific materials that are being requested of them. The members already provide significant data regarding their energy efficiency programs, and need to understand what additional metrics the Commission is seeking, and need to ensure that the information requested is not private or confidential.

⁴ Draft 2011 IEPR at 181.

⁵ Draft 2011 IEPR at 53.

2. Evaluation and Verification of Publicly Owned Utilities' Efficiency Savings:

The CEC's draft 2011 IEPR states:

"The publicly owned utilities' savings reported in this document have not been modified as a result of independent verification studies. Unlike the IOUs, for which the CPUC can report evaluated savings, most publicly owned utilities do not yet have consistent evaluation methods."⁶

This statement is inaccurate and requires correction. More than 20 CMUA members have made publicly available evaluation, measurement, and verification (EM&V) reports that are typically produced by third-parties independent of the members' implementation programs. In addition, for Fiscal Year (FY) 2010-2011, beginning July 1, 2010 and ending June 30, 2011, CMUA members have been using Net-to-Gross ratios (NTGR) that reflect 2008 DEER version 2.05. Previously, CMUA members had been using NTGRs based on the CPUC Energy Efficiency Policy Manual Version 2. CMUA believes that the use of both third-party studies and Investor Owned Utilities (IOUs) EM&V studies is the best approach in order to maximize cost-efficiency, minimize duplicative efforts, and provide statewide comparisons. In the future, CMUA members will continue to update their NTGRs based on the best available information as it applies to their programs and service territories.

The second sentence is also not correct. Evaluation efforts are consistent among members, and consistency with the IOUs is unlikely to be an achievable goal. CMUA members have been proactive in using the best available research in order to apply NTGRs and estimate their net energy savings and benefits. Despite this, CMUA members are unlikely to be able to emulate the EM&V process required of the IOUs. For example, the IOUs' EM&V budget during the 2010-2012 reporting period, based on the PUC-approved budget in D.09-09-047, is about \$31 million annually per utility. This is about ten times greater than the average \$3 million CMUA member annual budget for all energy efficiency, demand response, and renewable energy programs. In other words, in order to produce an evaluation methodology that is consistent with the IOUs; CMUA members would need to develop prescriptive budgets that would undoubtedly reduce budgets for retail energy efficiency programs. Perhaps most importantly, increased EM&V budgets do not necessarily lead to a better EM&V process. CMUA members believe that, given their smaller service territories and closer relationships with customers, the EM&V process should be flexible and depend on context. In fact, IEPR's own statement supports this on page 53, where it states "EM&V, and others had difficulty meeting the CEC's draft guidelines. Diversity in their size, resources, customer types, and program delivery approaches makes it difficult to issue "one-size-fits-all" prescriptive guidelines for EM&V activities."

In addition, CMUA notes that EM&V serves a different purpose for its members than it does for the IOUs. The CPUC uses EM&V results to determine financial incentives for the IOUs' energy efficiency investments. On the other hand, CMUA members use EM&V to improve and modify the designs of its programs, in order to increase

⁶ Draft 2011 IEPR at 53.

continuously their customers' net benefits. CMUA members are working towards greater rigor with regards to EM&V activities, given that most members did not have third-party studies as recently as five years ago. Each member will be providing EM&V progress reports and plans in the 2012 edition of their SB 1037 reports to the CEC.

3. Status of Statewide Estimate of Energy Efficiency Potential and Targets for 2011-2020:

The CEC's draft 2011 IEPR states:

"For most utilities, market savings potentials were calculated using a 50 percent customer measure incentive level. Additional modeling indicated that when a 75 percent incentive level is used, nearly all utilities meet the 10 percent consumption reduction goal. This indicates that the publicly owned utilities can meet the consumption reduction goal of AB 2021 but may require a higher level of program effort and budget than most of them factored into their targets."⁷

CMUA member experience reveals that although there is a definitive link between customer incentives and participation, the relationship is not linear, and incentives cannot serve as the main lever to produce participation and the resulting energy savings, especially while adhering to the requirement that the programs be cost-effective. For example, programs that have been operating with steady incentive levels for five or more years may not produce greater energy savings if incentives are increased, due to existing saturation levels. In addition, direct customer incentives are only one aspect of program design. The National Action Plan for Energy Efficiency (NAPEE) report "Customer Incentives for Energy Efficiency through Program Offerings"⁸ lists two other types of financial incentives, two types of non-financial incentives, and a hybrid approach, each of which can be applied at different points in the market, including to manufacturers, retailers, and contractors, in addition to customers. Successful programs will require all of these incentive types to meet consumption reduction targets.

4. Information Requested to Interpret Efficiency Progress:

The Energy Commission's draft 2011 IEPR states that "the most important data needed by staff to evaluate annual savings is the E3 Reporting Tool."⁹

CMUA members are interested in transparency, and in fostering a collaborative relationship with the Energy Commission. However, our members need to know for what purpose the E3 Reporting Tool or other data would be used. Our members are also concerned about any additional reporting requirements and the burden this places on members' staff, especially the disproportionate impact on the smaller utility members.

⁷ Draft 2011 IEPR at 55.

⁸ Page 7, Available at http://www.epa.gov/cleanenergy/documents/suca/program_incentives.pdf

⁹ Draft 2011 IEPR at 55.

5. Publicly Owned Utility Efficiency EM&V:

CMUA members would also like to engage more with the Energy Commission on EM&V and other issues. In 2010, CEC staff was able to attend Southern California Public Power Authority (SCPPA) Public Benefits Committee meetings. This face to face interaction was of great value to all parties, and resulted in a dedicated meeting that included not only members of SCPPA, but also those of the Northern California Power Agency (NCPA). In the workshop, EM&V and a myriad of other issues related to energy efficiency were addressed. All of CMUA's members are in support of further relationship building and look forward to participating in workshops scheduled for 2012.

6. POU Potential Estimates and Target Process in 2010-2011:

CMUA members plan to use the California Energy Efficiency Resource Assessment Model (CalEERAM) in the next potential study cycle, in order to ensure consistency with prior planning efforts and transparency.

CMUA reiterates that higher incentive levels (such as 75% of customers' cost) will not necessarily lead to greater participation and energy savings. While higher incentive levels may result in a modeled or theoretical 10% reduction in energy consumption by 2020, the achievement of this goal will depend on a variety of factors, including non-incentive budgets, available technologies, program mix, and program design.

7. Importance of EM&V:

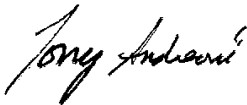
The Energy Commission's draft 2011 IEPR states:

"The Energy Commission developed EM&V guidelines in 2010 but learned in 2011 workshops that some publicly owned utilities did not see the value of EM&V, and others had difficulty meeting the Energy Commission's draft guidelines."

The statement in the IEPR that some POUs do not see the value of EM&V is taken out of context. Specifically, some POUs expressed the opinion that certain EM&V studies lacked value when that same measurement had already been the subject of studies and where values are well vetted. CMUA does not believe that any of its members are opposed to the concept of EM&V as it relates to energy efficiency.

CMUA appreciates this opportunity to provide these comments to the Energy Commission, helping to further align the goals outlined in the 2011 IEPR.

Sincerely,



Tony Andreoni, P.E.
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California Municipal Utilities Association