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October 25, 2013

Robert B. Weisenmiller, Chair
California Energy Commission
1516 Ninth Street, MS-33
Sacramento, CA 95814

California Energy Commission DOCKETED 13-CCEJA1
TN # 72244

Chair Weisenmiller and Commissioners:

I wanted to take the opportunity to submit comments regarding the Commission's Proposition 39 Program Implementation Draft Guidelines. Let me begin by thanking the Commission for undertaking this critical project with the dedication and energy that the Draft Guidelines reflect. Launching a large project like this under tight timelines is a daunting challenge under the best of circumstances. As one of the legislators who helped to negotiate the Proposition 39 implementation legislation, I am well aware of the complexities that remain. I want to thank the Commission and its staff for their accessibility and thoughtfulness during this process.

Timeline for Distribution of Funds. Under the timeline outlined in the Draft Guidelines, it appears that very little, if any, project funds will actually be received by the schools during the current fiscal year. This deeply concerns me. Areas that appear particularly problematic are (a) the length of time given to the California Department of Education (CDE) after approval of expenditure plans by the Commission, (b) the length of time for the State Controller's Office (SCO) to disburse the funds after receipt of CDE's paperwork, and (c) the absence of any timeline for CEC approval of the plans themselves.

Current law requires CDE to determine the funding amount schools are eligible for well before the Commission begins its substantive review of expenditure plans. Thus, it is very difficult to understand why CDE would require months after Commission approval to get the paperwork to the SCO for payment. The Draft Guidelines provide that CDE will not even begin forwarding awards to the SCO until May 2014. This really is unacceptable. CDE should initiate payment promptly upon receipt of Commission approval, and the Commission should require further



justification from CDE for any further delay. It is also essential that the Commission include a timeline for its own approval of plans.

Energy Expenditure Plan Options. The Draft Guidelines provide three options for energy expenditure plans for schools with award levels of \$50,000 or less, but do not allow the same options for schools with larger award levels. Those with smaller award amounts are allowed to submit five-year expenditure plans, which will permit those schools to rely on their planning decisions over a longer period of time. (This is "Option 3" in the Draft Guidelines.) Permitting larger schools to do the same would serve the same goal for those facilities, and the State would not be disadvantaged because (a) the actual funding amounts would still need to be determined annually, and (b) the Draft Guidelines authorize the Commission to revisit the substance and progress of five-year plans annually and make any needed adjustments.

Guidelines for Planning Funds. The Draft Guidelines set out funding limits for specific energy planning activities: 85% of planning funds may be used for screening and energy audits and 15% for Proposition 39 program assistance. These internal caps appear to be too restrictive. The Commission's Example #1 illustrates this point well. For a small agency receiving an award of \$15,000, only \$2,250 may be used for program assistance. A small school district with little or no prior experience in this area should have greater discretion to allocate the planning funds between audits and program assistance in the manner that best suits local experience. A tiered approach that allows a larger percentage of funds for planning purposes for those districts receiving smaller awards -- for example, \$50,000 or less -- might address this concern.

Local Educational Agency Collaboration. The Draft Guidelines allow small school agencies to pool their energy manager funding to share the services of an energy manager. I wholeheartedly support this provision's recognition of the needs of small school agencies, but also believe that it should be expanded to allow collaboration between those agencies in other program areas.

Savings to Investment Ratio (SIR). One of the most important parts of the Draft Guidelines is the role of the savings-to-investment ratio (SIR). I do not plan to submit a specific proposal today on this issue, but ask the Commission to focus *carefully* on the staff proposal. Let me suggest several questions that should be asked:

- Is 1.05 the correct SIR?
- Is 2.1 percent the correct energy cost escalation rate?
- Is 2 percent the correct inflation rate?
- Is the discount rate of 5.1 percent correct?

- Do the guidelines provide the right answer regarding when and how projects may be bundled to reach the required SIR?
- Are the guidelines flexible enough, for example, to allow replacement of very old equipment with relatively long repayment periods?

These are important decisions to protect both state funds and the needs of our schools. My understanding is that others are submitting comments to the Commission that will argue that some or all of these numbers and decisions should be adjusted, and I ask the Commission to consider those arguments carefully.

Leased Facilities. The Draft Guidelines attempt to address the complicated issue of allocations to agencies occupying leased space. They provide a good start at balancing the need to allocate funds fairly to schools potentially eligible under the statute and the need to ensure that Proposition 39 funds only go to schools and not to private entities. I strongly support the requirement for separate metering, but wonder if this is enough to protect these funds. At the end of the lease, will the private entity be left with a benefit from public funds that outweighs the gain for public education? I would ask the Commission to consider this issue carefully and determine whether other limits or conditions should be included.

Job Creation. The Draft Guidelines include general information regarding how to calculate the job creation benefit of projects. They appropriately highlight the very important role of apprenticeship programs, but neglect to note that SB 73 also recognized a number of other workforce development opportunities: “the California Conservation Corps, certified local conservation corps, Youth Build, veterans, Green Partnership Academies, nonprofit organizations, high school career technical academies, high school regional occupational programs” as well as “learning opportunities for school pupils or at-risk youth in the community.”

Eligible Projects. I am concerned that the Draft Guidelines may not sufficiently highlight the need for on-going energy management to ensure equipment is operated correctly in order to maximize energy savings. Exhibit B does acknowledge this need by listing maintenance training, energy awareness courses and commissioning as potentially eligible projects, and the guidelines do allow limited investments in training and energy management services, but much of the rest of the document appears to stress hardware acquisition over the types of behavior modification needed to maximize the value of Proposition 39 investments.

Allocation of Funds in Future Years. One of the results of the implementing legislation, SB 73, is lower than expected allocations for some larger and mid-level school agencies. This is in part a result of the strong take-up rate for small schools exercising the two-year funding option. That

resulted in a smaller universe of funds to distribute to others. My clear understanding is that those who used the two-year option will not receive funding next year and thus the funds available to others will increase, but that message may not be as clear as it should be to the latter group of participants. A stronger emphasis on this point in Commission communications and even in the Guidelines would help to allay those concerns and program criticisms.

State Assistance. As noted above, many school districts have very little experience with energy efficiency programs. In order to access the Proposition 39 funds for which they are eligible, districts are required to produce relatively technical materials in this new area. Among the comments we have received is the concern that the Commission is not accustomed to working with schools and schools are not accustomed to working with the Commission. In addition, school districts have undergone a tremendous year of reform, with new laws affecting them both programmatically and in terms of funding formulas. This makes it a particularly difficult year for schools to cope with an entirely new area of state compliance. For those reasons, I would like to suggest that the Commission consider establishing a help desk or similar mechanism to help schools with their day-to-day questions, especially during this start-up phase of the program.

Let me close by saying again how much we appreciate the Commission's many meetings, workshops and presentations to help the affected public learn about and comment on this important new program. It has been a pleasure working with Commissioners and Commission staff, and I truly look forward to continuing this partnership in the year ahead. Please do not hesitate to contact me or my Chief of Staff, Diane Griffiths, if we can assist in any way.

Sincerely,

A handwritten signature in black ink that reads "Nancy Skinner". The signature is written in a cursive, flowing style.

NANCY SKINNER

Assemblymember, 15th District