



October 5, 2016

TO: CAEECC
FROM: California Energy Efficiency Industry Council
SUBJECT: Conflict of Interest Policy

The Efficiency Council appreciates the conflict of interest plan proposed by the IOUs at the September CAEECC meeting. However, we would like to advocate for a simplification of the draft policy based on the position that CAEECC should follow conflict of interest definitions and guidelines that closely parallel a state agency even though CAEECC is not technically a state actor. We propose updated draft language below.

But first we would like to clarify the definition of conflict of interest issues. In the state agency context, a conflict exists when a decision-maker is in a position to derive personal benefit from actions or decisions they make in their official capacity. For example, CPUC commissioners regulate utilities, and so they are not allowed to hold stock in those companies.

CAEECC is not a decision-maker in any capacity; its “role is to advise the PAs.” (D.15-10-028, p 77) And “PAs, not the Coordinating Committee, are responsible for the content of what the PAs file with the Commission.” (D.15-10-028, p 76). In addition, its operating orders from the CPUC essentially direct it to act similar to agency requirements for open public meetings. (D.15-10-028, starting p 70)

Since there is no decision-making authority at the CAEECC and CAEECC will be operating in a manner consistent with public meetings (agenda notification, minutes, etc), it is hard to imagine how any participant in the CAEECC meetings would have a conflict.

In this context, we advocate for the CAEECC to adopt reasonable public meeting operational rules, and a conflict of interest policy that is consistent with state agency operation, even though the CAEECC is not technically a state actor, since the CPUC authorized the entity in a formal decision (D.15-10-028, page 65 onward).

Just as the CPUC would not limit attendance or discussion at a public meeting, workshop, or the comment processes associated with CPUC proceedings, the CAEECC should not limit the participation by attendance or discussion of any person. Any restrictions at CAEECC to prevent "conflicts of interest" should be squarely focused on the scope of activities of the CAEECC and apply equally to all participants, regardless of their role. Primarily, CAEECC agendas and discussion should not allow confidential information to be shared. The Commission itself in the decision establishing the CAEECC states: "What this translates to in terms of Coordinating Committee and subcommittee membership is that anyone should be able to participate." There is no limitation on the participants or their activities. D.15-10-028, p. 77.

At the end of the day, any conflict of interest policy must be focused on content; not on who participates. The Efficiency Council does not support a process that results in individuals being unable to express themselves and present their information in public meetings for fear of exclusion from bidding opportunities.

We offer the following simplified conflict of interest policy consistent with the above discussion.

CAEECC Conflict of Interest Policy

The purpose of CAEECC is to create a public forum for providing advice into the development and management of the Rolling Portfolio operated by program administrators under the auspices of the CPUC. The CAEECC was conceived to facilitate public discussions between program administrators and other stakeholders to discuss matters relating to the design and implementation of programs and activities that comprise the Rolling Portfolio and encourage maximum stakeholder participation in business plan development processes and input from the public, to learn about products, market sectors, need, and delivery systems to best inform business and implementation plans.

One of the primary purposes of the CAEECC is to design and support a CPUC-jurisdictional energy efficiency portfolio of programs that best serves ratepayer interest. The CAEECC allows for the exchange of ideas and information through an integrated process, from business plan through implementation plan. CAEECC subcommittees address strategies for meeting the energy savings needs of individual sectors.

As a creation and extension of the CPUC, a governmental entity, all activities and meetings of the CAEECC, including subcommittees, shall be transparent, noticed in advance, and open to the public. No confidential information will be shared at these public meetings.

The CAEECC shall avoid conflicts of interest by following these guidelines for CAEECC activities:

- All discussions at CAEECC, its sub-committees or working groups will be maintained at level that does not require discussion of confidential information.
- CAEECC will allow full public participation in all meetings by providing reasonable notice and accessibility including the notification of all parties on the R.13-11-005 service list and posting on the CAEECC webpage, and distribution to the CAEECC service list.
- The chair/facilitator of each committee, sector sub-committee, and working group will prepare and post an agenda ahead of the meeting.
- Presentations by program administrators shall not include the development of the selection criteria, evaluation, scoring, and ranking of bids for services or the review, ranking, or compilation of bids or short lists of potential contractors.