

Charter for the PIER Advisory Board

November 10, 2010

BACKGROUND AND PURPOSE

The Public Interest Energy Research (PIER) Program was first established in 1996 with the passage of Assembly Bill 1890 (Chapter 854, Statutes of 1996), California's electricity deregulation bill. The intent of the PIER Program is to make state funds available for energy-related, public interest research, development and demonstration (RD&D) programs to advance science or technology that is not adequately provided by competitive and regulated markets.¹ A minimum of \$62.5 million is collected each year through the end of 2011 (unless new legislation extends it) to fund the PIER Program.²

This Charter describes the roles and responsibilities of the PIER Advisory Board that has been established by the Commission to provide strategic advice on RD&D priorities and make programmatic level recommendations to the Commission on future program directions. The purpose of the Advisory Board is to help the Commission focus its research dollars on the highest priority state policy issues, as defined in state legislation which established the Program.

State law required the Commission to establish a PIER Advisory Board, composed of key stakeholders and research organizations.³

¹ Public Resources Code § 25620 and § 25620.1

§ 25620 (b) To improve the quality of life of this state's citizens, it is proper and appropriate for the state to undertake public interest energy research, development, and demonstration projects that are not adequately provided for by competitive and regulated energy markets.

§ 25620.1(a) states in part, that the commission shall develop, implement, and administer the Public Interest Research, Development, and Demonstration Program that is hereby created. The program shall include a full range of research, development, and demonstration activities that, as determined by the commission, are not adequately provided for by competitive and regulated markets.

² Public Utilities Code § 399.8 and Public Resources Code § 25620.15

³ § 25620.11 Advisory board; recommendations regarding programs and projects selected for funding:

(a) The commission shall regularly convene an advisory board that shall make recommendations to guide the commission's selection of programs and projects to be funded under this chapter. The advisory board shall include as appropriate, but not be limited to, representatives from the Public Utilities Commission, consumer organizations, environmental organizations, and electrical corporations subject to the funding requirements of Section 381 of the Public Utilities Code.

(b) Three members of the Senate, appointed by the Senate President Pro Tempore, and three members of the Assembly, appointed by the Speaker of the Assembly, may meet with the advisory board and participate in its activities to the extent that such participation is not incompatible with their respective positions as Members of the Legislature.

ADVISORY BOARD SELECTION AND LIMITATIONS

The Energy Commission selected the members of the PIER Advisory Board to represent those stakeholders specifically mentioned in the legislation, but also based on the following criteria:

1. Desire for a balanced and diverse membership
2. Policy level or senior-level expertise
3. Special knowledge or relevant experience
4. Ability to participate in the dialogue on California's RD&D priorities and future directions
5. Degree of personal commitment
6. California-based company or presence
7. The individual's or the organization's perspective on energy RD&D.

The Energy Commission is sensitive to the perception that, by serving on the Advisory Board, members could unfairly influence Program funding decisions. It is important to ensure that the Advisory Board members possess the technical and policy expertise necessary to provide input and advice on energy-related research needs. To balance these interests, please be aware of the following approach the Commission is taking with Advisory Board participants.

Organizations and individuals participating in the Advisory Board are eligible for PIER funding as long as they meet all eligibility criteria for the solicitation in which they plan to submit a proposal and they are not an employee or other public official of the Energy Commission. The Advisory Board is not a decision making body, but is intended only to advise the Commission on strategic program directions. Its Members shall not be involved in project selection or funding decisions. Members and their organizations remain eligible to receive PIER funding.

ADVISORY BOARD CHAIR

The Presiding Member of the Commission's Research, Development and Demonstration (RD&D) Committee will chair the PIER Advisory Board. The Chair convenes and presides over meetings, establishes meeting agendas, approves the appointment of members to serve on the PIER Advisory Board, solicits appointments of Members by the State Senate and Assembly, and plans and organizes the work of the Board. In the absence of the Chair, the Associate Member of the Commission's RD&D Policy Committee shall chair the meetings.

BOARD ROLES AND RESPONSIBILITIES

The Advisory Board is being asked to provide strategic advice and guidance to the Commission in the planning, funding and management of its public interest RD&D portfolio. The Board should recommend ways to ensure tangible benefits to California's electricity and natural gas consumers. Responsibilities include making

specific recommendations so that the Commission can:

- Ensure that the program is focused on high-priority, public interest energy research;
- Articulate a comprehensive, long-term vision for the State's RD&D program which responds to changes in the economy and energy markets;
- Determine future program priorities and areas of focus, with particular emphasis on critical energy issues;
- Rely upon the technical and policy expertise within their own organizations;
- Fosters collaboration of the Commission's RD&D efforts with the private sector, universities, other states, and the federal government;
- Facilitates the commercial introduction of the most promising new technologies, planning tools, and knowledge resulting from the RD&D initiatives funded by PIER.
- Develop measures of success for the PIER Program.

FINDING COMMON GROUND ON FUTURE PROGRAM DIRECTIONS

The goal of the Program is to ensure that public interest RD&D benefits electricity and natural gas consumers and ratepayers in California, while advancing science and technology. To the extent possible, the Advisory Board should seek to find common ground in the strategic advice it provides.

Public meetings of the Advisory Board can serve as a forum to share board members' perspectives on future RD&D program needs and opportunities. In situations where it is not possible to fully resolve different perspectives, the board members should be afforded the opportunity to fully discuss alternative perspectives, with the goal of seeking mutual agreement on how to proceed.

In certain instances, it may be necessary for the Chair to call for a vote of the Advisory Board, after all perspectives are heard on a particular issue, and to seek mutually agreeable common ground. The goal is to move ahead in situations where it is not possible to reach consensus.

In situations where voting is requested by the Chair, each Advisory Board member shall have one vote. Recommendations will be captured by simple majority of the Board members present at a meeting. When requested by the Chair, Advisory Board members are encouraged to briefly summarize their rationale for a particular vote as a means for communicating their perspective on the underlying issues.

The Commission has ultimate responsibility for the management of the PIER program. All recommendations of the Advisory Board, whether they are arrived at by consensus or voting, are considered by the Commission to be advisory in nature and are not binding on subsequent funding and other decisions by the Commission.

TIME AND RESOURCE COMMITMENTS

It is currently anticipated that the PIER Advisory Board will meet at least twice a year in face-to-face meetings. As determined by the Chair, Board meetings will be held in Sacramento, California, or at different locations in the state, for the convenience of its members and other invited participants. Some meetings may be conducted via Webinar sessions.

Regular attendance and participation at Advisory Board meetings is essential for effective participation. Each Advisory Board member is responsible for attending and actively participating in meetings, reviewing and being familiar with materials provided before meetings, and soliciting and sharing input with other members. By accepting an invitation to serve on the Advisory Board, the Advisory Board member agrees to fulfill these responsibilities to the best of his or her ability.

Members of the Advisory Board should notify the Chair, if he or she is unable to attend a meeting and will be sending an alternate in his or her absence.

PUBLIC PARTICIPATION AND THE OPEN MEETINGS ACT

The Advisory Board will hold regularly scheduled public meetings that are subject to the Bagley-Keene Open Meeting Act.⁴ Requirements under the Act include the following:

- All meetings will be open to the public;
- Notice of meetings must be provided to anyone who requests the notice in writing;
- Notice of meetings must be given and posted on the Internet at least 10 days in advance of any meetings;
- Meeting notices must include a specific agenda.
- All members of the Advisory Board will be provided a copy of the Act (members should contact the Commission if it is not received).
- No member of the public shall be required, as a condition to attendance at a meeting of a state body, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance. If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to persons present during the meeting, it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.
- With a few exceptions, members of the public can record Board meetings.
- With a few exceptions, documents distributed to all, or to a majority of all, of the Board members by any person in connection with a matter subject to discussion

⁴ See Government Code Section 11120 et sequitur.

or consideration at a public meeting of the Board, are to be disclosed as public records under the California Public Records Act, and shall be made available upon request without delay.

- Members should assume that documents distributed to the Board are public documents. The Commission wants this to be an open process and does not anticipate distributing any confidential information. Members should not disclose any information they want held confidential without first discussing the issue with the Commission's Office of the Chief Counsel.
- Members should take the provisions of the Open Meeting Act seriously and act in accordance with its provisions. "Each member of a state body who attends a meeting of that body in violation of any provision of this article, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under this article, is guilty of a misdemeanor."⁵

A written summary of all Advisory Board meetings will be prepared and posted on the Energy Commission's website, following each meeting. On occasion, conference calls and Webinars may be organized and scheduled for the Advisory Board.

APPLICABILITY OF THE POLITICAL REFORM ACT

Based on the following reasons, Advisory Board members are not considered "consultants" under the Political Reform Act and are not subject to the Act's restrictions or the requirement to file an annual economic interest statement.

The reasons they are not "consultants," as that term is defined in regulation⁶, are: (a) they are not authorized to make decisions, enter into contracts, negotiate, or otherwise act on behalf of the Energy Commission and (b) they are not serving in the capacity of staff, performing all the duties of an individual who is holding a position that is designated in the Energy Commission's conflict of interest code.

Advisory Board members are not decision-makers nor do they serve as staff to the Commission. In their capacity as members, they do not have the authority to negotiate or otherwise act on behalf of the Energy Commission. Specifically, they are members of an advisory body created by statute for the discrete task of providing strategic input to the Energy Commission, which decides how to carry out the PIER Program.

⁵ Government Code § 11130

⁶ California Code of Regulations, Title 2, section 18701