

Before the
United States Senate
Committee on Energy and Natural Resources
Subcommittee on Energy

Testimony of Roy W. Willis
President and Chief Executive Officer
Propane Education & Research Council, Inc.
Regarding
The Activities of the Propane Education & Research Council

September 29, 2010

My name is Roy Willis. I am president and CEO of the Propane Education and Research Council, Inc., a commodity program authorized under the Propane Education and Research Act of 1996 (Public Law 104-284). It is a honor to appear before the subcommittee to offer testimony on the activities of the Council and to address issues related to the recent review of the activities of the Council and the National Oilheat Research Alliance conducted by the Government Accountability Office at the request of the Senator Jeff Bingaman, chairman of the Senate Committee on Energy and Natural Resources.

The Council began full operations in January 1998, when assessment collection began. That followed an industry-wide referendum of producers and retailers conducted in the summer of 1997 in which more than 90 percent of both propane producers and propane retailers approved the creation of the Council and the levy of the assessment on themselves. I was employed by the Council in March 1998 and have led the organization since.

From the outset, the Council has endeavored to faithfully and transparently implement the Act and to serve the public and the industry through programs that advance the priorities of the Act, namely employee and consumer education, research and development of clean and efficient propane utilization equipment, and public education about safety and other issues related to the use of propane. The Council has compiled an extensive record and has made important progress in each of these priority activities.

As this subcommittee meets, Americans from coast to coast are benefiting directly from the work of the Council:

- Firefighters in all 50 states have access to propane-specific training that the Council provides free to every fire department in the country.
- Hundreds of people in Michigan, Georgia, Texas, California, and other states have jobs building clean trucks, vans, and school buses that reduce pollution and provide reliable, affordable transportation, based on fuel systems research and developed primarily with Council funding.
- Tens of thousands of industry employees are being trained by modern, computer-based workforce training products developed by the Council.
- Builders, architects, and other construction professionals have analytical resources and training products useful in guiding the safe installation and efficient use of propane in new construction and renovation projects.

- An extensive portfolio of research on propane utilization equipment, funded by the Council, is under way at public and private research facilities in pursuit of safer, cleaner, more efficient ways to use propane to meet essential energy needs.
- Propane consumers have access online and in print to a diverse collection of safety materials and other guidance on the installation, upkeep, and use of propane and propane appliances.

These are but a few examples of the work that is being done because the Congress authorized the Council to pursue these activities and provided the mechanism to fund them. Before the Council's creation, very little, if any, of this work was being done by the government or the private sector.

Propane is a small part of the country's energy supply — about 2 percent. Yet its reach is extraordinary. Nearly 10 million American homes use propane for a basic energy need – cooking, hot water, and space heating. More than 70 percent of American farms and national parks rely on propane. According to the Department of Energy, nearly half of the country's fleet of dedicated alternative-fueled vehicles run on propane. The overwhelming majority of forklifts are propane-powered. To serve these vital energy needs, more than 56,000 men and women work every day in the production, storage, transportation, and delivery of propane. Most of them work for the small businesses that arrange for supplies and deliver propane in all 50 states to literally millions of homes, fleets, farms, and businesses.

The GAO Review

Regarding the GAO's recommendation that federal oversight be strengthened, the Council stands ready to provide appropriate assistance to the Congress in making improvements to the Propane Education and Research Act. At present, the Council does not know how that oversight might be designed and implemented and so cannot offer a more specific point of view. The Council acknowledges that an oversight regime exists for federal agricultural check-off programs and that such oversight can provide for greater government involvement in the decisions that check-off programs make regarding the resources available to them solely as a consequence of federal authority. In the Council's view, if a mandatory oversight requirement is to be implemented, it should establish standards and procedures to guide decision making and not substitute agency determinations for the leadership responsibility that Congress has rightly vested in the governing body under the Act.

The GAO report discussed a number of specific issues. Chief among them are the relative levels of funding given to the four priorities under the Act and, specifically, expenditures for certain education activities.

Spending for Priority Activities. The Act gives the Council responsibility for determining the appropriate funding level for each of the statutorily mandated functions. The allocation of funds has been and continues to be made on the basis of the best available information and opportunities to have a positive impact through Council-sponsored programs and projects. Every statutory function has received considerable attention and substantial funding from the Council.

Educating the public about propane has received the largest share of Council funding. These efforts are based on vital market data, as are all Council programs and projects. and they are implemented under a disciplined system of project management and financial controls, subject to ongoing measurement and evaluation, and implemented with oversight by dedicated advisory committees and subject matter experts on staff or under contract.

Due to the restriction of its activities under Section 9 of the Act, which began August 4, 2009, and continues to be in force, the Council eliminated spending on generic advertising in residential and commercial markets and other forms of broad public education. Attached to this testimony are several graphs that show that the Council has been adjusting funding levels throughout its existence, with more funds over time being allocated to technology initiatives through its research and development, engine fuel, and agriculture activities.

In determining the level of funding that the Council has dedicated to the research function, it is vital to consider two factors: 1) the funding for research for agriculture and engine fuel projects; and 2) the funding the Council was able to attract through leveraging its investments. This information was provided to GAO, which acknowledged receipt of it but did not quantify these investments in its report. The attached graphs illustrate that the Council's direct investment of \$81.3 million for all research projects was leveraged against \$119.6 million in third-party funding for a total research investment of more than \$200 million. That compares favorably against total assessment collections of approximately \$350 million.

GAO raised the issue of whether certain education activities were lobbying. The Council strictly complies with the law. The Council does not support or conduct lobbying in any way. Each PERC program is subject to a disciplined system of project management and financial controls, including legal review. Regarding the expenditures GAO highlighted, the Council and the grantee were advised by legal counsel that the activities are lawful. Yet, I acknowledge that, without context, this spending can create an unfortunate appearance -- too close to the line. As CEO, I take responsibility for it. I also have taken action: terminating the program. I did so not because of legal concerns but because the Council strives to avoid even the appearance of impropriety.

Clearly, not all communications with Congress and other policymakers is lobbying. The federal rules for agricultural check-offs, for instance, anticipate that that check-offs will correspond with Congress. The rules provide straightforward guidance that check-offs report factually on the results of their activities and not advocate a policy position. The content of Council-sponsored messages, in fact, met the requirements of that rule. (Copies of advertising messages were provided to the subcommittee.)

Ultimately, these are speech questions. Three times since the Council was authorized in 1996 the U.S. Supreme Court addressed the use of assessment funds for speech activities. Obviously, whatever federal oversight may be developed, it must be consistent with the court's ruling regarding speech activities by check-off programs.

Coordinating with Others

The Propane Act requires the Council to "coordinate its activities with industry trade association and others as appropriate to provide efficient delivery of services and to avoid unnecessary duplication of activities." [*Emphasis added.*] the Council takes exception to the report's questioning whether the Council has coordinated its activities with federal agencies. The Council acknowledges that federal agencies are clearly within the scope of the term "others." And, from the outset, the Council has maintained program of coordinating its activities with federal and state entities. The Council has worked with federal agencies primarily on a project-by-project basis and, as a result, has been able to successfully leverage its research investments with government funding for the Council projects totaling \$8.2 million.

Energy. The Council's coordination with the Department of Energy (DOE) on research programs dates from the creation of the Council's first technology roadmap. At the Council's request, in 1999 and 2000 DOE provided limited funding and made available personnel from the National Energy Technology Laboratory to assist in developing the foundational document for the Council's research activities, *The Propane Vision and Technology Roadmap*. The Council has engaged with DOE on a number of projects and programs and actively participates in its Clean Cities program. Earlier this year, several entities with which the Council routinely coordinates, and the Council itself, were the recipients of more than \$30 million in DOE Clean Cities grants for deployment of propane alternative fuel technology, much of which owes its existence to the technology investments that the Council has made.

The Council has briefed DOE officials under three administrations on the activities of the Council. The Council made a particular effort to discuss the Act and to specifically identify the provision in the Act that authorized the Council to reimburse the Secretary of Energy for two full-time employees for their work on Council matters. No administration has designated or appointed a department employee to coordinate with the Council, and none has asked for reimbursement. Virtually all contact between DOE and the Council has been initiated by the Council.

National Parks. The Council has not limited its coordination with federal agencies to DOE. Because approximately 75 percent of national parks use propane for a major energy need, the Council has maintained a long-running outreach program to the Department of the Interior's National Park Service. The Council has collaborated with the service on several demonstration projects — and we have one under way at Denali National Park. We have held Council meetings in national parks and presently work with a park service task force to coordinate efforts to improve safety, training, and energy efficiency related to propane use in the parks.

Agriculture. The Council also has a long history of coordinating with agriculture agencies and research institutions. The Council has successfully developed grants and obtained co-funding from the Department of Agriculture (USDA) for numerous research and demonstration projects. The Council has invested considerable resources over many years to coordinate its works with the USDA's Agriculture Research Service (ARS). That coordination has included multiple investments by the Council on a key ARS research initiative to replace methyl bromide and other chemicals with propane-fueled heat, steam, and flame to sterilize soils, control pathogens, and manage weeds and pests. We work together on individual projects of mutual interest as they arise.

Commerce. The Council has also cooperated with the Department of Commerce, which is required by the Propane Act to conduct an annual price analysis and, every other year, a market survey.

State Agencies. The Council also regularly coordinates with several state agencies, including the California Air Resources Board (CARB), the California Energy Commission (CEC), the New York State Energy Research and Development Authority, and the Texas Railroad Commission's Alternative Fuels Research and Education Division (AFRED), to name a few. With respect to CARB, the Council coordination is focused on emissions certification programs that are essential to bringing to market vehicles (on-road and off-road) and stationary engines (for irrigation and electricity generation) throughout much of the United States. With AFRED, the Council has established an extensive record of collaboration and cooperation to conduct research, to demonstrate propane equipment, vehicles and appliances, and to develop and host technology forums to train industry personnel on the propane utilization equipment that come out of the Council's research portfolio.

In addition to its work with state and federal agencies, the Council has established an “industry programs” area to coordinate its activities with industry trade associations at the state, national, and international level.

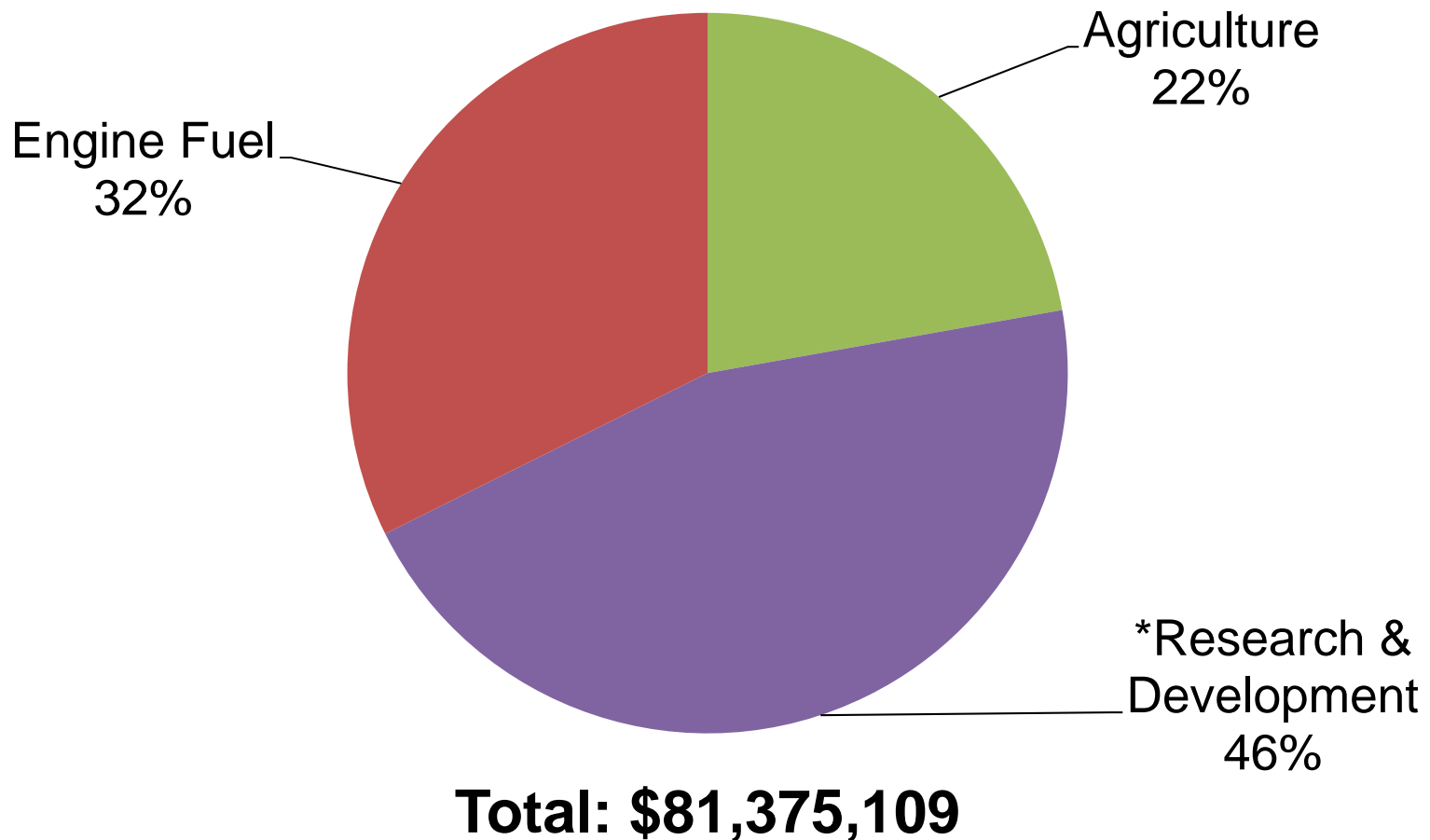
Conclusion

The Council has actively pursued fulfillment of all of the statutory obligations and mandates of the Propane Education and Research Act and other applicable laws. The Council has made sound investment decisions that were appropriate and reasonable given the conditions and opportunities available when those decisions were made. The Council’s programs and projects are managed under a well-defined system of rules, policies, and procedures, and are subject to ongoing measurement and evaluation. The Council has successfully deployed safety, training, educational programs and propane utilization equipment from its research efforts have gained some success in the marketplace, enabling energy consumers to improve their energy efficiency, safety, and environmental performance.

Thank you again for the opportunity to appear and respond to any questions you may have.

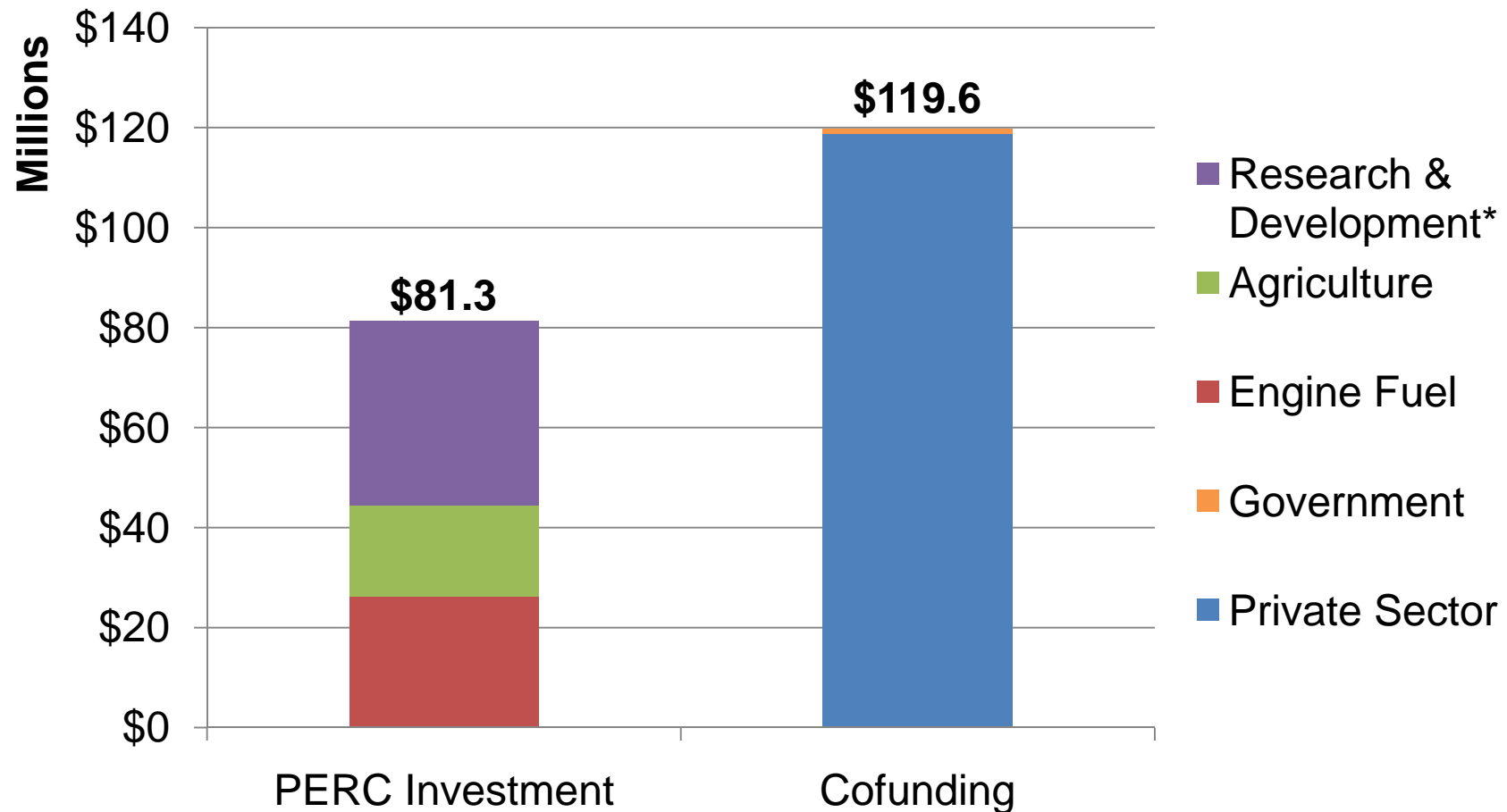
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RESEARCH & DEVELOPMENT FUNDING (1998- JULY 2010)



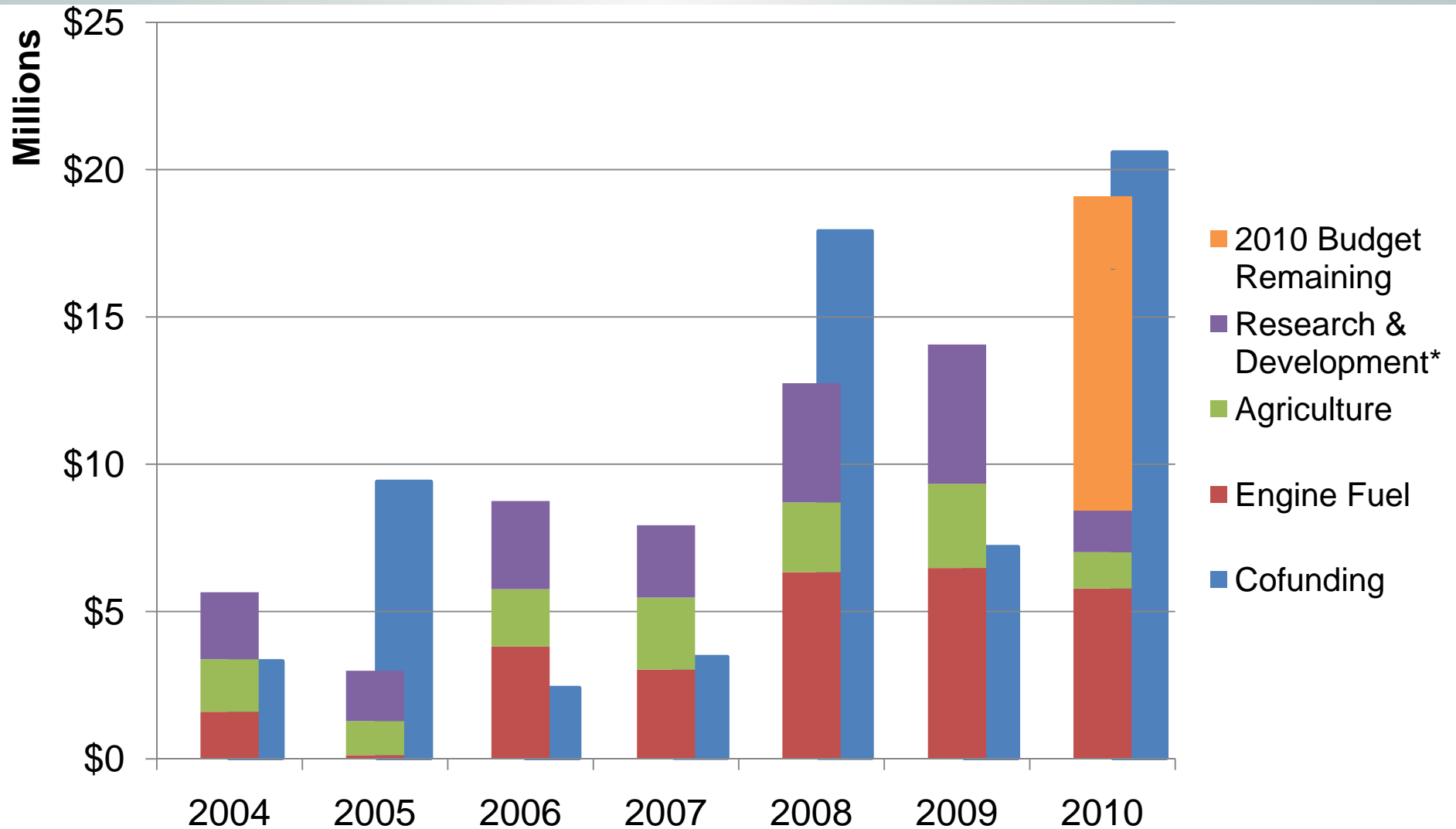
* Research & Development refers to general research & development for the propane industry and product development for the residential and commercial markets.

RESEARCH & DEVELOPMENT INVESTMENT (1998-JULY 2010)



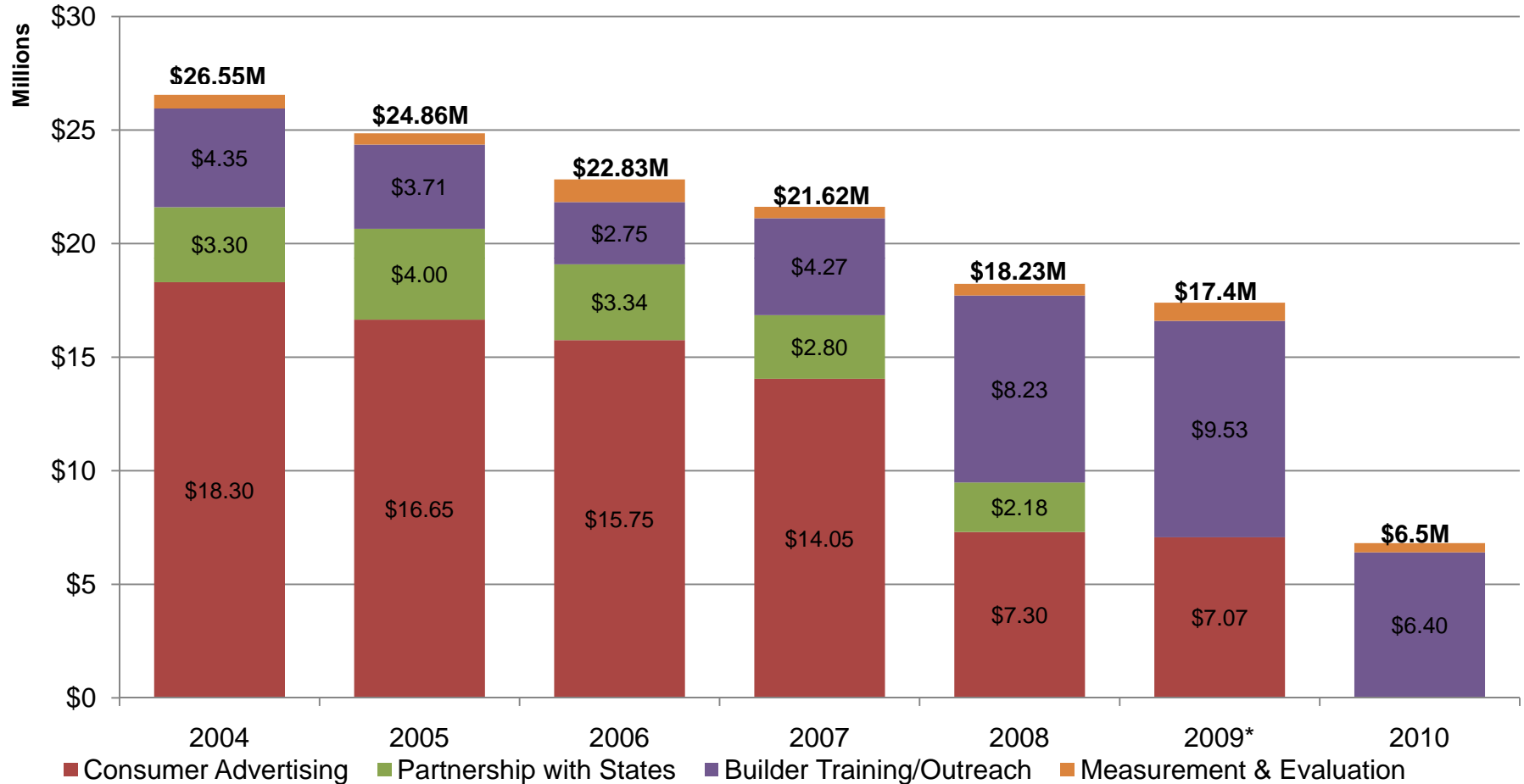
* Research & Development refers to general research & development for the propane industry and product development for the residential and commercial markets.

RESEARCH & DEVELOPMENT INVESTMENT (2004-JULY 2010)



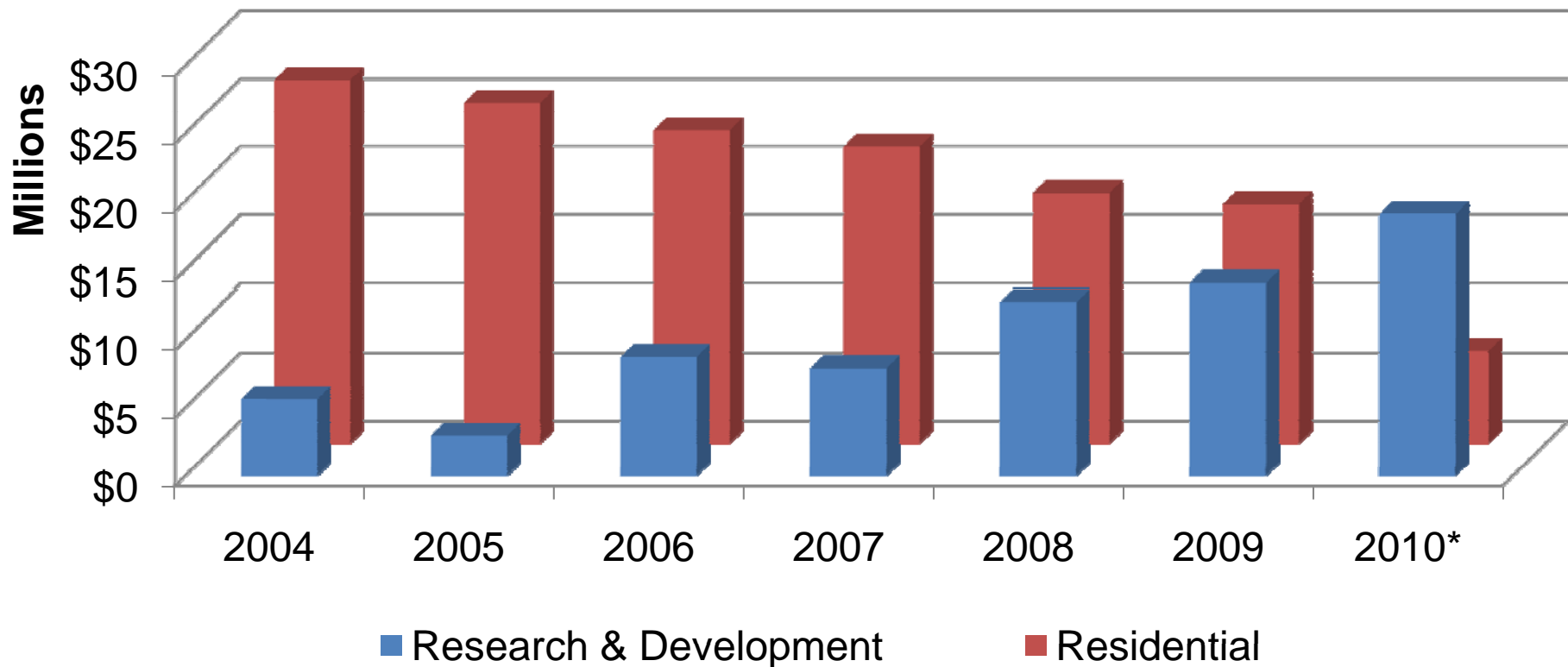
* Research & Development refers to general research & development for the propane industry and product development for the residential and commercial markets.

RESIDENTIAL PROGRAM INVESTMENT (2004 - 2010)



* '2009' accounts for both the 2009 Consumer Education dockets and the National Energy Conversation(NEC) docket. (Of the \$3.17 budgeted for Residential Advertising, \$392k was unspent due to the DoC restriction. Of the \$3.9M budgeted for NEC Advertising and creative, \$1.9m was unspent due to the DoC restriction.)

RESEARCH & DEVELOPMENT TO RESIDENTIAL INVESTMENT (2004-2010*)



*2010 projection based on budget remaining