BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Concerning Energy Efficiency Rolling Portfolios, Policies, Programs, Evaluation, and Related Issues.	Rulemaking 13-11-005 (Filed November 14, 2013)

COMMENTS OF THE ASSOCIATION OF BAY AREA GOVERNMENTS ON BEHALF OF THE SAN FRANCISCO BAY AREA REGIONAL ENERGY NETWORK AND MARIN CLEAN ENERGY (THE JOINT ADMINISTRATORS) ON ADMINISTRATIVE LAW JUDGE'S RULING SEEKING COMMENT ON MARKET TRANSFORMATION STAFF PROPOSAL

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I. INTRODUCTION

In accordance with the Rules of Practice and Procedure of the California Public Utilities Commission ("CPUC" or "Commission"), the Association of Bay Area Governments ("ABAG"), on behalf of the San Francisco Bay Area Regional Energy Network ("BayREN") and Marin Clean Energy ("MCE"), collectively the Joint Administrators, submit these Comments to the Administrative Law Judge's Ruling Seeking Comment on Market Transformation Staff Proposal. The BayREN is a collaboration of the nine counties that make up the Bay Area. Led by ABAG, the BayREN implements effective energy saving programs on a regional level and draws on the expertise, experience, and proven track record of San Francisco Bay Area local governments to develop and administer successful climate, resource, and sustainability programs. Since its inception, the BayREN has been addressing the three areas indicated by Decision 12-11-015 in the formation and implementation of programs: filling gaps that the investor-owned utilities ("IOUs") are not serving; developing programs for hard-to-reach markets; and piloting new approaches to programs that may have the ability to scale and offer innovative avenues to energy savings. The

REN model uniquely leverages a significant roster of local government stakeholders to play a key role in supporting AB 32, SB 350, AB 802, and AB 758 mandates as well as design and implement demonstration projects to deliver Integrated Distributed Energy Resources and provide grid integration support at the regional level. Marin Clean Energy ("MCE") is a not-for-profit, community choice aggregation ("CCA") that provides all customers with electricity supplied from 50% to 100% clean, renewable sources such as solar, wind, bioenergy, geothermal, and hydroelectric at competitive rates. MCE provides service to approximately 470,000 California customers in Marin County, Napa County, unincorporated Contra Costa County, and the cities of Benicia, Concord, Danville, El Cerrito, Lafayette, Martinez, Moraga, Oakley, Pinole, Pittsburg, Richmond, San Pablo, San Ramon, and Walnut Creek. Since 2012, MCE has administered ratepayer-funded energy efficiency programs serving residential and commercial customers. MCE's recently approved business plan expands the scope of programs to serve a broader range of customers including the industrial agricultural sectors.

Overall, the Joint Adminsitrators are supportive of the staff proposal, with modifications. Consistent with D.16-08-019, Conclusion of Law 40, we request that the proposal be modified to clarify that utilities should not be the only program administrators eligible to take on a lead administrator role for statewide programs. The responses below identify other areas within the proposal that require further examination and modification. The Commission should direct examination of these issues by staff in consultation with interested parties culminating in a revised proposal to be reissued for comments.

II. RESPONSES TO SPECIFIC QUESTIONS

1. What are the best characteristics of the market transformation framework in the Staff Proposal? What attributes are the most valuable and should be retained?

No comment.

2. Do you agree with the staff recommendation to begin the development of market transformation initiatives initially separately from the business plan portfolios? Why or why not?

The market transformation initiatives (MTI) should be developed in full coordination with the Business Plan process to ensure alignment with the full suite of programs offered by the program administrators. Any MTI should be developed to fill niches and gaps within the approved Business Plan activities and should be informed by existing REN/CCA/IOU Joint Cooperation Memos.

3. Do you agree with the budget limit of $12 million per PA for operations outside of the business plan portfolios suggested in the Staff Proposal? Why or why not?

We do not disagree with this budget amount. However, the Joint Administrators are concerned about what appears to be lack of available funding to work through the Market Transformation Development Plan process in order to get to the Market Transformation Accord phase (which the development of appears to be eligible for funding). If RENs or CCAs are intended to be eligible to administer an MTI, a funding pathway needs to be provided to allow them to participate in the initial required steps to draft and vet the Market Transformation Development Plan.

4. Should there be a limit to the time period for how long market transformation initiatives may operate outside of the business plans before being integrated with the overall portfolio? If so, what is your proposed time limit? Explain your rationale.

No comment.

5. Do you support the Staff Proposal elements with respect to cost-effectiveness? Why or why not? Describe in detail any changes you would suggest.

Proof of a 1.5 TRC at the onset of a MT program may not be achievable or desirable. Market Transformation activities will not typically be able to meet high cost effectiveness targets as defined by TRC, but instead are necessary to meet other difficult and important goals such as building electrification as defined in new legislation, Zero Net Energy, and carbon neutral activities. If such a high TRC were possible, then it would be more effective to have that as part of a 10 year rolling portfolio activity. Setting a high TRC to offset risk is not the best solution for MT. Understanding the objective of MT activities is critical and perhaps the Commission can provide more direction on what goal and outcome is desired for these programs so that a measurement and appropriate risk assessment can be completed.

6. Do you support the concept identified in the Staff Proposal for Market Transformation Accords? Why or why not? Describe in detail your suggested improvements.

The staff proposal appears to be focused on increasing the number of efficiency "widgets" and may be missing the opportunity to transform services or practices. Specifically, the proposal indicates that working across the state, region, or the nation is probable and that a MT effort should have significant leverage points to influence many decisions – both areas that seem more technology targeted. While the proposal does provide an example of working with businesses regarding practices such as employee training or re-tooling, these do not necessarily require statewide or national efforts. We suggest that the proposal more clearly state whether an acceptable MT initiative can include areas where the beneficial outcomes may be increases in adoption, procurement, or practices around energy efficiency that lead to energy savings.

The Market Transformation Accord should not duplicate efforts embodied within approved business plans. The Market Transformation Accord requirement to include a Coordination Plan that "demonstrates that all PAs agree not to initiate new resource programs that would directly compete and interfere with the MTI" fails to recognize many REN programs are non-resource and predicated on not overlapping with IOU programs. It also creates an opportunity, similar to the statewide downstream pilots that allow one PA to take downstream activities out of the hands of local PAs. This may lead to conflicts between approved business plan activities and market transformation initiatives that would preempt those activities if approved. This necessitates that the lead PA design their MTI with an understanding of, and a clear intent to not duplicate, any PA activities approved in the Business Plans and agreed to in any REN/CCA/IOU Joint Cooperation Memo. Market transformation should be appropriately focused on new initiatives that are unlikely to be embodied in a business plan (*e.g.* driving down the cost of installation for heat pumps). Approval of any Market Transformation Accord should be contingent upon the Accord not duplicating approved Business Plan activities.

7. The Staff Proposal includes an allocation of funding for market transformation planning efforts. In some cases, such planning efforts may fail to produce a workable Market Transformation Accord. Should spending on such planning efforts be subject to separate budget caps or time limitations? If so, what should those limits be and why?

No comment.

8. Do you agree with the Staff Proposal's recommendations with respect to the interaction with statewide and third-party program requirements in the business plan portfolios? Why or why not?

No comment.

9. Do you support the Staff Proposal recommendation for how to conduct evaluation, measurement, and verification on market transformation initiatives? Why or why not?

We agree with the recommendation to clearly articulate up front the tracking of performance and energy savings, but are unclear on the specifics regarding the requirement for both a "Delphi" process and the use of statistical or analytical models to create a baseline forecast of energy savings. Creating a baseline forecast that is used to estimate savings in the future could use either method. Additionally, it is possible that there is a lack of sufficient information to input into a statistical model or that a statistical/analytical model does not exist. If that is the case, does it mean that a simple model would suffice? We request clarification on this point.

We agree with the statement that outcomes in excess of the forecast baseline are program attributable but are concerned with the statement that indicates the forecast baseline should be updated when "substantial changes to market conditions" occur. This can be a great source of uncertainty and it would be beneficial if a process be included in the MT initiative to handle disputes that could occur in the future around baseline updates. Further, there should be a clear process and mechanism for measuring savings and applying attribution to the appropriate program and administrator.

The proposal states that energy savings claims between resource programs and MT initiatives be kept separate. At the same time, the MT initiative must (over time) meet a higher TRC than a resource acquisition program and meet energy savings milestones. These choices may have significant unintended consequences such as limiting useful MT initiatives or forcing a MT initiative to focus on products that are not included at all in a resource program and therefore lose out on the ability of the two strategies to work together. An alternative approach would be to attribute energy savings to underlying programs and attribute other accomplishments (market

transformation indicators) to the market transformation initiative. Ultimately, each attribution approach will depend on the underlying initiative and should be proposed along with the initiative.

10. Comment on the Staff Proposal's discussion of milestone based performance assessments.

If the PA chooses to terminate an MTI based on falling behind the allowable schedule, the required Tier II advice letter's discussion should include a robust framework for the "lessons learned" including reasons for failing to meet the milestones and any other under performance. This is recommended not to promote criticism of the effort but to effectively ensure a complete understanding of the challenges and barriers the effort faced. This will also allow for the sharing of lessons learned to all program administrators and stakeholders.

11. Do you support the Staff Proposal's recommendations for the administrative aspects of management of the Initiatives, particularly in Section 5 on procedural approach? Why or why not?

We believe the discussion in Step 2 should be added requiring draft Market Transformation Development Plans be posted to the Consolidated Business Plan service (A.17-01-013, et. al.) list so key parties and all PAs can be effectively noticed of the proposed MT Development Plan.

12. Are there other ways (besides those represented in the Staff Proposal) to engage and leverage stakeholder expertise effectively? If so, describe them.

No comment.

13. Are there characteristics of market transformation initiatives that are not sufficiently embodied in the framework described in the Staff Proposal? If so, describe them and suggest ways these characteristics can be integrated into the framework or requirements.

Agility and flexibility are not inherent in this process. MT provides the opportunity to establish and develop a market for new activities and measures. The procedural and regulatory timeframe laid out in this paper does not allow the PA the ability to adjust and fix a program's

approach or design in a businesslike manner. Can there be a more flexible model that allows for iteration and market correction?

14. Are there elements in the Staff Proposal that are missing or unclear? Describe.

The Joint Administrators request that the proposal be revised to clarify that all Program Administrators – and not just the IOUs – be allowed to propose Market Transformation programs and to be a statewide lead of such a program. This is consistent with D.16-08-019 ("We [] agree with the parties that argue that the lead administrator [of a statewide program] need not necessarily be a utility, though it must be an entity with the capacity to handle larger programs."[1] (*See* Conclusion of Law No. 40. "Utilities should not be the only program administrators eligible to take on a lead administrator role for statewide programs." [2] While no non-IOU Program Administrator elected to lead a statewide program, they were not precluded from consideration.

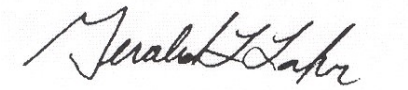
15. Ultimately, do you recommend that the Commission adopt this framework, or a version of the framework with your suggested modifications described in answers to the above questions? Why or why not?

No Comment.

II. CONCLUSION

We appreciate the opportunity to respond to these critical questions and look forward to continuing to be involved in this important discussion.

Dated: October 5, 2018



[1] D.16-08-019, at page 53.
[2] D.18-08-019, p. 102.

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