**Public Advocates Office Straw Proposal on EE Approval Process Improvements**

**Problem Statement**

The current EE portfolio approval and budget authorization process has proven to be ineffective in balancing meaningful oversight of ratepayer-funded EE activities with timely, predictable portfolio approval and budget authorization. EE stakeholders should consider proposing process improvements to the Commission to address identified concerns.

Among other things, the 2015 Rolling Portfolio joint proposal aimed to simplify the filing and review process by spreading regulatory filings over time. In practice, however, the current business plan/annual budget advice letter (ABAL) process has led to constant regulatory churn and has failed to resolve significant factual and policy disputes in a timely manner, undermining meaningful oversight of budgets and activities. In addition, the frequency of budget approval filings may be limiting the portfolio planning time horizon for program administrators, reducing PAs’ ability to make longer-term investments.

A key impediment to making the current process more functional has been the non-ministerial nature of ABALs. The currently approved EE business plans contain limited information on and review of forecasted budgets, savings, and cost-effectiveness. This lack of detail in the approved business plans requires that the scope of ABAL review include non-ministerial factual and policy questions that are difficult for the Energy Division staff to resolve in a timely manner that is consistent with Commission decisions. ABALs routinely take six months or more before being resolved, followed almost immediately by the submission of another round of ABALs.

**Proposed Scope**

* In scope:
  + Changes to EE application and ABAL frequency, timing, scope, content, criteria.
  + Additions to and/or elimination of requirements in Business Plans and ABALs.
  + Changes to the CAEECC’s role in Business Plan and ABAL review.
* Not in scope[[1]](#footnote-1):
  + Policy changes, reporting requirements, bus stops,[[2]](#footnote-2) procurement process, other stakeholder processes (such as Procurement Review Groups).
  + Regardless of what regulatory method is selected, retain policies that allow budget authorizations to “roll forward” by specifying that the most recent funding authorization will stay in place, by being authorized until the Commission approves a subsequent budget application.

**Approval Process Improvement Options**

Public Advocates Office proposes two different alternatives for the CAEECC’s consideration:

***Option 1: Robust Business Plan applications and ministerial ABALs***

In order to make the Business Plan/ABAL construct more effective, the scope and level of detail in Business Plan application proceedings must increase substantially so that the Commission can resolve factual and policy disputes in these formal proceedings. ABAL filings must become simple compliance mechanisms that the Energy Division can dispose of ministerially, including making straightforward determinations on whether Business Plan application triggers have been met using Commission-approved methods and data that have been fully reviewed in formal proceedings.

In practice, this will mean that applicants will need to justify the reasonableness of budgets and savings and cost-effectiveness forecasts.[[3]](#footnote-3) This would include detailed showings of current and proposed expenditures and zero-based budgeting[[4]](#footnote-4) exercises as well as detailed testimony on forecasting inputs, methods, and results for the full business plan period of up to ten years. Following formal litigation, a Commission decision would establish reasonable budgets and clear, detailed parameters for Energy Division ABAL review and timely disposition.[[5]](#footnote-5)

Without a robust Business Plan application proceeding and resolution of detailed factual and policy disputes, the ABAL process will continue to be a lengthy and difficult process each year without clear resolution or progress on fundamental issues.

***Option 2: Use a*** *f****our-year EE application cycle with opportunity for minor midpoint adjustments (no more ABALs)***

A potential alternative is to align EE portfolio and budget approval processes with the processes used in several closely-related distributed energy resource proceedings. A common framework currently used in low-income EE (ESA) and demand response (DR) is a regularly scheduled budget and program approval application with a midpoint process for in-flight changes. The program and budget authorization period is generally 3-6 years. The midpoint process is usually a petition for modification (PFM) or a Tier 2 or 3 Advice Letter (or both) and allows for authorization for new activities, program closures, implementation of policy changes approved in other proceedings, and budget adjustments. However, substantial policy changes or wholesale program changes are generally not in scope, particularly if an advice letter process is used.

The applicant showing required for approval through this process is similar to what would be required to make the Business Plan/ABAL process functional (zero-based budgets, detailed testimony justifying forecasts, etc.). However, the shorter approval period (compared to ten-year Business Plans) improves forecast credibility and reliability and reduces the litigation risks faced by all parties. Conversely, the longer planning horizon of a 3-6 year budget authorization (via elimination of a yearly ABAL required for cost recovery authority) would facilitate more comprehensive, multi-year planning and reduce churn. In addition, a midpoint adjustment process would preserve a measure of flexibility and allow program administrators, stakeholders, and the Commission opportunities to make adjustments between application proceedings.

As with the existing Business Plan/ABAL process, approved four -year applications would include Commission authorization for budgets to continue until the subsequent four-year application is approved. This will continue to avoid the “start-stop” concerns from the previous “three year” funding cycle method used for energy efficiency portfolios.

**Comparative Summary Table/Matrix**

|  |  |  |  |
| --- | --- | --- | --- |
|  | Current BP/ABAL | Robust BP/Ministerial ABAL | Application w/ midpoint review |
| Zero-based budget? | No | Yes | Yes |
| Ministerial ABAL? | No | Yes | No |
| Frequency of formal approval | 8 years | Up to 10 years | 3-6 years |
| Frequency of AL submission | Annual | Annual, but ministerial | Every 2-3 years |
| CAEECC ABAL review? | Yes | Maybe? | No |

Next Steps

The Public Advocates Office offers this straw proposal as a means of beginning a stakeholder conversation on regulatory process improvements. Potential next steps include:

* Stakeholders review the straw proposal and offer feedback, amendments, or alternative proposals for the Facilitation Team to post by May 27.
* Stakeholders present and discuss both the problems with the current Business Plan application/ABAL processes and the proposal(s) to address these at the June 10 CAEECC meeting, including:
  + CAEECC Members should deliberate on whether to include this topic as a priority for further elaboration via CAEECC processes.
  + If CAEECC Members support taking up process improvements as a priority issue, they should also deliberate on an appropriate CAEECC process for doing so (facilitated working group(s), workshops, or full CAEECC meetings) as well as the appropriate timeframe and deliverables.
* Discuss with the Energy Division how to proceed including regulatory next steps.

1. This proposal does not address substantive policy issues or potential modifications to other elements of the Rolling Portfolio process such as ex ante/ex post alignment and bus stops or stakeholder processes such as CAEECC and PRGs. The process issues in this proposal are discrete and largely separable from policy questions or other potential process improvements. The reason for limiting the scope of this proposal is simply to focus on a core set of closely interrelated challenges. These issues have either recently been decided or would be in scope in subsequent phases of the EE rulemaking proceeding or informal processes [↑](#footnote-ref-1)
2. ’Bus stops’ are the shorthand used in D.15-10-028 to describe several annual deadlines for changes to EE savings parameters. Any updates not completed by the bus stop date are deferred to the subsequent year. [↑](#footnote-ref-2)
3. By contrast, some applicants (particularly the utilities) may be able to reduce the resources expended on other parts of the Business Plan applications as third-parties become increasingly responsible for program design and implementation. [↑](#footnote-ref-3)
4. Zero-based budgeting is a method of budgeting in which all expenses must be justified for each new period. The process of zero-based budgeting starts from a "zero base," and every function within an organization is analyzed for its needs and costs. [↑](#footnote-ref-4)
5. In such a situation, it is unclear whether annual ABAL review by the CAEECC would be a priority use of resources. [↑](#footnote-ref-5)