

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)

**OPENING COMMENTS OF THE NATURAL RESOURCES DEFENSE  
COUNCIL (NRDC) ON THE ADMINISTRATIVE LAW JUDGE'S RULING  
SEEKING COMMENT ON MARKET TRANSFORMATION WORKING  
GROUP REPORT**

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Lara Ettenson  
Natural Resources Defense Council  
111 Sutter St., 20th Floor  
San Francisco, CA 94104  
(415) 875-6100  
[lettenson@nrdc.org](mailto:lettenson@nrdc.org)

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**I. INTRODUCTION**

Pursuant to Rules 1.9 and 1.10 of the Commission’s Rules of Practice and Procedure, the Natural Resources Defense Council (NRDC) respectfully submits these opening comments on the “Administrative Law Judge’s Ruling Seeking Comment on Market Transformation Working Group Report,” (MTWG Report) dated April 10, 2019. NRDC is a non-profit membership organization with more than 95,000 California members who have an interest in receiving affordable energy services while reducing the environmental impact of California’s energy consumption.

Our comments are summarized as follows:

1. NRDC supports adopting the body of Attachment A in full, including our positions on the non-consensus items.
2. NRDC proposes that \$100 million over three years be authorized for market transformation activities, to be funded through unspent funding in the rolling portfolio budget or through a new authorization.
3. NRDC endorses Section 8 of Attachment A to address potential issues of overlap.
4. NRDC outlines an approach below to ensure adequate transparency and oversight for program modifications as well as to determine when initiatives should end.

## II. COMMENTS ON ALJ RULING QUESTIONS

- 1. Please comment on the overall energy efficiency market transformation framework suggested in Attachment A and other consensus recommendations in the report. Should the Commission adopt this framework? Why or why not?***

The main body of Attachment A was developed through an extensive stakeholder process. We endorse adopting the full approach, including NRDC's positions on the non-consensus items.

- 2. What concerns, if any, do you have about the market transformation framework as proposed in the MTWG report? What aspects would you modify? What aspects would you keep?***

NRDC was an active participant in the process and we fully endorse the main body of Attachment A. While the Appendix has many great items from which to build (e.g., the proposed intake form) it was not fully vetted as was the main document. That said, many items in the Appendix could be referred to the Market Transformation Advisory Group to complete, as noted on p.A-26, thereby not delaying a decision on the main framework and structure proposed in Attachment A.

- 3. Comment specifically on your preferred resolution of the first non-consensus issue identified in Attachment A (see pages 24-31) with respect to the appropriate choice or Market Transformation Administrator. Parties may also propose other alternatives, if there are administrative models that were not discussed in the report, but should be considered.***

NRDC was an active participant in the subgroup that developed the proposal for an independent market transformation administrator. The rationale for supporting an independent administrator (which is elaborated on in Attachment A) is based on market transformation initiatives being best administered by an entity that has: (1) stability and focused expertise that flow from mission alignment, (2) efficiency associated with a 'natural' statewide purview, and (3) agility associated with being a non-utility. We therefore reiterate our support for this option.

- 4. Comment specifically on your preferred resolution of the second non-consensus issue identified in Attachment A (see pages 36-38) with respect to the cost-effectiveness threshold that should be required for market transformation initiatives? Parties may also propose other alternatives.***

As noted in Attachment A, NRDC supports a cost-effectiveness threshold of 1.25. We

support this approach since the cost-effectiveness test will be applied to a single market transformation initiative and will not be a threshold for a *portfolio* of initiatives which are able to “balance out” the cost-effectiveness over multiple programs.

**5. *To what extent can current cost-effectiveness tools and methods fully evaluate market transformation initiatives that would result in codes and/or standards? If current methods are insufficient, please comment on the two options outlined on page 35 of Attachment A, and include any other recommendations on this topic.***

NRDC has no comment at this time on the mechanics of the cost-effectiveness tools but urges that any approach be straightforward and manageable.

**6. *Should a budget allocation to market transformation be incremental to the rolling portfolio budgets, or should a portion of the energy efficiency rolling portfolio budgets be redirected to market transformation? Why?***

NRDC supports funding initiatives from the rolling portfolio budget only if the Program Administrators (PA) have extra allocation after funding the rolling portfolio programs. However, if a PA does not have sufficient funding, the CPUC should authorize additional budget for this purpose.

**7. *How much should the initial funding allocation be for market transformation, and for what duration?***

NRDC recommends that the Commission approve a budget of \$100 million over three years, with a process to request additional funds if needed. This amount would allow for the considerable funds that are required to start up a market transformation framework, including contracting with an independent administrator (under NRDC’s preferred path).

Having a robust budget is necessary to (i) attract a professional and qualified administrator, (ii) pique the interest of implementers to submit ideas, (iii) send a message to the market that there is a real opportunity to engage, and (iv) ensure that there is enough money to fund promising opportunities. NRDC supports a process by which funding is allocated to the various Market Transformation Initiatives (MTIs) in accordance with the stage gates in Attachment A. This would ensure prudent allocation of funding at each stage of development. After three years, we recommend the Commission assess the process to determine if

modifications are needed.

**8. *How should the coordination between resource programs and market transformation initiatives be managed?***

**a. *Would a cooperation agreement between market transformation initiatives and resource programs be useful?***

NRDC agrees that a clear outline of the potential overlap, and solutions to manage any overlap, be well understood at the onset. We also understand the concern of third-party implementers that a market transformation initiative could supersede their programs. However, the opposite is also a potential concern; that the fact there is an existing resource program would prohibit a potentially successful MTI from being initiated.

Therefore, we support Section 8 of Attachment A that lays out a recommended set of steps and key considerations to address this issue. In particular:

- i. Identify overlaps;
- ii. Select MTIs to enhance positive and minimize negative overlaps;
- iii. Collaborate to enhance outcomes;
- iv. Use informal dispute resolution first, and if unsuccessful;
- v. Employ the CPUC's formal Alternative Dispute Resolution (ADR) procedures.

**b. *What should be the required and modifiable terms of such an agreement?***

NRDC does not have any comments at this time.

**9. *Once a market transformation initiative is approved, what should be the process for updating or amending key terms (e.g., metrics, milestones, targets, schedules, and savings methodologies) during implementation?***

**\*\*Note: The response here to #9 also includes NRDC comments on #10\*\***

As described in Attachment A (p.A-26), the Market Transformation Advisory Board (MTAB) holds a few important roles pertaining to this question. First, the MTAB would be involved in the criteria setting of any MTI. Second, there would be ongoing reporting by the Market Transformation Administrator (MTA) or the MTI lead to the MTAB over the course of the MTI. Specifically:

“For long-term MTIs (those reaching Stage 6: Long-term Monitoring), the MTA(s) should provide the MTAB an update at minimum once every year. However, for longer term MTIS, the MTA(s) would not necessarily be seeking a recommendation for continuation or termination. Rather, milestones and contingencies established in the [Market Transformation Initiative] Plan would preferably dictate continuation or termination of the MIT. In the event that the MTA(s) wishes to continue an MTI that does not adhere to the Plan, consultation with the MTAB would be needed and the recommendation of the MTAB would still be sought. At no stage would the MTAB have authority to discontinue or force the continuation of an MTI. Rather the MTAB would provide recommendations for the MTA(s)’ and CPUC’s consideration.” (Attachment A, A-26-27).

To further illustrate this concept, NRDC recommends:

- i. The MTA (or MTI lead if not the MTA) reports semi-annually (or at least annually as noted in Attachment A) to the MTAB. At this time, the MTAB flags any concerns. However, we note that some MTIs may not have sufficient data to determine actions on a semi-annual or even annual basis. Therefore, we suggest that all initiatives provide periodic progress reports but that a more in-depth analysis of metric achievement and other reporting requirements be on a schedule determined for each MTI.
- ii. If there is a sign that the metrics, milestones, targets, schedules, or savings methodologies need to be updated, the MTA and/or MTI lead proposes modifications to the MTAB. If there is indication of a faltering initiative, the MTA should set the MTI lead (if other than the MTA) on a path to either fix the problem or cancel the program. If the MTA is the lead, then the CPUC, in consultation with the MTAB, should set criteria by which to determine the progress of the MTA.
- iii. If there is a need for modification or the MTI needs to be adjusted, the MTI lead (whether the MTA or other) must come prepared to propose changes during their report to the MTAB.
- iv. The MTAB provides feedback, helps establish metrics to measure improvement (e.g., if metric a is not 90% met by x date, program discontinues), and allows for a certain amount of time to see if the modifications yield positive results (e.g., 6 months, 1 year, etc.). One option at this stage is that if there is consensus on next steps, these changes could be included in a Tier 1 advice letter. If there is no consensus then the MTI lead would need to submit a Tier 2 advice letter.
- v. The following year (or at the time of the agreed upon follow-up report), if the program is still faltering based on the approved criteria, the MTA would propose to MTAB that the MTI lead close the program. If the MTA is the lead, the MTAB could recommend to the CPUC that the initiative be closed.

**10. *If a market transformation initiative, once approved, begins to perform poorly:***

**a. *How will the Commission become aware there is a problem?***

Given that the proposal (p.A-27) notes that the MTAB should include up to two CPUC

Ex-officio Members, the above process would ensure the Commission is aware of the overall process and progress on all MTIs.

***b. What should the process be to determine if a market transformation initiative with questionable performance should be amended or terminated?***

See above #9.

***11. The MTWG report references “financial commitments to the target market(s)” (see page 17) and a market transformation plan that “solidifies a commitment to the market and relevant actors” (page 18). What kinds of commitments should a market transformation initiative make to the market(s) and market actors? What kinds of commitments are not appropriate, if any?***

NRDC does not have any comments at this time.

***12. Are there other issues not addressed in Attachment A that the Commission should consider as part of its decision establishing a framework for energy efficiency market transformation?***

NRDC does not have any comments at this time.

### **III. CONCLUSION**

NRDC appreciates the Commission’s consideration of our recommendations and looks forward to working with stakeholders and the Commission to implement a successful approach to market transformation.

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Respectfully submitted,



Lara Ettenson, Director, Energy Efficiency Initiative  
Natural Resources Defense Council  
111 Sutter St., 21st Floor  
San Francisco, CA 94104  
415-875-6100  
[lettenson@nrdc.org](mailto:lettenson@nrdc.org)