

**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 13-11-015
(Filed November 14, 2013)

**OPENING COMMENTS OF THE
CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT COUNCIL ON
ADMINISTRATIVE LAW JUDGE'S RULING SEEKING COMMENT ON
MARKET TRANSFORMATION WORKING GROUP REPORT**

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I. INTRODUCTION

The California Efficiency + Demand Management Council (the “Council”) respectfully submits these Opening Comments on the Administrative Law Judge’s Ruling Seeking Comment on Market Transformation Working Group Report, issued in this proceeding on April 10, 2019 (“ALJ Ruling”).¹

We appreciate the dedication by the numerous parties whose work over the last decade has created the foundation for development of this Market Transformation Working Group Report (“MTWG Report”). The MTWG Report builds upon the initial 2018 Energy Division (“ED”) Staff proposal (ED Staff Proposal),² as well as the Prah and Keating recommendations provided to the California Public Utility Commission (“Commission”) in 2014,³ to provide a framework for achieving Senate Bill (“SB”) 350’s⁴ call for deeper energy efficiency savings through market transformation. The Council is excited about the potential benefits that Market Transformation can have on the state’s energy efficiency sector. We request that the Commission take the following actions to enhance the report’s recommendations:

¹ These Opening Comments are timely filed pursuant to the California Public Utilities Commission (“CPUC” or “Commission”) Rules of Practice and Procedure and the ALJ Ruling.

² “Energy Efficiency Market Transformation: A Staff Proposal Draft,” prepared by Energy Division, dated August 28, 2018.

³ “Building a Policy Framework to Support Energy Efficiency Market Transformation in California” by Ralph Prah and Ken Keating, Consultants to Energy Division, dated December 9, 2014 (“Prah and Keating Report”).

⁴ Senate Bill 350; *see*

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB350.

- Clearly define the objectives of the Market Transformation program;
- Ensure the chosen Market Transformation Administrator (“MTA”) is required to provide uniform, clear, and customer focused principals to abide by;
- Postpone any decision on the cost-effectiveness metrics to be applied for Market Transformation Initiatives (“MTIs”) until legislative action and consideration in other proceedings have provided further context;
- Ensure there is coordination, and dispute resolution mechanism, between the Rolling Portfolio and Market Transformation.

II. BACKGROUND

The Council is a statewide trade association of non-utility businesses that provide energy efficiency, demand response, and data analytics services and products in California.⁵ Our member companies employ many thousands of Californians throughout the state. They include demand response and grid services technology providers, implementation and evaluation experts, energy service companies, engineering and architecture firms, contractors, financing experts, workforce training entities, and manufacturers of energy efficiency products and equipment. The Council’s mission is to support appropriate demand response and energy efficiency policies, programs, and technologies to create sustainable jobs, long-term economic growth, stable and reasonably priced energy infrastructures, and environmental improvement.

The ALJ Ruling invited parties to comment on the California Energy Efficiency Coordinating Committee (“CAEECC”) Market Transformation Working Group Report (“MTWG Report”), which is attached as Attachment A to the ALJ Ruling. In addition, the ALJ Ruling requested that parties submit responses to questions regarding the MTWG Report. These comments are provided in response to the ALJ Ruling.

III. THE COUNCIL’S RESPONSES TO QUESTIONS IN THE ALJ RULING

The Council’s responses to the questions posed in the ALJ Ruling are provided below.

⁵ Additional information about the Council, including the organization’s current membership, Board of Directors, antitrust guidelines and code of ethics for its members, can be found at <http://www.cedmc.org>. The views expressed by the Council are not necessarily those of its individual members.

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 Council generally supports the adoption of the consensus recommendations in the MTWG Report. The MTWG report provides a framework, set of Guidelines & Strategies, and processes by which MTIs can be vetted, approved and funded to help the Commission achieve the state's goals.

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?

While the Council supports the principals and process recommendations found in the MTWG Report, it is equally important to define clear objectives for the Market Transformation program. Following the recommendations of Prahel and Keating, the Council encourages the Commission to view the program as a new policy tool in California's toolkit, rather than a policy objective.⁶ As such, we encourage the Commission to adopt clear objectives for how this new tool can be utilized to achieve the state's energy, environment, and reliability goals.

Market Transformation, as approached in the MTWG Report and the ED Staff Proposal, focuses on the development, support and funding of long-term, high-risk, high-reward initiatives. The MTIs resulting from this approach should provide potentially large long-term benefits towards achieving California's energy and environmental goals, but do not fit in neatly into the traditional energy efficiency framework.

While the Commission considers means to reap long-term, high-risk and high-reward potential, it is imperative that it does not lose sight, nor reduce priority, of the existing and now-developing Resource Acquisition programs intended to produce steady, ongoing efficiency results. The ED Staff Proposal highlighted the fact that ("RA") Programs "have been successfully transforming markets in California for many years."⁷ With sufficient funding, the RA programs will continue to make steady progress in transforming markets and yielding the results California needs for its energy future, especially given the shift towards Third-Party Implementation.

⁶ See Prahel and Keating Report, at p. 5.

⁷ Ed Staff Proposal, at p. 2.

These and other objectives should be more thoroughly developed as part of the final determination process to guide the deployment of the Market Transformation framework, submitted MTIs and associated funding.

- 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 for 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.**

The Council encourages the Commission to select an MTA that is positioned to dedicate the necessary long-term resources to achieve the Market Transformation Program goals. We believe that either an Investor-Owned Utility (IOU)- led or an Independent State-Wide Program Administrator could effectively implement the Market Transformation Framework as identified in Appendix A, so long as the following principles are followed:

- Uniformity – The rules, implementation, and oversight of MTIs needs to be uniform state-wide across IOU and other load-serving entity (“LSE”) customer bases. This is in alignment with the ED Staff’s recommendation that at minimum MTIs “should encompass all IOU service territories.” Many customers span these boundaries, and as boundaries change the potential for confusion and unnecessary customer rejection increases if program participation is not uniform.
- Clarity – The needs to be a transparent process for submitting, reviewing, and implementing MTIs.
- Customer Experience – Customers are the marketplace. To transform the marketplace, the selected MTA, therefore, needs to require that all MTIs place the customer experience at the center of the proposals and ensure its seamless, clear and rewarding execution for customers.

- 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.**

The Council strongly disagrees with the use of the Total Resource Cost (“TRC”) as the cost-effectiveness metric for Market Transformation. The TRC in its current form is simply incapable of guiding the selection of MTIs that will help the Commission achieve California’s ambitious energy efficiency goals. Successful cost-effectiveness tests account for both costs &

benefits in a symmetrical fashion. Unfortunately, as currently constituted, the TRC attributes excessive costs to energy efficiency, while omitting benefits that are important to achieving California's and the Commission's policy goals.

The TRC attributes virtually all "participant" costs to energy efficiency without considering participant benefits that are typically the basis for participant decisions to implement energy efficiency. Research consistently shows that customers are willing to invest in energy efficiency projects to achieve bill savings as well as a host of non-energy benefits.⁸ At the same time as it improperly considers irrelevant costs, the California TRC fails to consider relevant benefits, including benefits required by state law: those non-energy benefits essential to meet the Commission's and California's equity and non-resource policy objectives. Together, these factors result in over-counting costs and under-counting benefits, distorting the value of energy efficiency. If the Commission is to adopt the TRC as the metric for the program, we believe it will certainly encounter similar struggles facing the RA programs and culminate in the ultimate failure of the Market Transformation program.

The propriety of applying the TRC as a primary test is currently being considered in the Integrated Distributed Energy Resources ("IDER") proceeding.⁹ The development of a Common Resource Valuation Method ("CRVM") is under consideration in the Integrated Resource Planning ("IRP") proceeding (R.16-02-007). The legislature has also expressed concern with the Commission's use of the TRC, which has been raised in deliberations with respect to SB 524 and AB 961. Instead of adopting any TRC target at this time, the Council recommends that the Commission defer further consideration of the appropriate cost-effectiveness metrics and targets for Market Transformation.

⁸ See, e.g., PG&E Whole House Program: Marketing and Targeting Analysis. Opinion Dynamics Corporation, 2014. CALMAC ID: PGE0302.05; Energy Upgrade California – Home Upgrade Program Process Evaluation 2014-2015, EMI Consulting, 2015. CALMAC ID: PGE0389.01; Impact Evaluation Report Home Upgrade Program – Residential Program Year 2017, DNV GL, 2019. Each of these studies quantifies the nature of customer investment in energy efficiency programs. In each study non-energy factors, including home comfort, resale value, and indoor air quality among others comprise a majority of perceived customer benefits.

⁹ Proposed Decision Adopting Cost-Effectiveness Analysis Framework Policies for All Distributed Energy Resources mailed in R.14-10-003 (IDER) on March 25, 2019, at p. 19.

- 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.**

The Council agrees that MTI cost-effectiveness must incorporate benefits associated with the codes & standards (“C&S”) phase. Particularly with respect to high-risk, high-reward approaches, it would be self-defeating to exclude the benefits associated with C&S phases, as those benefits would never materialize absent the initial investment in prior phases that lead to the maturation of the products and services. Omitting the C&S benefits may make an MTI that would otherwise yield cost-effective benefits appear too expensive, and preclude its adoption—and therefore deny California the full lifetime of benefits that would otherwise arise from the measure. The Council envisions a majority of MTIs will be the first steps in a successful journey of technologies or practices to the C&S phase.

- 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?**

The Council supports an incremental funding allocation to Market Transformation. The benefits of Market Transformation should be incremental and supplemental to the ongoing Market Transformation effects that RA programs are having on California’s marketplace. The funding of Market Transformation should never compete with, nor cannibalize, funding made available to RA, which will continue to be the mainstay of efficiency gains.

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

The Council respectfully reserves comment at this time but reserves the right to respond to other parties’ comments.

- 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?

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

The Council partook in the sub-group working on this topic and led the development of the report recommendations on a potential path to resolving disputes. We support the Framework

recommendations on this subject. Absent a clear mechanism to resolve disputes, RA investment, deployment and innovation would be unnecessarily jeopardized, and California would lose precious time needed to make progress towards SB 350 and clean energy goals. We further believe that a venue for communication and coordination is critical, once an MTI has made it through the very initial steps in the stage gate process. This venue will allow for effective coordination between an existing RA Program and the proposed MTI as well as a space to discuss term modifications if necessary

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?

The Council believes the proposed stage gate process provides the framework structure to allow for iterative adjustments to key terms throughout the implementation and 3 phase process. It will be up to the MTA in coordination with the Market Transformation Advisory Board, and the Initiative Review Committee to manage this process and provide updates to the Commission via the Advice Letter II filing process proposed.

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

- a. How will the Commission become aware there is a problem?**
- b. What should the process be to determine if a market transformation initiative with questionable performance should be amended or terminated?**

The Council believes the proposed stage gate process provides the framework structure for reviewing MTIs as they advance through the phases and the results of each are reviewed.

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?

The Council believes it is appropriate for multi-year financially capped commitments to be made to market actors when necessary. Without the ability to make these commitments to key market actors MTIs will not be able to leverage market share and achieve the long term vision of sustaining the work.

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?

The Council respectfully reserves comment at this time but reserves the right to respond to other parties' comments.

IV. CONCLUSION

The Council appreciates the Commission's consideration and the opportunity to provide Comments on the MTWG Report recommendations and view the future adoption of the MTWG Report recommendations as a significant step forward to achieving California's ambitious energy efficiency goals. We also believe that the proposed modification and technical changes would further enhance the success of Market Transformation in the state. In closing, the Council asks the Commission to:

- Clearly define the objectives of the Market Transformation program;
- Ensure the chosen MTA is required to provide uniform, clear, and customer focused principals to abide by;
- Postpone any decision on the cost-effectiveness metrics to be applied for MTIs until legislative action and consideration in other proceedings have provided further context; and
- Ensure there is coordination, and dispute resolution mechanism, between the Rolling Portfolio and Market Transformation.

Dated: May 6, 2019

Respectfully submitted,

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