

**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)

**NOTICE OF EX PARTE COMMUNICATIONS BY
THE CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT COUNCIL**

Date: February 14, 2020

Greg Wikler
Executive Director
California Efficiency + Demand Management Council
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Pursuant to Rule 8.4 of the Commission’s Rules of Practice and Procedure, the California Efficiency + Demand Management Council (the “Council”) hereby timely gives notice of the following ex parte communications. Rule 8.4(a) provides that “[t]he notice may address multiple ex parte communications in the same proceeding, provided the notice of each communication identified therein is timely.”

The two (2) communications occurred on the same date (Tuesday, February 11, 2020), and involved the same information. The communications were oral and included written documents, as described in more detail below, and both took place at the Commission’s office at 505 Van Ness Avenue, San Francisco, California 94102. The written communications were as follows: (1) Letter from the Council to Commission President Batjer and Commissioner Randolph, dated December 30, 2019 which is attached hereto as Exhibit A, (2) Letter from Commissioner Randolph to the Council, dated February 4, 2020 which is attached hereto as Exhibit B, and (3) Council presentation entitled “Perspectives from Industry Regarding EE Solicitations Process,” dated February 7, 2020 which is attached hereto as Exhibit C.

The communications were initiated by Greg Wikler, Executive Director of the Council and Gene Rodrigues, Chair of the Council Board. The first communication occurred in person at 1:30 p.m. with Joshua Huneycutt, Energy Advisor to Commission President Batjer and lasted approximately 30 minutes. The second communication occurred in person at 2:30 p.m. with Jason Ortega, Policy Advisor to Commissioner Randolph and lasted approximately 30 minutes. In addition, Jennifer Kalafut, from the Energy Division’s Energy Efficiency Department was present at both meetings. The Council timely filed and served a Three Working Days’ Notice for these communications on February 6, 2020. No one other than the people identified above were present at the time of the meetings.

Mr. Wikler and Mr. Rodrigues began each meeting by discussing the Council's concerns regarding the current energy efficiency program third party solicitation processes. Mr. Wikler and Mr. Rodrigues outlined the issues with drastic cuts made by some of the investor-owned utility (IOU) Program Administrators (PAs) to existing energy efficiency programs and highlighted the dire impact that these cuts are having on California's energy efficiency program delivery infrastructure. Mr. Wikler stressed that the budget cuts may result in many current energy efficiency third party providers being forced to lay off their Staff and/or redeploy their resources to other regions outside of California. Mr. Wikler stated that this is a major and unprecedented disruption in California's energy efficiency delivery infrastructure that will take years to repair and if not immediately resolved will result in California not being able to achieve its ambitious carbon reduction goals. The points made by Mr. Wikler and Mr. Rodrigues are also contained in Exhibits A and C.

Mr. Wikler and Mr. Rodrigues concluded each meeting by requesting that the Commission immediately order a reversal to contract terminations and budget cuts for existing energy efficiency programs and an investigation into the root causes for why the current situation exists.

Dated: February 14, 2020

Respectfully submitted,

/s/ GREG WIKLER

Greg Wikler

Executive Director

California Efficiency + Demand Management Council

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EXHIBIT A



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December 30, 2019

Via U.S. Mail and Electronic Mail

Hon. Marybel Batjer
President
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
E-mail: marybel.batjer@cpuc.ca.gov

Hon. Liane M. Randolph
Commissioner
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
E-mail: liane.randolph@cpuc.ca.gov

Subject: Urgent Request for Commission Action to Reverse Budget Cuts to Energy Efficiency Programs

Dear President Batjer and Commissioner Randolph:

On behalf the California Efficiency + Demand Management Council (The Council), I am writing to express the deep and urgent concerns from our membership about the state of energy efficiency (EE) programs overseen by the Commission. As I outline in this letter, California is on the verge of facing unprecedented reductions in EE funding levels from two of the largest investor-owned utilities (IOUs) in the state, Pacific Gas and Electric Company (PG&E) and Southern California Edison Company (SCE). These reductions are leading to a significant and irreparable erosion of the EE labor force's capability to deliver EE services throughout the State and thus put in jeopardy California's ability to meet its ambitious carbon reduction goals mandated by California law. We are asking for an immediate intervention by the Commission to order both PG&E and SCE to immediately reverse course and reinstate existing contracts at past funding levels until new programs are launched and available to consumers.

1. 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.¹ Our more than 70 member companies employ many thousands of Californians throughout the State. They include energy efficiency and demand response

¹Additional 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.

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 energy efficiency and demand response policies, programs, and technologies to create sustainable jobs, long-term economic growth, stable and reasonably priced energy infrastructures, and environmental improvements.

In early December 2019, both PG&E and SCE began notifying EE program implementers that there would be significant budget reductions for the 2020 program year. These reductions are across the board and are impacting nearly all existing EE programs, including those programs that are above required cost-effectiveness thresholds. On September 3, 2019, both IOUs submitted to the Commission their Annual Budget Advice Letters (ABALs). Both ABAL submittals were ultimately rejected by the Commission's Energy Division (ED) on December 23, 2019 because both companies had failed to submit cost-effective 2020 portfolios of EE programs. In anticipation of their ABAL rejections, PG&E and SCE began scaling back their entire EE program portfolios in order to meet new budget authorizations that are roughly **40%** below spending levels authorized by the Commission in Decision (D.) 19-08-034.

These pending reductions will have an immediate and dire impact on California's EE program delivery infrastructure. Many of the affected EE program implementers are member companies of the Council. Many of the Council's Member companies are right now in the process of repositioning employees to other states, and in some instances are left with no other alternative except to lay off their California employees due to this dire situation. Rehiring and training energy efficiency professionals can take many years, and the expertise we have built in California through our leadership is actively being lost to other industries and other states due to the lack of continuity created by these budget reductions, schedule delays, and overly burdensome rules. Customers who have had commitments for EE projects are now being told by implementers that those commitments will not be honored due to the EE program budget cutbacks. In the short-term, these reductions are creating significant damage to California's EE program and project delivery infrastructure that will take many years to recover from should these actions be allowed to move forward. These reductions will drastically erode California's ability to deliver on its carbon reduction goals set forth through legislative efforts including Senate Bill (SB) 350 and SB 100.

2. Actions Taken by the Council

We have expressed our deep concerns and offered recommendations directly to senior management at both IOUs. Both explained that while they are sympathetic to the situation, there is little they can do given that the reduced goals set forth by the Commission in D.19-08-034 have led to non-cost effective ABALs and that Commission policy stipulates that program administrators must maintain cost-effective portfolios at all times. Further, the IOUs report that in order to improve the cost-effectiveness of their portfolios, these budget cuts must be imposed. They have noted that forthcoming solicitations will allow for new and innovative programs to be defined by third-party implementers which will ultimately facilitate the growth of EE programs by late 2020. Unfortunately, both PG&E and SCE have **substantially** delayed the schedules of the new solicitations, which means the earliest timeline for the launch of new EE programs resulting from these solicitations will be Q1 and Q3 2021, respectively. Furthermore, both IOUs have imposed onerous bidding requirements that were never seen before in previous EE bid cycles, have not offered any transparency to bidders throughout the process, and have been woefully inadequate in their communications of Request for Offers (RFO)/Request for Proposals (RFP) status and schedules.

We also expressed these same concerns and made recommendations to the ED's senior management. We strongly recommended that the IOUs be required to allow existing cost-effective EE programs to remain in place over the next 12-24 months to ensure a smooth transition to new programs resulting from the delayed solicitation process in accordance with previous Commission guidance. We were advised that the ED must follow procedures set forth by various Commission decisions and that they are not authorized to require the IOUs to maintain existing programs that fall outside of the parameters set forth by Commission policies. We have articulated to ED staff the root causes for why we have arrived at this unfortunate situation (i.e., outdated methods for deriving EE

potential and goals, erroneous interpretations of cost-effectiveness methods,² inclusion of non-resource programs in cost-effectiveness tests, challenges getting procedural workpapers approved for important new programs that could deliver cost-effective savings, and overly punitive rules governing baselines, cost-effectiveness, and custom projects). While the ED has acknowledged these problems and is proactively addressing possible ways to fix them, improvements have been slow, and solutions will not be forthcoming in time to reverse the current situation.

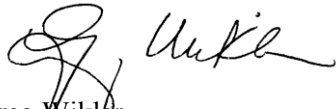
3. Request of the Commission

The Council is requesting the following actions be immediately taken up by the Commission in order to ensure that California's EE program delivery infrastructure is maintained:

1. Order PG&E and SCE to immediately restore all EE third-party program funds and existing third-party programs to 2019 levels for a 2-year period beginning on January 1, 2020 while they continue conducting solicitations currently underway. Failure to preserve funding these levels for EE, which are in alignment with California's energy and climate policies, would have long-term devastating consequences to the State's EE program delivery infrastructure and capability. Furthermore, existing third-party programs administered by PG&E and SCE must not be terminated or transitioned until new third-party programs are awarded, launched, and made available to customers for each affected segment.
2. Order ED to launch an immediate review into the root causes of the current situation and propose immediate solutions. As outlined above, we have identified a number of issues that we believe have led to the current situation. We recommend that the Commission direct the California Energy Efficiency Coordinating Council (CAEECC) to manage the review and that CAEECC and the ED develop an action plan that clearly lays out the immediate fixes by no later than March 31, 2020.

If you have any questions, feel free to reach out to me by email at gwikler@cedmc.org or by phone at 925-286-1710.

Sincerely,



Greg Wikler
Executive Director
California Efficiency + Demand Management Council

Cc (Via E-mail):

Commissioner Martha Guzman Aceves (martha.guzman-aceves@cpuc.ca.gov)
Commissioner Clifford Rechtschaffen (clifford.rechtschaffen@cpuc.ca.gov)
Commissioner Genevieve Shiroma (genevieve.shiroma@cpuc.ca.gov)
Edward Randolph, Energy Division (edward.randolph@cpuc.ca.gov)
Rachel Wagoner, Governor's Office (rachel.wagoner@gov.ca.gov)
Service lists for R.13-11-005 (EE Rolling Portfolio) and A.17-01-013, et al. (EE Business Plans)

² Note that in D.14-10-046 (at pp. 3-4), the Commission ordered a review and possible reset of the savings baselines in the energy efficiency proceeding (R.13-11-005). That decision was handed down more than five years ago, and the review/reset still has not happened.

EXHIBIT B

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



February 4, 2020

Greg Wikler
Executive Director
California Efficiency + Demand Management Council
1111 Broadway, Suite 300 (WeWork)
Oakland, CA 94607

Dear Mr. Wikler,

Thank for your December 30, 2019, letter to President Batjer and me expressing concerns with the reductions in the energy efficiency funding levels for the major investor owned utilities (IOUs) in California. The participation of California Efficiency + Demand Management Council (CEDMC) and market implementers is critical to the California Public Utilities Commission (CPUC) successfully delivering energy efficiency programs that support California clean energy and climate change goals.

Along with expressing general concern regarding reductions in energy efficiency funding levels from Pacific Gas and Electric Company (PG&E) and Southern California Edison Company (SCE), CEDMC specifically requested that the CPUC:

- 1) Restore all funds and programs associated with existing 2019 third-party programs for two years while the IOUs transition to new third-party contracts.
- 2) Order Energy Division to review root cause for IOUs' budget reductions, closing of existing third-party programs, and delayed transition to new third-party contracts.

Before addressing your specific requests, it is important to set the current context shaping the CPUC's recent decisions on energy efficiency program funding. Public Utilities Code requires the CPUC to set energy efficiency targets and for the IOUs to procure energy efficiency that is achievable and cost-effective.¹ The CPUC has a long-standing process to set these targets that includes a publicly vetted Potential Study that is subsequently adopted in an Energy Efficiency Goals decision via a similar public process. These goals are not only used for establishing IOU energy efficiency targets but are also used by the California Energy Commission and California Independent System Operator for energy load forecasting and reliability planning.

As you are aware,² the 2019 Potential Study determined that the potential for cost-effective energy efficiency achievable through ratepayer-funded programs has declined from prior years. This decline in potential is not an indication that there will be less ongoing investment in energy efficiency in

¹ See Public Utilities Code Sections 454.5 and 454.55

² See, for example: CEDMC Opening Comments on Draft Potential and Goals Study, May 21, 2019, <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M294/K810/294810144.PDF>.

California or that California should move away from its commitments to energy efficiency. Instead, the Potential Study reflects the success of prior energy efficiency investments that have led to increasing amounts of energy efficiency that will be achieved through the Codes and Standards established by the California Energy Commission. Once the cost of a measure or project supported by a ratepayer-funded energy efficiency program drops to the point that the customer realizes net benefits even without a ratepayer-funded rebate or subsidy, that measure often becomes mandated through Codes and Standards and no longer needs ratepayer-funded support. For example, California Codes now require highly efficient lighting in most buildings, so ratepayer-funded subsidies for energy efficiency lighting programs have been removed from the IOUs' portfolios.

In August 2019, the CPUC unanimously adopted new energy efficiency goals for the IOUs that reflect a decrease in energy savings potential by over a third.³ However, as described above, a lower goal for ratepayer-funded energy efficiency programs does not mean a reduction in energy savings occurring overall:

- Additional savings beyond CPUC goals for IOUs come from adoption of energy efficiency technology into Code, reflecting success of IOU Codes and Standards advocacy programs.
- An increasing fraction of savings are occurring naturally and without the need for ratepayer funding to incentivize the market.⁴
- Taken together, savings from IOU energy efficiency programs and Codes and Standards are still growing to make progress toward the state's twin goals of doubling energy efficiency by 2030 and achieving 100 percent clean electricity by 2045, as mandated by Senate Bill (SB) 350 (De León, 2015) and SB 100 (De León, 2018), respectively.

Even with the reduced energy efficiency potential and goals, the IOUs must still make more and more tradeoffs in order to meet CPUC-directed cost-effectiveness thresholds.⁵ The CPUC must also look for more innovative responses from market participants to deliver energy efficiency at the best value to ratepayers. Therefore, the CPUC has mandated that the IOUs conduct competitive solicitations and bid out at least 60 percent of their program budgets to third parties, who will design and implement a refreshed portfolio of energy efficiency programs.

The transition away from IOU-run portfolios to third-party portfolios takes time. In the transition to these third-party compliance targets, the CPUC provided the IOUs an opportunity to properly transition contracts.⁶ Specifically, the CPUC allowed IOUs to extend their existing third-party

³ CPUC Decision 19-08-034. The decrease in energy savings goals does not include codes and standards advocacy programs. This decrease is calculated from potential in D.19-08-034, pg. 23-24 as compared to prior projections of 2020 program potential from D.17-09-025 pg. 37-39.

⁴ D.19-08-034, pg. 6. "Overall, the 2019 potential study shows a reduction in energy savings potential, in large part due to updating the baseline for both commercial and residential lighting measures to light emitting diodes (LEDs). Adopting goals based on reduced potential should not be interpreted as a reduction in our commitment to energy efficiency."

⁵ In D. 18-05-041, the CPUC established the cost effectiveness, savings, and budget criteria by which Program Administrator (PA) Annual Budget Advice Letter (ABAL) would be reviewed. In order to be approved pursuant to cost effectiveness criteria, IOUs must file an ABAL for a portfolio that forecasts benefit to cost ratio or Total Resource Cost (TRC) of 1.0 in "ramp years" 2018-2022, and a TRC of 1.25 in 2023 and beyond, and meets and evaluated TRC of 1.0 for all years.

⁶ CPUC Decision on Energy Efficiency Rolling Portfolio Mechanics D.15-10-028, OP 22 states: "Until the Commission's next Phase II decision in [R.13-11-005], energy efficiency PAs may move forward under the existing Third Party Programs framework. PAs may execute new contracts, and/or modify existing contracts, that may extend up to three years beyond the date of this decision." In regards to Interim Contract Extensions for Existing Third Party Programs, CPUC's Decision Addressing Third Party Solicitation Process for Energy Efficiency Programs D.18-01-004, pg. 49 states "The utilities provide in their solicitation plans proposals for

contracts until newly solicited third-party contracts ramp up. Pursuant to this, the IOUs have taken the following actions to address existing third-party contracts in the transition to the new programs stemming from competitive solicitations:

- Instead of sunseting many contracts at the end of 2018, all IOUs extended selected contracts for program year 2019 to avoid a gap in the market while new solicitations were still under development.
- Recognizing that solicitations were still ongoing, the IOUs created placeholder programs in their program year 2020 budgets for an anticipated level of new third-party contracts.

While PG&E and SCE 2020 program year budget advice letters were disposed of in December 2019, including multiple opportunities for public comment,⁷ the CPUC will continue to support a smooth transition for third-party vendors as new energy efficiency contracts are executed. Specifically, as PG&E and SCE begin to implement their 2020 program year, the CPUC will:

- Meet with the IOUs to discuss their contract plans for the 2020 program year in order to ensure as smooth a transition as possible until new program implementers are in place and to limit gaps in program availability and delivery;
- Require PG&E and SCE to deliver a plan that describes how they will clearly communicate budget changes and CPUC requirements for programs to be executed with ratepayer funds to their vendors and subcontractors;
- Require PG&E and SCE to provide similar information, with any updates, in a public workshop to be held in Spring 2020.

Considering CEDMC's letter, Energy Division has also reviewed the program-level changes. Among other things, Energy Division found that:

- While many third-party contracted programs do have reduced budgets in 2020, a significant amount of these programs have demonstrated a low value to ratepayers compared to their costs. It may therefore be appropriate for the IOUs to begin to sunset these programs or seek redesigned programs through a competitive third-party solicitation process.
- For the limited number of programs with decreased budgets that are cost-effective, Energy Division has requested additional information from PG&E and SCE as to why these programs budgets are reduced.
- At the same time, some high-performing programs received increased budgets, such as PG&E's Industrial Strategic Energy Management Program, which has more than double the 2019 budget in 2020, and SCE's Nonmetallic Minerals and Products program, which has an increased budget of 95 percent over 2019 levels.

transitioning existing third party programs to new implementers, including extending programs beyond the current deadline set forth in D.15-10-028, Ordering Paragraph 22, which limits third party contract extensions to three years beyond the date of issuance of that decision. The Council also supports this proposal. In order to ensure a smooth transition, we agree. The utilities may extend existing third-party contracts until new program implementers are in place, to ensure no gaps in program availability or delivery."

⁷ The process for Program Year 2020 budget approval via the advice letter process is as established in General Order 96B and D.15-10-028 which created a Coordinating Committee for the express intent that committee members are to "provide input into the development of annual budget advice letters ... prior to and throughout the drafting process." (pg. 73). A full committee meeting was held on August 7, 2019. CEDMC is a member of CAEECC and attended this full committee meeting.

Finally, the CEDMC letter states that several additional “problems” exist in California’s energy efficiency policy and regulation. Since the CEDMC is an active participant in CPUC proceedings, we would like to highlight recent opportunities for formal engagement within the CPUC process, in which CEDMC and its members may wish to participate in the future.

Perhaps most relevant to the CEDMC members are the significant process reforms the CPUC has completed related to our custom energy efficiency projects review process and in response to SB 1131 (Hertzberg, 2018). Specifically, the CPUC has:

- Developed clear, transparent rules for custom energy efficiency project eligibility;⁸
- Improved procedural requirements and created an Industry Standard Practice guidebook;⁹
- Developed an agreement with the IOUs specifying the information that must be included in custom energy efficiency project proposals;
- Implemented a 30-day review schedule of all proposed custom energy efficiency projects;¹⁰ and
- Established a public database that tracks the review status of all CPUC staff-selected custom energy efficiency projects.¹¹

In addition, the CPUC has initiated the following activities in order to deliver the highest-performing energy efficiency programs at the best value to IOU ratepayers:

- Ordered the IOUs to coordinate and streamline program administrative costs through statewide program administration requirements.¹²
- Established a Market Transformation policy framework to facilitate innovation and scaling of early market technology which may not yet be cost-effective.¹³
- Launched a stakeholder process on how best to consider new energy efficiency goals for the IOUs, including whether or how non-resource programs should be treated in cost-effectiveness calculations.¹⁴
- Supported the California Energy Efficiency Coordinating Committee (CAEECC) in forming a subcommittee which will propose an updated and improved Energy Efficiency Portfolio filing processes by February 2020.¹⁵
- Completed a statewide consolidation of all energy efficiency technical workpapers to facilitate stakeholder access to workpapers, which will enable third-party program developers to use the most accurate and up-to-date approved savings for forecast estimates.¹⁶

⁸ See, for example, “[Statewide Custom Project Guidance Document, version 1.0](https://www.cpuc.ca.gov/General.aspx?id=4133)” at: <https://www.cpuc.ca.gov/General.aspx?id=4133>.

⁹ See, for example, “Industry Standard Practice, version 2.0” at: <https://www.cpuc.ca.gov/General.aspx?id=4133>

¹⁰ See “CPUC Staff Selection and Response Timing Protocol For Energy Efficiency Custom Projects Review” at: <https://www.cpuc.ca.gov/General.aspx?id=4133>.

¹¹ See: <https://www.cpuc.ca.gov/egyefficiency/>

¹² See D. 16-08-019, “Decision Providing Guidance for Initial Energy Efficiency Rolling Portfolio Business Plan Filings,” at <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M166/K232/166232537.PDF>; and, D. 18-05-041, “Decision Addressing Energy Efficiency Business Plans, at <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M215/K706/215706139.PDF>

¹³ See D. 19-12-021, “Decision Regarding Frameworks For Energy Efficiency Regional Energy Network And Market Transformation,” at <http://docs.cpuc.ca.gov/SearchRes.aspx?DocFormat=ALL&DocID=321507615> .

¹⁴ See D. 19-08-034, “Decision Adopting Energy Efficiency Goals for 2020-2030,” at <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M311/K540/311540642.PDF> .

¹⁵ Ibid.

¹⁶ For a list of all CPUC energy efficiency workpapers, see: <http://deeresources.net/workpapers>.

Again, thank you for your continued engagement on these issues and we look forward to working with you to ensure successful energy efficiency programs.

Sincerely,

A handwritten signature in black ink, appearing to read "Liane M. Randolph". The signature is fluid and cursive, with a large initial "L" and "M".

Commissioner Liane M. Randolph


Cc: Service Lists R.13-11-005 and A.17-01-013

Rachel Wagoner, Governor's Office, State of California

Honorable Chris Holden, Chair – California State Assembly Utilities & Energy Committee

Honorable Ben Hueso, Chair – California State Senate Energy, Utilities & Communications Committee

EXHIBIT C



Perspectives from Industry Regarding EE Solicitations Process

Presentation at CPUC Workshop on the EE Solicitations Process, San Francisco
February 7, 2020

CALIFORNIA
Efficiency + Demand Management
COUNCIL

Advancing Our Clean Economy


1

→ Overview

- The Council has actively engaged with EE decisionmakers and stakeholders for over a decade on the most effective and beneficial path forward for the EE resource
- It's important to celebrate the many wins that we have collectively secured for EE...
 - Markets for many products have transformed
 - The 10-year rolling portfolio process put us on a path to market stability
 - Laws were passed leading to greater deployment of the EE resource (e.g., AB 802, SB 350, SB 1131)
- Unfortunately, significant barriers continue to stand in the way...
 - Excessive regulation and bureaucratic inertia has led to a sharp drop-off of EE potential (e.g., baselines, cost-effectiveness, custom review)
 - Program administrators are scaling back their capabilities and resources
 - Customers are increasingly frustrated by the process

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2




→ **The Effect**

- Where are we now?
 - Existing cost effective and customer beneficial EE programs are being scaled back or fully terminated
 - Implementation businesses are being forced to redeploy their teams to other parts of the country or lay off staff
 - New solicitations have been substantially delayed
 - Onerous and inappropriate contracting provisions are non-starters for many EE businesses
- This situation is creating an immediate and dire impact on California's EE program delivery infrastructure, and damaging the trust with the customers – both will take years to repair
- Our ability to deliver on the State's carbon reduction goals is in serious jeopardy

→ 3

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3




→ **Actions Taken by the Council**

- In response to this crisis, we have been advocating with regulators and IOU leadership to change course...
 - We strongly recommended changes to how the EE potential is developed and goals are set
 - We appealed to IOUs to modify their processes for procuring new EE resources
 - We advocated with Commission leadership for immediate changes (e.g., our 12/30/19 letter to President Batjer and Commissioner Randolph)
- Unfortunately very few of our requests have been adopted...
 - The reduced goals were adopted by the Commission in August 2019
 - New solicitations have been delayed, the selection process is non-transparent, and process reforms are slow to be adopted
 - New solicitation contracting requirements are untenable
 - Our requests were rejected by the Commission in their 2/4/20 letter

→ 4

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4




→ **Our Asks**

1. The Commission needs to drive a proactive and timely reform process that addresses many of the key issues that we've identified related to EE rules and IOU solicitation processes.
2. The Commission needs to mandate that IOUs make an immediate course reversal for most if not all programs that are being terminated, with gap funding and continued programs for 2020 and 2021 until the new programs start.
3. The Commission needs to order an immediate review of the root causes that have brought us to the current situation and order an action plan that will implement immediate fixes by 3/31/20.

→ 5

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→ **Examples of EE Rule Barriers**

- **Baseline Measurements:** AB 802 stipulates that savings for all existing buildings must align with existing conditions baselines
- **Potential Study Coverage:** Current methods adhere to flawed and overly restrictive assumptions that significantly limit market potential
- **Cost-effectiveness:** Current applications of the TRC test incorrectly apply extra costs for incentives
- **Custom Programs:** Excessive regulatory oversight has led to limited acceptance of initial applications by PAs; customers are losing interest to participate
- **"Non-Resource" Measures:** Many viable measures are not considered in the goals, but the costs are counted

→ 6

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6




→ **Examples of Solicitation Challenges**

- ***Onerous Contracting Requirements:*** Some of the new solicitation requirements are counterproductive, unnecessary and without precedent and will artificially limit industry's ability to fully participate:
 - Performance assurances using regulatory-driven cost-effectiveness constructs
 - Quarterly payments
 - High retention requirements
 - Retention earn-backs
- ***Resource Integration Requirements:*** Complete alignment of EE with other resources from a contractual perspective is completely inappropriate and highly problematic:
 - Risk management approaches taken for other resources are not possible here due to strict cost-effectiveness compliance mandates

→ 7

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7



→ **Thank you**

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 California Efficiency + Demand Management Council
 Tel: 925-286-1710
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