

**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 October 7, 2019)

**REPLY COMMENTS OF THE CALIFORNIA EFFICIENCY + DEMAND
MANAGEMENT COUNCIL ON ADMINISTRATIVE LAW JUDGE'S RULING ISSUING
DRAFT REVISED RULEBOOK FOR NORMALIZED METERED ENERGY
CONSUMPTION (NMEC) AND INVITING COMMENTS ON POPULATION-LEVEL
RULES, MEASUREMENT METHODS**

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I. INTRODUCTION

The California Efficiency + Demand Management Council (the “Council”) appreciates this opportunity to submit Reply Comments on submit *Administrative Law Judge’s Ruling Issuing Draft Revised Rulebook for Normalized Metered Energy Consumption (NMEC) and Inviting Comments on Population-Level Rules, Measurement Methods, and Calculation Software “The Ruling”*. With a total of 14 Opening Comments filed on the Ruling, the topic Normalized Meter Energy Consumption (NMEC) has clearly captured the attention and aspiration of the energy efficiency industry as works to achieve the Commission’s and states climate and energy goals. The Council’s Reply Comments focus on:

- Ensuring the Rulebook complies with law by using existing conditions baselines as directed in AB 802 (Williams, 2015)
- Supporting multiple parties’ requests to streamline the administrative approval process to encourage NMEC program deployment;
- Supporting Marin Clean Energy’s (MCE’s) proposal to allow for existing NMEC programs and programs under development to be grandfathered under existing rule;
- Supporting multiple party requests for a Standing Working Group
- Supporting Sothern California Edison’s (SCE’s) request for industrial operations and maintenance (O&M) to be included in the NMEC Rulebook

II. THE COUNCIL SUPPORTS MULTIPLE PARTIES REQUEST TO ALIGN THE RULEBOOK WITH THE EXISTING CONDITIONS BASELINES MANDATED BY AB 802 (WILLIAMS, 2015)

In their Opening Comments multiple parties raised various concerns with how the draft Rulebook contradicts AB 802 and the ability of the industry to use existing conditions baselines to account for all energy efficiency savings. Comments include:

- “The rulebook, by assumption and direction, continues to assume a multiple baseline approach towards counting program savings that promises to add enormous burden to implementation team to provide measure-by-measure accounting of baselines and threatens to negate any program efficiency gains from the NMEC approach.”¹
- “Using code as baseline for all NR measures is not in line with AB-802 principles and will result in most of the savings remaining stranded and thus, negatively impacting state goals”²
- “SCE recommends that NMEC should not be limited to current qualifying measure offerings for deemed and calculated energy efficiency programs. PAs have previously removed measures from current deemed and calculated programs due to Title 24 (code), industry standard practice (ISP), and other baseline restrictions. This language should be revised to reflect AB 802...”³
- “The requirement to adjust for Normal Replacement measures within the scope of the project adds undue burden and is misaligned with Assembly Bill (AB) 802’s intent of unlocking to-code savings.”⁴

The Council reiterates its position stated in its opening comments that according to AB 802 requirements, programs must be allowed to use all measures and estimates based on calculations that reflect the actual operation of a given site, not on the industry average. This allow NMEC rules to align with AB 802’s language of counting all available savings.

¹ Opening Comments of KW Engineering, at p. 4.

² Opening Comments of Southern California Regional Energy Network (SoCalREN), at p. 7.

³ Opening Comments of SCE, at p. 9.

⁴ Opening Comment of SCE, at p. 10.

III. THE COUNCIL SUPPORTS MULTIPLE PARTIES' REQUEST TO STREAMLINE THE ADMINISTRATIVE APPROVAL PROCESS TO ENCOURAGE NMEC PROGRAM DEPLOYMENT

The Council supports the numerous parties request to streamline the proposed NMEC program approval process and request to use the already existing Performance Review Group (PRG) process to review contractual terms proposed by the implementers.

IV. THE COUNCIL SUPPORTS MCE'S PROPOSAL TO ALLOW FOR EXISTING NMEC PROGRAMS AND PROGRAMS UNDER DEVELOPMENT TO BE GRANDFATHERED UNDER EXISTING RULE

As noted in MCE's Opening Comments the Program Administrator has been working diligently since 2016 to launch two NMEC-based programs, a single family NMEC program and a population-level small-medium business program. MCE has completed two solicitations for these efforts, and feels it is:

*"unjust to and unfair to impose rules that were not noticed and approved in advance to existing programs, projects and initiatives as the rules under the Draft Revised Rulebook could, likely inadvertently, hinder the implementation of programs and projects that are already underway and to which PAs have dedicated significant time and ratepayer funds."*⁵

The Council could not agree more that any rule modification to existing programs, or proposed programs, being implemented under existing Program Administrator contracts, or programs that have been proposed as part of the third party solicitation process places an undue burden on the entire industry, is poor use of ratepayer funds, and is unfairly allocated cost to the implementer industry. The Commission under the Rolling Portfolio process has become too dogmatic in their desire to meet bus stops, rule updates, and ensure that ever last penny invested into energy efficiency is accounted for to the detriment to the industry. For example, the Commission released newly updated avoided costs in early July, which was near the end of the 7-week request for proposal (RFP) window for Pacific Gas and Electric's (PG&E's) all sector RFP window. On July 18th all bidders were notified by PG&E they were required to use the updated avoided cost information in their bids. This required bidders to re-run their cost-effectiveness calculations and make significant adjustments to their proposal narratives. In some

⁵ Opening Comments of MCE, at p. 12.

cases, a full re-design was needed for proposed program delivery strategies resulting from this disruptive last-minute requirement. This pattern of middle of the process rule changes cannot continue, and the final adopted rules should go into an effect at a reasonable future date, for example, the start of the next fiscal year on July 1, 2020. If the Commission does not follow this guidance it will cause instability in the marketplace and further inhibit the ability of the industry to meet the state's climate and energy goals.

V. THE COUNCIL SUPPORTS MULTIPLE PARTY REQUESTS FOR THE CREATION OF A STANDING WORKING GROUP

MCE and Bay Area Regional Energy Network (MCE/BayREN) and PG&E commented that the draft Rulebook issued by the Energy Division has ample opportunity for improvement, and would benefit from a standing working group that convenes regularly.⁶ The Council agrees with this request for a standing working group for NMEC issues, and encourages the Commission to consider this approach to other subject matter areas, such as Cost-Effectiveness. Specifically on the topic of NMEC believes two topic areas deserve immediate attention, Site NMEC Rules, and NMEC settlement and savings claims. As noted by MCE/BayREN, SoCalRen, and KW Engineering, this is one issue that could benefit immediately from this working group would be Site NMEC rules. As stated by MCE/BayRen: *"The existing site-specific NMEC rules are still overly burdensome and too similar to custom project rules, and consequently hinder program innovation."*⁷

To avoid Site NMEC becoming Custom Review 2.0, the rules need to be shaped by the industry, preferably through the stakeholder-driven Working Group (as suggested above) or perhaps through independent processes such as the CalTF, in order to be brought into alignment with AB 802. Additionally the Council supports PG&E's detailed request for the NMEC Working Group to submit a joint proposal detailing a uniform approach to NMEC settlement and savings claims.⁸ By implementing multiple parties request for a standing working group the Commission would acknowledge that the industry is undergoing a rapid evolution, as business models and technologies change, and is committed to dedicating the resources necessary to ensure the regulation remains up to date. Without one for NMEC the Council fears the well

⁶ Opening Comments of MCE/BayREN, at p. 13 and Opening Comments of PG&E, at pp. 7-8.

⁷ Opening Comments of MCE/BayREN, at p. 13.

⁸ Opening Comments of PG&E, at pp. 8-9.

intentioned Rulebook, and subsequent programs, will fall victim to the same challenges of other EE initiatives.

VI. THE COUNCIL SUPPORTS SCE’S REQUEST FOR NMEC TO BE CONSIDERED FOR INDUSTRIAL OPERATIONS AND MAINTENANCE AND BEHAVIOR, RETROCOMMISSIONING, AND OPERATIONS-TYPE PROJECTS FOLLOWING THE COMPLETION OF STRATEGIC ENERGY MANAGEMENT PILOT

The Council strongly supports SCE’s request for industrial O&M and (BROs)-type projects to be allowed under Site NMEC rules following the completion and demonstrated successes of Strategic Energy Management (SEM) Pilot.⁹ Industrial, agricultural, and large commercial heavily contribute to the funding of all energy efficiency programs through the Public Purpose Program charge, and should be allowed to take advantage of the NMEC Rules like all other customers. If the Energy Division has serious concerns about this proposal, the Council recommends it be further workshopped as part of a future NMEC Working group meeting focused on Site NMEC issues.

VII. CONCLUSION

The Council appreciates the Commission’s consideration and the opportunity to provide these reply comments.

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Respectfully submitted,

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⁹ SCE Opening Comments, Pg. 12