

**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
CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT COUNCIL
ON RULING DENYING SEPTEMBER 16, 2020 MOTION AND INVITING
COMMENTS ON REQUIREMENTS FOR PROGRAM CHANGES**

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I. INTRODUCTION

The California Efficiency + Demand Management Council (“The Council”) appreciates this opportunity to submit these Opening Comments on the Ruling Denying September 16, 2020 Motion and Inviting Comments on Requirements for Program Changes, issued in R.13-11-005 on February 17, 2021 (“February 17 Ruling”). These Opening Comments are timely filed and served pursuant to the CPUC’s Rules of Practice and Procedure and the instructions accompanying the February 17 Ruling.

II. OVERVIEW

The February 17 Ruling invites parties to file comments “on whether and what criteria the Commission should adopt for delineating between (1) program changes that require staff approval via advice letter submission, and (2) program changes that only require an Implementation Plan addendum.”¹ The February 17 Ruling also invites parties to “address the need, if any, to specify what constitutes a new program, and identify and describe their recommended criteria.”²

The Council wishes to note that, in addition to the comments offered below, we convened collaborative conversations with each of the investor-owned utilities (“IOUs”) to discuss the implications of the February 17 Ruling. While it would be inappropriate for The Council to characterize herein the positions of the IOUs expressed in those conversations, we

¹ February 17 Ruling, at p. 9.

² *Id.*

wish to highlight broad alignment regarding the need to minimize administrative burden among Program Administrators and Third-Party Implementers (“implementers”) alike. The status quo for socializing programmatic updates to interested parties via implementation plans uploaded to the California Energy Data and Reporting System (“CEDARS”), and raising deeper, strategic issues via Advice Letter only in specific cases is not broken and therefore should not be altered.

III. THE COUNCIL URGES THE CPUC TO MINIMIZE ADMINISTRATIVE BURDEN AND MARKET DISRUPTIONS BY ONLY REQUIRING ADVICE LETTERS IN VERY LIMITED AND SPECIFIC CIRCUMSTANCES

The Council acknowledges the Commission’s identification of circumstances, within the rolling portfolio framework, by which Advice Letters might be reasonably required to manage changes in the rolling portfolio framework.

However, the Council concurrently notes that there are already discussions through the California Energy Efficiency Coordinating Committee (“CAEECC”) stakeholder collaborative process about the nature and construct of the rolling portfolio itself –and the relationship between resource acquisition, market transformation, and equity-based programs– that might supersede setting any such direction at this time. We also note that there is enormous risk in requiring any program change to be submitted via Advice Letter because the period between Advice Letter submission, potential protests of Advice Letters, and resolution of Advice Letters is impossible to predict – and in the interim period, implementers and Program Administrators are required to manage and serve customers, contractors, distributors, and other market participants. In this interim, implementers and administrators are also expected to deliver goals, support jobs, and myriad other key performance indicators.

In the worst cases of an Advice Letter-driven process, an implementer may be required to temporarily close or limit an active program while waiting for resolution of an Advice Letter. Since most programs are performance-based, such a shut-down could lead to financial collapse of an implementer (who relies on performance payments to sustain operations) or contractor (who relies on incentives to run their operations), and economic fallout (due to projects held up by a lack of program support). While such worst cases may be an exception to the norm, any delays in the ability for a program to operate will directly impact the costs of

operating the program and decrease the potential for cost-effective energy savings as implementers and contractors continue to incur operating costs without the ability to advance projects. We also anticipate changes to newly solicited programs during the start-up and ramp-up of those programs as these programs proposed years ago are now looking to adapt to current market conditions; this may make an Advice Letter requirement on program changes to be overly burdensome while the new portfolio settles into the California market.

We therefore strongly make the case that an Advice Letter only be required in two circumstances:

- (1) Case 1 – Where a Commission-Directed change requires substantial modification of a program or portfolio of programs.
- (2) Case 2 – Where a Program Administrator is submitting a new program in their discretion – including cases where the joint IOUs may make a case for new statewide programs or if the joint IOUs are requesting a change of lead administrator for a statewide program.
- (3) In both Cases (1) and (2), any such Advice Letter submission should and could be the result of consultation by Program Administrators with Commission Staff specifically to ascertain whether their proposed actions require an Advice Letter path including the option to discuss with Commission staff whether a newly proposed program is actually “new.”

In this construct, we suggest the onus on defining what constitutes “new” be left between Administrators and Commission rather than seeking to define criteria that may be overly constraining on the current newly formed portfolio. We also acknowledge that the Commission may rule on these Opening Comments while other “new” programs are being actively solicited by the IOUs until the end of 2023, or beyond.

IV. NEWLY SOLICITED PROGRAMS AND NEWLY FORMED PORTFOLIOS SHOULD BE ALLOWED A PERIOD OF AT LEAST ONE YEAR PRIOR TO REQUIRING IMPLEMENTATION PLAN ADDENDA

The Council strongly believes that all newly solicited programs will go through a period where they undertake certain evolutions of program design and program constituents until programs reach a steadier-state. This may include resolving any conflicts between new

programs, and resolving conflicts or complements between upstream, midstream, and downstream programs. Such evolutions may also include any of the triggers identified in Decision (“D.”) 15-10-028 as well as in the February 17 Ruling. Program changes identified can take time to implement, test, tweak, and assess before they become firm parts of a program’s design - and we expect many such evolutions during the first two years of each newly solicited program.

We, therefore, request that the Commission allow Program Administrators flexibility in submitting Implementation Plan Addenda for at least the first year, but ideally first two years, after the start of any newly solicited program. This will ease the administrative burden on Program Administrators, Third-Party Implementers, and the Commission alike.

V. CONCLUSION

The Council appreciates the opportunity to offer our comments on requirements for program changes and encourages the Commission to minimize the administrative burden placed on Program Administrators and Third-Party Implementers alike.

Dated: March 3, 2021

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