

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 ADMINISTRATIVE LAW JUDGE'S RULING REQUESTING ENERGY
EFFICIENCY COMMENTS/PROPOSALS TO ADDRESS GOVERNOR'S
PROCLAMATION OF JULY 30, 2021**

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I. INTRODUCTION

The California Efficiency + Demand Management Council¹ (“The Council”) respectfully submits these Opening Comments on the Administrative Law Judge’s (“ALJ’s”) Ruling Requesting Energy Efficiency Comments/Proposals to Address Governor’s Proclamation of July 30, 2021 (“ALJ Ruling”), issued in R.13-11-005 (Energy Efficiency Rolling Portfolio) on August 6, 2021. These Opening Comments are timely filed and served pursuant to the California Public Utilities Commission’s (“Commission’s” or “CPUC’s”) Rules of Practice and Procedure and the instructions accompanying the ALJ Ruling.

II. SUMMARY

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.² Our member companies employ many thousands of Californians throughout the state. They include energy efficiency (“EE”), demand response (“DR”), and distributed energy resources (“DER”) service providers, implementation and evaluation experts, energy service companies, engineering and architecture firms, contractors, financing experts, workforce training entities, and energy efficient product manufacturers. The Council’s mission is to support appropriate EE and DR

¹ The views expressed by the California Efficiency + Demand Management Council are not necessarily those of its individual members.

² 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.

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

III. COUNCIL COMMENTS ON GOVERNOR NEWSOM'S JULY 30 PROCLAMATION

The Council provides our response to the Ruling in two categories: regulatory relief and programmatic proposals. The former will enable the full potential of EE – alongside DR and DERs more broadly – to be realized for the betterment of our grid, while the latter provides useful new tools the CPUC and the state can use to begin building the grid of tomorrow. The recommendations contained within these two facets represent our industry's most thoughtful, pragmatic solutions to the continuing challenges facing our grid as illustrated by the Governor's July 30th Proclamation ("Governor's Proclamation"). The Council would like to highlight that the recommendations contained herein represent a snapshot of the many strategies that can be employed to meet grid needs. The Council recommends that the CPUC allow Parties more time to provide greater detail on program proposals, based on initial CPUC feedback on which concepts are considered to be potentially viable. Moreover, The Council would welcome any opportunity to further discuss any of the proposals contained herein. As the representative of our industry, we stand ready to work with CPUC Commissioners, Energy Division staff, and other stakeholders to build on, refine, and add to these recommendations.

IV. REGULATORY RELIEF

A. Cost-Effectiveness Relief and Reform

The Council recommends a number of forms of regulatory relief in order to "remove the reins" from EE in order to realize its full potential. Chief among these is both near- and long-term cost-effectiveness reform. In the near-term, The Council recommends a temporary reduction of the Total Resource Cost ("TRC") test threshold to 0.85 during the period of June 1, 2022 – June 1, 2023 (the period specified in the Ruling). As demonstrated in the recently-issued Proposed Decision of ALJs Kao And Fitch Adopting Energy Efficiency Goals For 2022-2032, Finding of Fact 4 notes that the Potential & Goals Study, "Scenario 2, which uses a TRC screen of 0.85 and assumes business-as-usual adoption, best reflects the Commission's intent for program administrators to aggressively pursue all energy savings opportunities" [emphasis

added]. While this Finding of Fact applies to goal-setting in its current guise, it should be applied by program administrators in their next EE portfolio filings. In this period of continuing grid instability, and in direct response to the Governor's Proclamation, it is reasonable to employ this already-vetted threshold. Further refinements to near-term cost-effectiveness relief should necessarily include giving demand savings greater weight in the TRC calculation in order to further incentivize peak savings. This should be applied in both the near-term period covered by the Ruling, and future cost-effectiveness reform more broadly. At a minimum, the CPUC should suspend the requirement to include incremental measure cost in the TRC calculations, which is a barrier to programs that are designed to accelerate private investment into efficient products.

Beyond near-term cost-effectiveness relief, The Council has repeatedly advocated for structural cost-effectiveness reform. While rapidly mobilizing EE (alongside DR and other DERs) will enable a near-term response to the Governor's Proclamation, the medium- and longer-term health of the grid depends on the CPUC beginning a transition to a cost-effectiveness methodology that more appropriately captures the benefits and costs of EE programs.

Through previous comments in this proceeding as well as past Council comments in other proceedings including the Integrated Distributed Energy Resources ("IDER"), Integrated Resource Planning ("IRP") and Microgrid proceedings, we have maintained a consistent theme advocating that the Commission needs to immediately evolve its EE cost-effectiveness testing method to the Program Administrator Cost ("PAC") test. We believe the PAC test more accurately addresses the resource needs given the grid and climate conditions we are facing today – particularly in light of the increasing frequency of grid events as illustrated by the Governor's Proclamation. The PAC test also places EE on par with other behind-the-meter DERs as well as supply-side resources. Finally, the PAC test does not penalize the intended outcome of stimulating private investment into energy efficiency or the inclusion of project financing, as happens when using the TRC test.

In addition, the incremental costs included in the TRC test do not reflect the real-world cost considerations made by people and businesses when deciding whether or not to invest in energy efficiency; the deemed values are often outdated and/or do not reflect fluctuating market prices, resulting in prohibitive incremental cost assumptions that prevent programs from encouraging end users to adopt efficient technologies. We believe that using PAC as the primary

cost-effectiveness test creates a level playing field for all DERs and will unlock significant amounts of additional EE savings that are currently on the sidelines, helping to preclude future grid issues.

To illustrate the importance of this issue, none of the scenarios in the 2021 Potential & Goals Study identified any achievable electric savings potential for appliance and plug load rebate programs over the study time horizon, despite the fact that there is significant technical potential and these devices account for proportion of household energy consumption, according to the 2019 Residential Appliance Saturation Survey (“RASS”).³ Customers are purchasing these devices, but the TRC prevents programs – including financing programs – from ensuring that these purchases are as efficient as possible. Many plug loads also have load shapes that can deliver significant peak benefits, even if the efficient devices are not grid-enabled.

B. Accelerating Project Timelines and Approval for Installation, Notably for Custom and Site-Based Normalized Meter Energy Consumption (“NMEC”) Projects

The Council recommends that the CPUC make a number of changes to bring EE projects online more rapidly to meet the near-term reliability needs outlined in both the Ruling and the Governor’s Proclamation. Notably, we recommend:

- Requiring the investor-owned utilities (“IOUs”) to substantially expedite their reviews of custom and site-based NMEC project applications
- Temporarily suspending CPUC ex ante reviews for EE custom projects in order to rapidly drive meaningful energy savings
- Allowing equipment purchase and decommissioning of existing equipment prior to approval
- Allowing for implementer approvals with validated quality control protocols, in lieu of ex ante technical reviews

Implementing these changes will drastically reduce the project implementation timeline accelerating deployment of EE resources to meet near-term needs.

In addition to these items broadly, custom projects in particular require regulatory relief. While the Council applauds the significant steps taken by the CPUC over the past few years following the passage of SB 1131, the number of custom projects continues to drop precipitously

³ DNV GL, “2019 California Residential Appliance Saturation Study (RASS)”. July, 2021.

despite the fact that there are many viable custom projects that are ready to be rapidly deployed. We believe that the root cause of this slowdown is an excessively protracted review and approval process for custom applications imposed by some of the IOUs which are discouraging customers to participate in custom and NMEC projects in the first place. The CPUC could require that IOUs adhere to specific and rapid timelines for approving custom and NMEC projects; the Council recommends a 30-day time requirement for custom applications to be approved by the IOUs.

Finally, one further step that could be taken by the CPUC to help expedite custom projects would be for the CPUC to suspend for a period of 1-year all custom project reviews. This would allow more projects to be placed into the pipeline more rapidly.

C. Reducing Uncertainty of Eligibility and Incentive Levels

The Council recommends that the CPUC make a number of changes to bring EE projects online more rapidly to increase grid reliability and resiliency. First, the CPUC should alter regulatory requirements to allow third-party program implementers to choose either no program influence requirements and apply net-to-gross (“NTG”), or eliminate NTG when influence is proven. Second, the CPUC should apply existing condition baselines for all projects delivered during the June 1, 2022 – June 1, 2023 period. Third, the CPUC should remove the practice of rendering projects ineligible due to Industry Standard Practice, which can impose extensive delays and is subjective at best. Fourth, the CPUC should ensure there are no retroactive policy changes at post-installation review, which can significantly reduce the delivered value of EE projects long after approval and deployment.

D. NMEC Implementation Issues Need to be Addressed and Project Eligibility Must be Expanded to Industrial Process Projects

The Council recommends that the CPUC make a number of changes to bring site-based NMEC projects online more rapidly. First, it is imperative that certain technical and policy NMEC rulebook issues that are associated with site-based NMEC projects be addressed via various stakeholder working groups. The Council supports ongoing efforts by the CPUC to address site-based NMEC technical issues identified by third-party program implementers through its various regular discussions with the IOUs through the Program Review Group (“PRG”) process. The Council is currently working with the CPUC to supply an ongoing list of technical issues associated with NMEC projects and will continue to work with the CPUC in this

manner. Further, the Council requests that the CPUC organize an NMEC site-based project stakeholder working group to address various NMEC Rulebook policy issues. The Council stands ready and able to participate and support this stakeholder working group effort in whatever capacity the CPUC deems appropriate.

Second, the CPUC should broaden the eligibility of site-based NMEC projects to include proposed energy efficiency measures targeted to specific industrial processes. Currently, the CPUC only allows site-based NMEC projects to be limited to building systems such as Heating, Ventilation, & Air Conditioning (“HVAC”) and lighting. Based on our discussions with a number of third-party implementers, many potential NMEC projects are not permitted by the CPUC because the proposed measures and actions are focused on industrial processes. The CPUC has maintained that industrial processes are ineligible for participation in NMEC projects based on the statutory intentions of AB 802. While The Council is not disputing the CPUC’s important role in interpreting statutory language, what Council members have seen over the past 1-2 years is that many viable industrial-based NMEC projects are being left on the sidelines because they are not eligible to participate. Furthermore, there are no viable alternative pathways for these customers to participate in energy efficiency projects. The Council is confident that lifting the prohibition of site-based NMEC projects to industrial processes will lead to rapid and substantial savings.

E. Expedite Contractual Changes and Make Changes to Solicitation Process

The Council recommends that the CPUC require the IOUs to work with their existing contracted third-party implementers to include many of the program enhancements made as a result of the Emergency Proclamation and make a number of changes to help expedite the process for the IOUs to solicit new third-party programs that can be rolled out. These efforts must be carried out on an expedited time frame to ensure that any contractual changes are made by the end of 2021 at the latest. This will facilitate program implementers incorporating the program enhancements into their operations such that energy savings impacts could potentially be realized as soon as summer 2022.

For program enhancements that would require new solicitations for implementation contractors, the Council urges the CPUC to set expedited timelines for the IOUs to conduct new rounds of solicitations. These timelines must adhere to the timing of the need, which is to have programs in place such that impacts can be realized by summer 2022. Furthermore, later in these

comments, we recommend a market-access process that could be further pursued as part of soliciting for new implementation contractors.

F. Suspend Onerous Data Collection Requirements for HVAC, Plug Load and Appliances (“PLA”), and Smart Powerstrips, and Extend the Validity of the Smart Powerstrip Workpaper Beyond 2022

Currently, program administrators using workpaper SWAP010-01 for Smart Connected Powerstrips must get Southern California Edison and CPUC approval of a data collection plan. The template provided in Database of Energy Efficient Resources (“DEER”) requires a level of data collection that is not practically feasible and is preventing the deployment of this technology. Similarly, customer-level data collection requirements for HVAC and PLA measures at the retail, distributor, and manufacturer levels are also inhibiting uptake of valuable measures that can provide meaningful demand savings.⁴ These data collection requirements should also be suspended during the period concerned.

V. PROGRAMMATIC PROPOSALS

A. Expanded Deployment of Measures that Provide Demand Savings as Well as Energy Savings

The Council recommends the CPUC incentivize deployment of measures that drive demand savings alongside energy savings. For example, smart thermostats represent a measure that can be incentivized using EE funds that drive demand savings as well (in addition to event-based DR savings). While there are multiple EE and DR programs that promote the use of smart thermostats for both energy and demand savings, expanding this valuable pool of measures is imperative. Broadening the reach of existing smart thermostat programs and coordinating better between the programs to best enable incentives for smart thermostats from EE, Energy Savings Assistance (“ESA”), and DR funding sources can maximize net peak demand reductions during summer high heat events.

A key facet of expanding smart thermostats deployment in particular is to enable deployment across all climate zones, to provide the greatest pool of energy and demand savings. Since thermostat efficiency incentives for the residential sector are limited by the current cost-effectiveness regime, despite their important contribution to load shifting through both event-

⁴ CPUC Resolution E-5152.

based DR and –notably in the EE context– non-event based demand savings, providing additional incentives for the purchase of the device, coupled with DR pre-enrollment, would grow residential demand flexibility considerably.⁵ Specific proposals were provided previously by the DR Coalition under R.20-11-003, including referencing successful implementations in California and other jurisdictions.⁶ Further, the Energy Division Staff Concept Paper Proposals for Summer 2022 and 2023 Reliability Enhancements emphasizes the need to, “Utilize Combine[d] EE-DR Cost Effectiveness Tests to increase the Cost Effectiveness of Smart thermostats for Energy Efficiency Programs.”⁷ This is just one example of a measure the deployment of which should be accelerated to meet the goals of the Governor’s Proclamation.

In broader terms, the CPUC should ascribe larger incentives for end-uses, sectors, controls strategies, and measures that demonstrate demand savings during peak times. To that end, The Council recommends carving out a separate “peak kW” savings budget and initiate programs through current and/or new contracts. Doing so will incentivize EE measures that drive demand savings coincident with peak times, adding new EE programs or measures that target peak and net peak hours that will meet the Ruling and Proclamation’s goals.

B. Augmenting Financing Options

In cases where customers enter into Residential Energy Efficiency Loan (“REEL”) program loans, the CPUC should provide funding that would allow microloan providers and participating contractors to offer customers free smart thermostats (with DR pre-enrollment), powerstrips, and other electric load control devices (e.g. smart plugs) as part of the loan package. This would ensure both load flexibility and energy efficiency under each loan. Another opportunity would be to provide funding for interest-rate buy-downs (zero-interest financing) for customers considered by REEL to be low-income.

C. Create a Market-Access Model

California has a large number of organizations that develop energy projects that could reduce grid constraints. Unfortunately, the current model of awarding EE contracts to a single

⁵ DNV GL, “Impact Evaluation of Smart Thermostats Residential Sector - Program Year 2019”, specifically Table 5-7 “DEER peak period average hourly baseline and load reductions”. May 10, 2021.

⁶ R.20-11-003 (Emergency Reliability), Opening Prepared Testimony of the DR Coalition, p. 28 – 32. January 11, 2021.

⁷ R.20-11-003 (Emergency Reliability), Energy Division Staff Concept Paper Proposals for Summer 2022 and 2023 Reliability Enhancements, p. 20. August 16, 2021.

firm prevents all but one of these firms from implementing projects. Instead, CPUC should direct program administrators to establish a market-access model that enables any organization to enroll projects that support both customers and the grid.

D. Send Clear Price Signals to the Market

Wherever possible, resources should be valued/priced based on the Avoided Cost those resources deliver to the grid. The CPUC should use the Avoided Cost Calculator (“ACC”) to quantify the value of individual resources and should set the market price for that resource based on that same value. Establishing resource value in this way would provide critical transparency to the market while motivating and rewarding the resources with high grid value. Furthermore, adopting this model provides the CPUC a means to calibrate to the urgency of the resource need through adjustments to the ACC.

E. Promote Integration of DERs by Allowing and Promoting EE and Self-Generation

Current policy restricts the eligibility of customer load served by self-generation, disallowing EE projects that would reduce overall usage and demand. Further, participating in EE programs would prohibit customers from installing self-generation for years to come. This is counter to the climate targets which should promote all cost-effective efficiency and enable and encourage customers to pursue self-generation and storage to help manage peak demand. The Council urges the CPUC to suspend these eligibility requirements in order to encourage a more robust integration of all DERs, including energy efficiency, to meet our state’s grid challenges.

VI. CONCLUSION

The Council appreciates this opportunity to provide thoughtful proposals in response to the Ruling, which itself responds to the Governor’s Proclamation. This is a critical period in determining California’s energy future, and we stand ready to work with the CPUC and all other stakeholders to build a reliable, clean, and equitable future for our grid.

Respectfully submitted,

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