

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Revise
General Order 156 to Include Certain Electric
Service Providers and Community Choice
Aggregators and Encourage Voluntary
Participation by Other Non-Utility Entities
Pursuant to Senate Bill 255; Consider LGBT
Business Enterprise Voluntary Target
Procurement Percentage Goals; Incorporate
Disabled Business Enterprises; Modify the
Required Reports and Audits; and Update
Other Related Matters.

Rulemaking 21-03-010
(Filed March 18, 2021)

**OPENING COMMENTS OF
THE CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT COUNCIL ON
PROPOSED DECISION REVISING GENERAL ORDER 156 SUPPLIER DIVERSITY
PROGRAM TO IMPLEMENT SENATE BILL 255, ADOPT A VOLUNTARY
PROCUREMENT GOAL FOR LGBT BUSINESS ENTERPRISES, INCORPORATE
PERSONS WITH DISABILITIES BUSINESS ENTERPRISES, AND OTHER UPDATES**

Dated: March 1, 2022

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PERSONS WITH DISABILITIES BUSINESS ENTERPRISES, AND OTHER UPDATES**

The California Efficiency + Demand Management Council (“the Council”) respectfully submits these Opening Comments on the Proposed Decision Revising General Order 156 Supplier Diversity Program to Implement Senate Bill 255, Adopt a Voluntary Procurement Goal for LGBT Business Enterprises, Incorporate Persons with Disabilities Business Enterprises, and Other Updates (“Proposed Decision” or “PD”), mailed in this proceeding on February 9, 2022. These Opening Comments are timely filed and served pursuant to Rule 14.3 of the Commission’s Rules of Practice and Procedure and the instructions accompanying the Proposed Decision.

**I.
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 member companies employ many thousands of Californians throughout the state. They include

¹ 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.

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 policies, programs, and technologies to create sustainable jobs, long-term economic growth, stable and reasonably priced energy infrastructures, and environmental improvement. Furthermore, the Council has established strategic objectives to help better understand and address systemic inequities that disadvantage certain businesses from participating in opportunities to implement various clean energy programs and initiatives that are overseen and regulated by this Commission. To that end, the Council is pledged to addressing and promoting diversity, equity, and inclusion within our organization and more broadly for our industry.

II. SUMMARY OF THE COUNCIL’S POSITION

The Council is committed to diversity, equity and inclusion in the supply chains of utilities and applauds the Commission’s efforts to set targets for lesbian, gay, bisexual, and transgender (“LGBT”) Business Enterprises and People with Disabilities Business Enterprises. By including more diverse groups in the required targets and reporting, the Council recognizes that the Commission is expanding the inclusiveness of General Order (“GO”) 156 and better reflecting the diversity of business enterprises in California. It is our view that for far too long, the Commission and the entities that it regulates have lacked any meaningful progress toward achieving broader diversity, equity and inclusion in the supply chains. The evidence of this situation is clear in the EE and DR industry. According to a recent evaluation study overseen by the Commission, researchers concluded that the current solicitation process for energy efficiency programs has not produced any diversity in third-party suppliers of those programs.² By putting a spotlight on this issue through this Proposed Decision, the Commission is taking meaningful steps to address these programs. But more must be done. The Council is ready and able to support the Commission in these efforts.

² Opinion Dynamics Third-Party Process Evaluation Study final presentation at CPUC 3rd Party Solicitations Stakeholder Engagement Forum, January 31, 2022.

III.
**THE COUNCIL HOPES TO SEE MORE PROGRESS MADE TOWARD ADDRESSING
DIVERSITY IN ENERGY PROCUREMENT EFFORTS**

The Council recognizes that advocates for the LGBT community expressed frustration about the 5-year period for expanding the goals and the Commission agrees “a more streamlined process would have been preferable.”³ The Council also recognizes that expanding existing definitions will help address the current lack of eligible suppliers in the area of energy procurement. Looking to other organizations and their certification programs can expand what it means to be a diverse business and support diverse suppliers who experience barriers to growth because of the limitations of these programs. According to the Proposed Decision, “[e]nergy procurement historically has not included a large number of eligible suppliers. We want to see progress in this area of energy procurement and staff is currently working with covered entities subject to GO 156 to increase spending with eligible suppliers in this area.”⁴ The Council supports this Commission desire and requests that meaningful recommendations put forward by stakeholders in this proceeding, and through recent evaluation study recommendations in the context of the EE solicitation process,⁵ be further vetted and adopted.

IV.
**THE COUNCIL ENCOURAGES BROADER DEFINITIONS OF DIVERSE
BUSINESSES**

The Council agrees with the Commission that the following issues be considered “(1) increase the percentages for the voluntary procurement goals for eligible business enterprises; (2) update the definition of minority; and (3) review the Supplier Clearinghouse “guidelines” used to determine certification as an eligible supplier.”⁶

For that reason, the Council urges the Commission to further expand GO 156’s criteria for diverse suppliers. In doing so, we encourage the Commission to consider the criteria of certification organizations like National Gay & Lesbian Chamber of Commerce (“NGLCC”), Disability:IN, Women’s Business Enterprise National Council (“WBENC”), and National

³ Proposed Decision, at p. 25.

⁴ *Id.*, at p. 16.

⁵ Opinion Dynamics Third-Party Process Evaluation Study final presentation at CPUC 3rd Party Solicitations Stakeholder Engagement Forum, January 31, 2022.

⁶ *Id.*, at p. 56.

Minority Supplier Development Council (“NMSDC”) to address gaps in where their certification criteria allow for a more expansive definition of diverse businesses. For example, the current GO 156 definition does not recognize and support diverse companies who secure private equity, which places a barrier that limits their growth. Some certification organizations do provide for this type of growth, particularly NMSDC’s growth initiative. We recommend a streamlined process to evaluate certification best practices so that definitions of diverse suppliers can be more inclusive, and the Commission can support ongoing growth of diverse businesses in California.

V. CONCLUSION

The Council would like to see more progress made toward addressing diversity in energy procurement efforts. To that end, the Council respectfully requests that the Commission revise the Proposed Decision as recommended in these opening comments.

Respectfully submitted,

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