

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 PROPOSED DECISION ADOPTING ENERGY EFFICIENCY GOALS FOR 2024-2035**

Dated: July 25, 2023

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**I. INTRODUCTION**

The California Efficiency + Demand Management Council<sup>1</sup> (“The Council”) respectfully submits these Opening Comments on the Proposed Decision Adopting Energy Efficiency Goals for 2024-2035 (“Proposed Decision” or “PD”), mailed in R.13-11-005 (Energy Efficiency Rolling Portfolio) on July 5, 2023. 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.

**II. 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.<sup>2</sup> 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 policies, programs, and technologies to create sustainable jobs, long-term economic growth, stable and reasonably priced energy infrastructures, and environmental improvement.

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

<sup>2</sup> 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.

**III. SUMMARY**

The Council appreciates the opportunity to submit Opening Comments to the Proposed Decision and continues to acknowledge the Guidehouse team’s extensive efforts in producing such an important resource. The Council reasserts the following position expressed in our Reply Comments to the Ruling<sup>3</sup> and raises another, new concern in light of the Proposed Decision:

- Support for Scenario 1: “Energy efficiency incentive levels capped at 50 percent, “reference” assumptions for fuel substitution. IRA [Inflation Reduction Act] tax credits not considered” as the preferred scenario to inform the 2024-2034 goals.<sup>4</sup>
- Concerns that the Proposed Decision’s proposed IRA Implementation Guidance is burdensome and vague.<sup>5</sup>

**IV. THE COUNCIL CONTINUES TO SUPPORT SCENARIO 1**

The Council continues to support Scenario 1: “Energy efficiency incentive levels capped at 50 percent, ‘reference’ assumptions for fuel substitution. IRA tax credits not considered”<sup>6</sup> as the preferred scenario to inform the 2024-2034 goals. Though the Council anticipates significant cost, energy, and emissions reducing benefits to be delivered to Californians through IRA tax credits, we remain concerned that current uncertainties regarding delivered benefits will lead to inaccurate forecasts. Inaccuracy, particularly overestimation of benefits means the under-delivery of those benefits. Under-delivery of benefits, particularly if the potential is overly inflated, is generally harmful to the EE industry and could result in reduced investments in the resource and the industry in the future. The Proposed Decision should be revised to adopt Scenario 1 to avoid incorporating uncertain IRA benefits at this early stage.

**V. PROPOSED IRA IMPLEMENTATION GUIDANCE IS VAGUE, BURDENSOME**

If the Proposed Decision is not revised as discussed above and the Final Decision adopts Scenario 2 as the preferred scenario, the Council would agree with the Proposed Decision’s assertion, regarding IRA implementation guidance, that “evaluations should not lower the program NTG [Net-to-Gross].”<sup>7</sup> The Council also acknowledges the need in and value of

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<sup>3</sup> Administrative Law Judge’s Ruling Inviting Comments on Draft Potential and Goals Study for 2024 and Beyond, issued in this proceeding on April 17, 2023 (April 17 Ruling).

<sup>4</sup> Council Reply Comments on April 17 Ruling, at p. 1.

<sup>5</sup> *Id.*, at pp. 1-2.

<sup>6</sup> Proposed Decision, at p. 3.

<sup>7</sup> *Id.*, at pp. 8-9.

tracking customer usage of IRA tax credits. However, the Proposed Decision’s proposal on ex-post evaluations and the requirement for Portfolio Administrators (“PAs”) to “collect and maintain documentation showing implementers’ involvement in using the IRA tax credit to influence customer adoption” is both burdensome and vague.<sup>8</sup>

The Council urges the Proposed Decision be revised to ensure the IRA implementation guidance effectively encourages “implementers to leverage the IRA in marketing and promoting energy efficiency projects.” As currently framed, the Proposed Decision puts forward a broad and burdensome requirement for PAs to collect and document that IRA tax credits influenced a customers’ choice to adopt an energy efficiency measure or project. Unfortunately, the role and timing IRA tax incentives may play in influencing customer decisions is ambiguous; documenting that role is complicated particularly as proposed through ex-post evaluations. Additionally, Pacific Gas & Electric Company (“PG&E”) correctly pointed out in their Reply Comments to the Potential and Goals Ruling that IRA tax credits are a form of layering incentives and that “D.21-11-002 provided high level guidance on incentive layering but deferred further specific to individual proceedings. Rulemaking (R.)13-11-005 may need to address how to operationalize incentive layering for EE use cases as part of the continuing policy discussion.”<sup>9</sup> The Proposed Decision does not provide any guidance on incentive layering and effectively instructs ex-post evaluations to negatively impact NTG unless an unclear and onerous exception is met.

Despite the Proposed Decision’s explicit interest in “the need for explicit evaluation guidance,” the proposed IRA implementation guidance contains substantial uncertainties which leave the documentation and reporting processes vulnerable to interpretation. In the Public Advocates at the California Public Utilities Commission’s (“Cal Advocates”) Opening Comments to the Potential and Goals Ruling, they noted the externality of the IRA tax credits as a reason that tracking IRA incentive utilization is difficult and complex.<sup>10</sup> Differing interpretations could lead to improper and unnecessary impacts to NTG ratios.

The Council interprets the Proposed Decision to instruct ex-post evaluation to negatively impact the NTG unless Programs collect and maintain information on customer tax credits that

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<sup>8</sup> Proposed Decision, at p. 9.

<sup>9</sup> PG&E Amended Reply Comments on April 17 ALJ Ruling, at p. 3.

<sup>10</sup> Cal Advocates Opening Comments on April 17 ALJ Ruling, at pp. 2-3.

likely occurs after the energy claim has been made. The Council therefore urges the Proposed Decision clarify, simplify, and standardize its IRA implementation guidance by only assessing project developer awareness of IRA incentives during project development in the instance the Proposed Decision is not revised to adopt Scenario 1 as the preferred scenario. The Council eagerly awaits the implementation and delivery of IRA benefits and intends those incentives to further accelerate investments in and adoption of energy efficient programs and equipment. However, vague and burdensome evaluation requirements could harm incentive use.

## **VI. CONCLUSION**

The Council appreciates the opportunity to provide Opening Comments on the Proposed Decision. In addition, the Council requests that the Proposed Decision be modified for the reasons stated above. Those needed modifications to the Proposed Decision are included in Appendix A (Proposed Modifications to Findings of Fact, Conclusion of Law, and Ordering Paragraph) attached and incorporated by reference hereto.

Dated: July 25, 2023

Respectfully submitted,

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## APPENDIX A

### **THE CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT COUNCIL PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDERING PARAGRAPHS FOR THE PROPOSED DECISION ADOPTING ENERGY EFFICIENCY GOALS FOR 2024-2035**

The California Efficiency + Demand Management Council (“the Council”) proposes the following modifications to the Findings of Fact, Conclusions of Law, and Ordering Paragraphs of the Proposed Decision Adopting Energy Efficiency Goals for 2024-2035, mailed in R.13-11-005 (Energy Efficiency) on July 5, 2023 (“Proposed Decision”) with the intent of the Final Decision adopting Scenario 1 as the preferred scenario.

Please note the following:

- A page citation to the Revised Proposed Decision is provided in brackets for each Finding of Fact, Conclusion of Law, or Ordering Paragraphs for which a modification is proposed.
- Added language is indicated by **bold type**; removed language is indicated by **bold strike-through**.
- A new or added Finding of Fact, Conclusion of Law, or Ordering Paragraph is labeled as “NEW” in **bold**, underscored capital letters.

#### **FINDINGS OF FACTS:**

4. [20] Scenario ~~1~~ **2** of the 2023 final potential study includes **energy efficiency incentive levels capped at 50 percent, “reference” assumptions for fuel substitution, IRA tax credits are not considered,** ~~reference assumptions for savings from IRA tax credits and for fuel substitution savings,~~ and sets aggressive yet achievable energy savings goals.

#### **CONCLUSIONS OF LAW:**

2. [20] It is reasonable to adopt energy efficiency goals for 2024 – 2035 based on Scenario **12** of the 2023 final potential study, which includes **energy efficiency incentive levels capped at 50 percent, “reference” assumptions for fuel substitution, IRA tax credits are not considered** ~~reference assumptions for IRA tax credits and for fuel substitution savings,~~

because it best reflects the Commission's intent to set aggressive yet achievable energy savings goals.

~~3. [20] Because the 2023 potential study (draft and final) assumes energy savings from IRA tax credits, it is reasonable to provide explicit evaluation guidance to encourage implementers to leverage the IRA in marketing and promoting energy efficiency projects.~~

**ORDERING PARAGRAPHS:**

~~2. [20-21] Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, Southern California Gas Company, and all other energy efficiency portfolio administrators must collect and maintain documentation showing implementers' involvement in using the Inflation Reduction Act tax credits to influence customer adoption.~~

**NEW. In the event the Commission retains Scenario 2, Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, Southern California Gas Company, and all other energy efficiency portfolio administrators must collect and maintain documentation showing implementers' involvement in using the Inflation Reduction Act tax credits.**