CALIFORNIA

Efficiency + Demand Management

COUNCIL

*Advancing Our Clean Economy*

# 2023 Policy+ in Review

(To Date)

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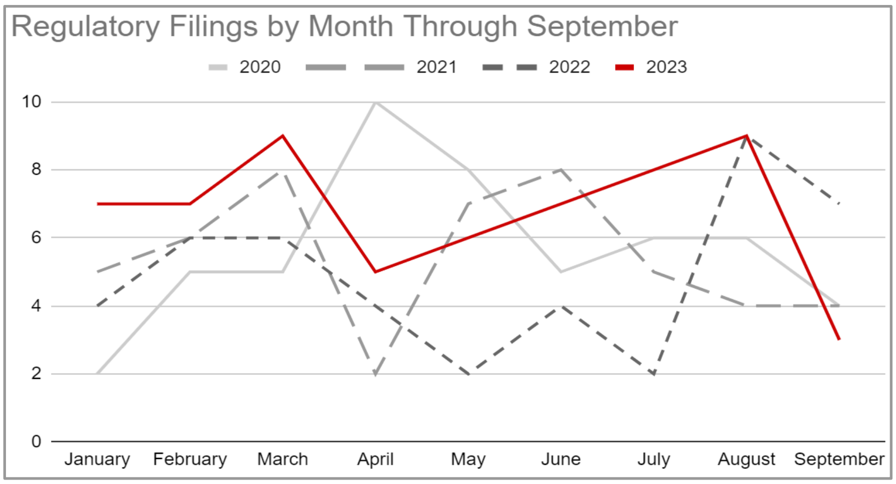
## Context

2023 has already proven to be another successful year for the California Efficiency + Demand Management Council! We scored legislative successes even though the Legislature generally focused on lower priority issues for the Council and our Members. In contrast, the regulating agencies have advanced an aggressive suite of dockets and policy considerations.

From a regulatory perspective, 2023 has been the busiest year for the Council in recent memory. The Council has submitted more filings in January - September 2023 than all of 2022 and is on track to surpass 2020 and 2021, despite an anomalous October 2020. This year's regulatory workload can be traced to a surge in active proceedings at the Public Utilities Commission ("CPUC"), a major uptick in responsibilities for the Energy Commission ("CEC"), and the implementation of the Infrastructure Investment & Jobs Act ("IIJA") and the Inflation Reduction Act ("IRA"). With coordination amongst our Board, Members, and team, the Council has risen to this year's challenges, securing policy wins for our Members and the industry at-large.

This document is a review of our key successes and ongoing challenges as of November 2023.

| | 2020 | 2021 | 2022 | 2023 |
|---|---|---|---|---|
| **Jan.** | 2 | 5 | 4 | 7 |
| **Feb.** | 5 | 6 | 6 | 7 |
| **Mar.** | 5 | 8 | 6 | 9 |
| **Apr.** | 10 | 2 | 4 | 5 |
| **May** | 8 | 7 | 2 | 6 |
| **Jun.** | 5 | 8 | 4 | 7 |
| **Jul.** | 6 | 5 | 2 | 8 |
| **Aug.** | 6 | 4 | 9 | 9 |
| **Sep.** | 4 | 4 | 7 | 3 |
| **Oct.** | 13 | 4 | 5 | N/A |
| **Nov.** | 4 | 8 | 4 | N/A |
| **Dec.** | 4 | 2 | 4 | N/A |
| **Total** | 72 | 63 | 57 | 61 |



# Statistics (through September 2023)

**Filings: 61**

- CPUC: 43
- CEC: 10
- CAISO: 1

- U.S. Congress or Federal Agency: 7

**Statements / Comments:[1] 15**

- Legislature/Governor's Office: 8
- CPUC: 4
- U.S. Congress or Federal Agency: 3

**Legislative:**

- 12+ meetings during the Council's Lobby Day with our lobbyists + Sustaining Members[2]
- 32 bills *closely* tracked over the first year of the two-year session where 2,650 bills were introduced and close to 1,100 made it to the Governor's Desk
- 8 letters submitted to the Legislature and Governor's Office during Session
- 1 individual testimony at bill sponsor's requests
- 31 Member meetings re: the Legislature during Session, providing up-to-the minute information and opportunities to discuss and guide Council efforts

[1] Statements / comments generally include testimony, informal comments, letters, presentations, other informal formats of communicating policy positions to a regulating agency, the Governor's Office, the Legislature, or other key decisionmaker.

[2] The Council's Annual Lobby Day connects our Staff and Sustaining Members (through our lobbyists) with key State legislators, staff, and influencers in Sacramento.

# Legislative

**The 2023 legislative session experienced a whiplash of many sorts**:
- Forecasted $30+ billion revenue shortfall after 2022 witnessed a $100+ billion revenue surplus, leading to a rethinking of yet-to-be allocated funding/budgets across the board;
- No energy trailer bills - one of the mechanisms used to secure several policy wins in 2022; and
- Fewer, but heavy-hitting, energy and climate bills advancing to the Governor's desk.

**The Council's 2023 legislative priorities**:
- Maintaining funding as outlined in 2022 as a crucial step to keeping the lights on, mitigating customer bill impacts, and reducing GHG emissions for all Californians. The Council specified preserving funding for the following programs to drive innovative investments and deliver real benefits across the state:
    - Clean Energy Reliability Investment Plan: $1 Billion through FY 2026 (SB 846)
      FY 2023-24: $100 M | 2024-25: $400 M | 2025-26: $500 M
    - Equitable Building Decarbonization Program: $812 Million through FY 2026 (AB 209)
      FY 2023-24: $665 M | 2024-25: $53 M | 2025-26: $92 Million
    - Demand Side Grid Support Program: $295 Million FY 2023 (AB 209)
    - Distributed Electricity Backup Assets Program: $150 Million through FY 2026 (AB 209)
      FY 2023-24: $100 M | 2024-25: $25 M | 2025-26: $25 M
    - TECH Clean California Program: $145 Million through FY 2024 (AB 179)

- Expanding DERs across the state to improve energy and grid reliability, advance energy equity, ease bill impacts, and reduce GHG emissions, particularly through pathways that advance:
    - **Transparency:** Enable better understanding and analysis of improved energy reliability, quality of service, costs, and carbon reduction through spotlighting consistency in value and evaluation of services.
    - **Accountability:** Ensure energy services grow more efficient, affordable, and reliable by requiring regular reporting requirements on key performance metrics via dashboards and reports.
    - **Metrics:** Establish clear and measurable metrics to track and ensure progress towards achieving goals that can be applied at state, regional, and local levels.
    - **Engagement:** Leverage stakeholder engagement, education and community-led insight.

**Select Legislative Accomplishments**
- Testified on SB 48 (Building Performance Standards) at the request of the author, Senator Becker. SB 48 was ultimately passed by the Legislature and signed into law by the Governor;
- Secured amendments to SB 795 (HVAC Compliance Tracking, Registry) sufficient to shift the Council's position from concerns to support. SB 795 did not ultimately pass out of the Legislature;
- Provided expertise to Legislative leadership to guide an Energy Efficiency audit request. Nearly all of our guidance was incorporated into the final audit request to the Jt. Legislative Audit Committee; and
- Helped preserve clean energy funding as largely established in 2022.

# CPUC

**One-Year Extension: Demand Response Auction Mechanism (“DRAM”)**
At the beginning of the year, the Council submitted joint comments, testimony and briefs advocating for the appropriate expansion of DRAM. The Council and other DR parties argued in testimony and briefs that sufficient improvement in DRAM Pilot performance warranted the one-year extension. In addition, through joint comments and lobbying on the proposed decision, the Council convinced the CPUC to remove language that would have required DRAM Pilot proponents to retrospectively demonstrate the cost effectiveness and reliability of the DRAM Pilot for the CPUC to adopt it permanently.

In response to the Council’s joint comments and lobbying, the proposed decision was revised in D.23-01-006 to clarify that the future of the DRAM will depend on how it has met the six criteria for success that had been adopted in D.16-09-056.

**Solicitations:**
Early in 2023, the Council coordinated efforts amongst its Members to communicate directly with CPUC staff and submit formal comments on third party EE solicitations process improvements. These efforts eventually led to D.23-02-002 where a significant number of the Council’s recommendations were incorporated into the final decision, including:

- Removing the requirement for a two-stage solicitation process;
- Updating the definition of diverse business enterprise to include businesses owned by persons with disabilities;
- Clarifying financial conflict of interest rules for procurement review group members;
- Ensuring market access program/approach proceed without interruption;
- Allowing the use of strategic energy management approaches beyond the industrial sector;
- Removing requirements for performance assurances as a starting point for contract negotiation;
- Requiring cybersecurity insurance only when deemed necessary;
- Better reflecting and capturing stakeholder comment and analysis in the final annual development report;
- Shifting CATALENA responsibilities over to the CEC;
- Requiring a consistent methodology to account for administrative costs associated with third-party contracts;
- Improving and clarifying governance and oversight of the Commission’s database tools; and
- Adopting data sharing requirements for Commission-authorized energy efficiency programs.

Following the final decision and stemming from the Council's monthly meetings with Energy Division staff, the Council and Members were again invited to serve as a panel at the March EE Third-Party Solicitations Semi Annual Stakeholder Forum. Director of Policy + Strategy, Clark McIsaac, led a panel of three participants: Kim Rodriguez, Jim Dodenhoff, and Ying Wang to discuss the value of individual feedback for unsuccessful bids, opportunities for continued improvement on supplier diversity goals, and ongoing challenges with performance assurances.

**EE Business Plans + Portfolios**

Following the IOUs' submission of their application for approval of their 2024-2031 energy efficiency business plans and 2024-2027 portfolio plans in 2022, the CPUC finalized D.23-06-055 and D.23-08-005 (regarding EE Goals). In the CPUC's efforts to finalize D.23-06-055, the Council diligently coordinated with Members and stakeholders to advocate for necessary, significant improvements. In response to the Council's advocacy efforts, the Final Decision included the following Council-recommendations:

- General expansion of NMEC (but not applying as a blanket or default requirement);
- General expansion and improvement towards greater energy equity, including:
    - Struck limiting language regarding equity segment specific programs and included non-equity segment programs into the non-energy benefits ("NEB") study;
- General expansion of the market access approach;
- Enable investments in integrated demand-side management ("IDSM") through PA EE budgets;
- Elimination of blanket program consolidations, including:
    - Struck the proposal to consolidate the Residential Behavioral Home Energy Reports ("HERS") program to a statewide administration,
    - Struck the proposal to consolidate the Residential Audit Programs (or Universal Audit Tool) ("UAT") program to a statewide administration,
    - Struck the proposed study on the potential for the Residential Multi-Family and Strategic Energy Management programs to transition to a statewide administration, and
    - Struck the proposed statewide program precedence over non-statewide programs when there is "overlap." The Final Decision laid out a pathway for PAs to leverage existing mechanisms while continuing the discussion to ensure program gaming is mitigated;
- Struck the creation of the Portfolio Oversight Group - as proposed it could have been a complex and unnecessary process with unclear benefits; and
- Noting the Custom Proposal should be further discussed among stakeholders - though our proposal was not accepted.

**Bid cap on Proxy Demand Resources ("PDR")**

The Energy Division had proposed a PDR bid cap of $500/MWh to qualify as a Resource Adequacy ("RA") resource; the Council and participating Members argued against PDR bid caps, but if one was to ultimately be adopted, it should be set at $949/MWh. The Council's proposed cap is immediately below the Reliability Demand Response Resources ("RDRRs") bid floor of $950/MWh to ensure all PDRs are dispatched prior to RDRRs. The CPUC adopted a $949/MWh bid cap in D.23-06-029.

**Evaluation, Measurement, & Verification ("EM&V")**

CPUC staff participated in a Council EM&V Quarterly meeting to solicit input and guidance from Council Members regarding how to better format and manage the CPUC's Winter Quarterly Stakeholder meeting. Through extended collaboration, CPUC staff incorporated much of the Council and Members' input to improve what and how information was shared during the EM&V Quarterly Stakeholder meeting, including a deeper dive on key utility reports (compared to previous brief "fly-bys" providing no substance on key reports) and greater opportunities for stakeholder Q&A.

The Council continues to work with CPUC staff effectively on EM&V-related issues regularly.

# CEC

**January Data Access Workshop**

The Council was invited to and served as an expert panel witness at the CEC's Commissioner Workshop on Energy Data Modernization and Analytics. The Council advanced Member perspectives on three critical areas to data analysis as a service:

- Use case prioritization (re: EM&V, customer engagement, and load forecasting);
- California Analysis Tool for Locational Energy Assessment ("CATALENA"); and
- Development Needs for Demand Flexibility Success

**Clean Energy Reliability Investment Plan ("CERIP")**

The Council advocated for additional funding for near-term reliability investments and the critical prioritization of demand-side resources in the CEC's CERIP. The CEC prioritized investing a significant majority of eligible CERIP funds on scaling demand-side resources following the initial funding year of 2023-2024. This opens a potential $445,000,000 of yet-to-be allocated funding.

**Integrated Energy Policy Report ("IEPR") Update**

The CEC's IEPR is a major document that plays a significant role in the state's energy policy efforts. The Council advocated for advancing resources and information for the new Load Shift Goal ("LSG", addressed in the next section), specifically by incorporating the LSG into the IEPR. The final IEPR update directly incorporated the Council's recommendation as well as our other recommendation to generally urge cross-agency coordination and collaboration as there are several, overlapping and parallel policy efforts across different regulating agencies.

**Load Shift Goal ("LSG") Improvements**

Following the Council's success in 2022 to propose and advocate for the nation's first LSG - adopted in SB 846 - the CEC was tasked with establishing and delivering the LSG. In the public process of doing so, the Council successfully advocated for the final LSG to:

- Improve upon demand flexibility benefits deployed in disadvantaged, low-income communities;
- Protect LSGs that are time-dependent from years-long processes (e.g. the CPUC's efforts to build a transactive energy framework known as "CalFUSE");
- Encourage alternative rate and program designs that incentivize load shifting; and
- Incentivize pairing load shifting technologies with dynamic rates.

**Demand Side Grid Support Program ("DSGS") Guidelines**

The CEC updated its Program Guidelines for the DSGS midway through summer 2023. This was the DSGS's second version of the guidelines and ultimately incorporated the Council's following recommendations:

- Expand DSGS eligibility to align with statutory requirements - statewide;
- Enable timely updates to DSGS program in time for Summer 2023 (within reason);
- Continue work into Fall 2023 and beyond (CEC fully anticipate doing so);
- Empower proper staff/resource capacity to improve DSGS implementation/success;
- Streamline third-party enrollment capabilities; and
- Ensure non-market integrated participation option

**Distributed Electricity Backup Assets Program ("DEBA") Guidelines**

In October, the CEC adopted DEBA First Edition Guidelines. It appears the DEBA Guidelines may need to be revised, however, the Council still sees the CEC's incorporation of most of our recommendations as a policy win. The CEC incorporated the following Council recommendations into its adopted DEBA Guidelines:

- Clarify that DEBA is not a standalone program and therefore "DEBA solicitations will be designed to attract clean resources into the Strategic Reliability Reserve while not inadvertently discouraging clean resources from participating in the state's Resource Adequacy program."
- Clarify the definition of distributed resources, which had previously been vulnerable to different interpretations and therefore application.
- Replace the term "battery storage" with the term "energy storage" to be inclusive of a broader suite of technologies and resources that still includes "battery storage".

## CAISO

Building off of the Council's ongoing relationship with CAISO executive leadership and key staff, the Council coordinated with CAISO throughout 2023 to advocate for Member and market needs. Participating CAISO Regulatory Advocacy Service ("CRAS")[3] Council Members were provided the opportunity to directly engage with CAISO leadership and guide Council advocacy efforts throughout the year. Some of the Council's success with CAISO over 2023 includes:

- Through periodic discussions on issues of importance to CRAS Members, furthered a positive and constructive relationship between the Council's Members and CAISO's CEO, Vice President of Policy & Performance, and the Demand Response and Distributed Energy Resources Manager;
- Reset and fostered a positive and constructive relationship with the CAISO DR team which has led to a significantly more constructive tone between the CAISO and the Council's Members and led to more proactive communications from CAISO staff; and
- Through participation in the Western Energy Imbalance Market and Extended Day Ahead Market stakeholder initiatives, the Council provided industry support for allowing a greater role in the CAISO market for DR located outside of the CAISO Balancing Authority Area.

[3] The purpose of the CRAS is to provide broader engagement by the Council directly to CAISO. It is an incremental service offering available to any current Council member in good standing.

# Other

**State / Legislative Coalitions**

The Council continues to expand and leverage strategic coalitions among new and longstanding impactful stakeholders. The Council's efforts to expand coalitions across California include, but are not limited to, our efforts to improve and advocate for SB 48 as well as the impending implementation and statutory issues related to the Income Graduated Fixed Charge.

**Federal / Interstate Coalitions**

The Council has expanded its federal footprint with two key groups: a recently developed Energy Efficiency Strategy Group ("EESG") - an informal coalition for EE advocacy organizations that coordinate and collaborate on intra- and interstate energy efficiency opportunities and challenges. The Council has also furthered its relationships with the Regional Energy Efficiency Organizations ("REEOs") across the nation. California is the only state in the country that is not represented by a REEO. The Council therefore serves as the representative for California in the REEO's coordination, collaboration, and advocacy efforts. This collaborative effort has resulted in major wins for EE at the federal level particularly in the federal agencies' efforts to implement IIJA and IRA programs.

**Market Access Program (MAP) Success**

MAP is an innovative pay-for-performance program incorporating Normalized Metered Energy Consumption [4] (NEMC) data. When initial incentive funds were fully subscribed midway into its deployment, PG&E considered not making use of the remaining CPUC-approved funds for MAP, which was designed specifically to support the Governor's Emergency Declaration.

In April 2023, the Council engaged CPUC staff and Energy Agency Principals to ensure the CPUC-approved funding would be made available for implementers to access going into Summer 2023.

The Council's efforts to persuade decision makers to release additional MAP funds succeeded. In July, implementers reported results above the plan based on measurements. As a result, NMEC Pay-for-Performance programs are well-positioned to expand in the coming years.

[4] NMEC is a set of tools and standards that, when applied to interval data, provides quantifiable and statistically significant reporting of normalized energy usage and energy savings due to an intervention, such as an energy efficiency project.

## CONTACTS

Joe Desmond, Executive Director | JDesmond@CEDMC.org | (925) 785-2878
Clark McIsaac, Director of Policy & Strategy | CMcIsaac@CEDMC.org | (408) 239-7172
More information at www.CEDMC.org.