

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)

**REPLY COMMENTS OF
THE CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT COUNCIL ON
ADMINISTRATIVE LAW JUDGE'S RULING INVITING COMMENTS ON WHETHER
TO ELIMINATE EVALUATION, MEASUREMENT, AND VERIFICATION DISPUTE
RESOLUTION PROCESS**

May 13, 2024

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The California Efficiency + Demand Management Council¹ (“The Council”) appreciates the opportunity to submit these Reply Comments on the Administrative Law Judge’s Ruling Inviting Comments on Whether to Eliminate Evaluation, Measurement, and Verification Dispute Resolution Process, issued in this proceeding on March 27, 2024 (“ALJ Ruling”). These Reply Comments have been timely filed and served pursuant to the Commission’s Rules of Practice and Procedure and the instructions contained in the ALJ Ruling.

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. 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.

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

II. THE COUNCIL AGREES WITH PARTIES WHO RECOMMEND THAT THE EVALUATION, MEASUREMENT, AND VERIFICATION DISPUTE RESOLUTION PROCESS SHOULD BE RETAINED

The Council agrees with San Diego Gas & Electric Company (“SDG&E”) and Southern California Gas Company (“SoCalGas”) who both supported the retention of the Evaluation, Measurement, and Verification (“EM&V”) Dispute Resolution Process.² SDG&E states that “the EM&V dispute resolution process should remain available to any party who believes that there is a need to elevate their issue to an ALJ, or the entire Commission, to render a decision.”³ Similarly, SoCalGas contends that “[i]t is reasonable to continue the dispute resolution process, in such instances where disputes over EM&V results have significant impacts to program administrators, and those disputes cannot be resolved through regular coordination with Energy Division staff.”⁴

The Council agrees with SDG&E and SoCalGas that the EM&V dispute resolution process is still necessary. Furthermore, the Council concurs with SDG&E who identifies several errors in the ALJ Ruling regarding this process.⁵ SDG&E states that, contrary to what is stated in the ALJ Ruling,⁶ Decision (“D.”) 10-04-029 never required participation in investor-owned utility (“IOU”) shareholder mechanisms to engage in seeking a resolution to an EM&V dispute.⁷ In addition, the Ruling incorrectly states that the dispute resolution process was not intended for third parties.⁸ However, the Council agrees with SDG&E that D.10-04-029 provides that *any* party may participate in the dispute resolution process, not just IOUs.⁹ SDG&E correctly states that “there continues to be a need to have a dispute resolution available should there be a need for it. The rarity of the utilization of a dispute resolution mechanism is not an indication that it is unnecessary and therefore should be eliminated.”¹⁰

² SDG&E Opening Comments, at p. 6 and SoCalGas Opening Comments, at p. 1.

³ SDG&E Opening Comments, at p. 6.

⁴ SoCalGas Opening Comments, at p. 2.

⁵ SDG&E Opening Comments, at p. 4.

⁶ ALJ Ruling, at p. 4.

⁷ SDG&E Opening Comments, at p. 4.

⁸ ALJ Ruling, at p. 3.

⁹ SDG&E Opening Comments, at pp. 4-5.

¹⁰ *Id.*, at p. 6.

The Council also agrees with SoCalGas that there continues to be a value in retaining the dispute resolution process.¹¹ SoCalGas correctly states that even though there has been “success over the past decade where informal coordination with Energy Division has avoided the need for any IOU to invoke the formal dispute resolution process, that does not mean that there will never [be] an instance where it may be necessary.”¹²

III. CONCLUSION

The Council appreciates the opportunity to provide these Reply Comments. As discussed above, the Council agrees with SDG&E and SoCalGas that there is value in retaining the EM&V dispute resolution process.

Respectfully submitted,

May 13, 2024

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¹¹ SoCalGas Opening Comments, at p. 2.

¹² *Id.*