TOD/ek4 5/19/2015

FILED
5-19-15
02:18 PM

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)

ADMINISTRATIVE LAW JUDGE'S RULING CONFIRMING COMMENT PROCESS FOR (1) STAFF WHITE PAPER ON ENERGY EFFICIENCY ROLLING PORTFOLIO CYCLE MECHANICS, AND (2) APRIL 28, 2015 ENERGY EFFICIENCY BASELINE WORKSHOP

On May 5, 2015, we sent to the service list as an e-mail ruling that (1) sought formal comments on a Commission staff white paper on Energy Efficiency Rolling Portfolio Cycle Mechanics, and (2) established an informal process for commenting on an April 28, 2015 workshop regarding energy efficiency. We repeat here the direction provided in that e-mail ruling.

(1) Staff white paper and comments

A Commission Staff white paper re energy efficiency rolling portfolio mechanics is attached to this ruling.

Parties may file comments on the white paper by no later than May 26, 2015.

Comments should follow the outline structure of the white paper. We are not imposing any page limits.

We draw parties' attention in particular to the discussion on pages 12-13 of a "sector-based" approach to program administrator filings, and invite comments on whether such an approach bears Commission consideration.

(2) Baseline workshop comments

On April 28, 2015, we conducted a workshop on energy efficiency baseline choices. Commission staff provided a series of questions with the baseline workshop agenda, and slides, which are posted at: http://www.cpuc.ca.gov/PUC/energy/Energy+Efficiency/Energy+Efficiency+Baselines.htm.

Parties may submit comments on workshop topics to dina.mackin@cpuc.ca.gov by no later than May 28, 2015. Parties are not to file or serve these comments. Commission staff will post all comments to the above URL, where the comments will be available for public review.

Comments should follow the sequence of the questions attached to the workshop agenda. Commenters may include at the end of their comments matters related to workshop presentations but outside the scope of the questions attached to the workshop agenda. Comments should focus on technical issues and evidence relating to baseline choice and/or coordination CEC and Commission treatment of baseline energy efficiency modeling activities.

We are not imposing any page limits.

IT IS RULED that:

1. Parties may file comments on the attached Commission staff white paper re energy efficiency rolling portfolio mechanics by no later than May 26, 2015.

2. Parties may submit comments on the April 28, 2015 energy efficiency baselines workshop topics to dina.mackin@cpuc.ca.gov by no later than May 28, 2015.

Dated May 19, 2015, at San Francisco, California.

/s/ TODD O. EDMISTER
Todd O. Edmister
Administrative Law Judge

ATTACHMENT

Staff White Paper

Energy Efficiency “Rolling Portfolio” Cycle Implementation

California Public Utilities Commission

May 4, 2015

I. Introduction

On March 9-10, 2015 the Commission conducted a workshop concerning energy efficiency "Rolling Portfolio" cycle implementation. At the workshop, a coalition of stakeholders (joint parties) presented a proposal for how to implement energy efficiency "Rolling Portfolios" (the joint party proposal). The Phase II Scoping Memo[1] directed Commission Staff to prepare this white paper in response to the joint party proposal.

Commission Staff generally found the Joint Parties' proposal to provide a solid foundation for a "Rolling Portfolio" cycle framework. Readers will find that staff's recommendations largely reflect the Joint Parties' proposal. The overall structure of the joint party proposal, with its business plans, implementation plans, and "bus stops" is reflected herein. Staff's recommendations do, however, depart from the joint party proposal in certain particulars:

- Addition of more Commission "touch-points", particularly for budget oversight and portfolio guidance
- Filling in details that were not clearly defined by the joint parties
- Changing proposed details to better reflect our "on the ground" experience in portfolio review, or to reflect systems updates that we are already undertaking to conform our practices to a "Rolling Portfolio" world.

This white paper focuses on components of the joint party proposal that Commission Staff recommends the Commission adopt, either as-proposed or with changes. It does *not* address *all* aspects of the joint party proposal. Those aspects of the joint party proposal may be considered at a later date.

A. Background

Traditionally, the Commission has reviewed energy efficiency portfolios on a three-year cycle. The three-year process parallels the Commission's statutory responsibility to report to the legislature "triennially . . . on the energy efficiency and conservation programs it oversees."[2] In addition to the standard triennial review, the Commission has sometimes approved a shorter "bridge" between cycles to allow for the regulatory process to be completed.

The Commission began to transition away from three year portfolio cycles in D.12-05-015. In that decision, the Commission adopted a two year "transition period" during which we were to move towards more fundamental changes to the energy efficiency programs.

---

[1] "Assigned Commissioner and Administrative Law Judge's (ALJ) Ruling and Scoping Memorandum regarding implementation of energy efficiency "Rolling Portfolios" (Phase II of Rulemaking 13-11-005)," dated February 24, 2015 (Phase II Scoping Memo).
[2] Cal. Pub. Util. Code § 384.2.

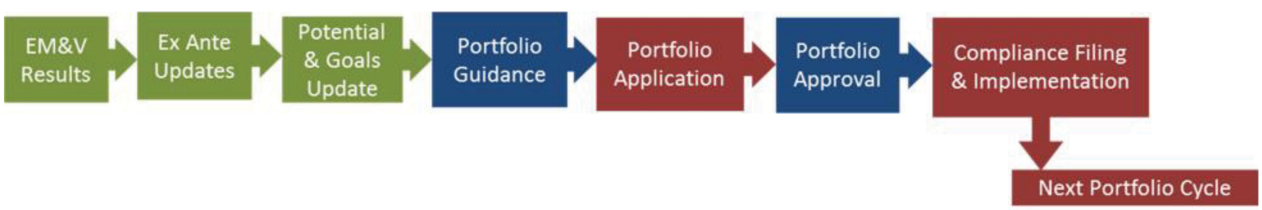
The Order instituting this rulemaking, R.13-11-005, gave more detail on what sort of fundamental changes the Commission had in mind:

> We want to eliminate the market barriers and transaction costs that the short term commitment and stop/start nature of the three-year portfolio cycles create. Increased adoption of energy efficiency measures requires confidence at all levels of the market that funding will be in place long enough for investments in technologies, training, and hardware to pay off. Even a "pin-hole" risk that Commission-mandated funding will evaporate can deter end-users, lenders, and investors from participating in energy efficiency ventures; at minimum such risk increases borrowing and capital costs. [3]

B. Purpose of the "Rolling Portfolio" Cycle

D.14-10-046 took a major step towards a "Rolling Portfolio" world by putting energy efficiency funding in place for ten years.[4] This makes the original objective of Phase II of this proceeding perhaps somewhat less apparent than it might have been when R.13-11-005 kicked off. But long-term funding was just one piece of the "Rolling Portfolio" puzzle. Under the three-year portfolio cycle structure, dependent regulatory processes have created a series of bottlenecks that slowed energy efficiency activity and created market uncertainty. The processes defined in Figure 1 are *all* critical components of an update to a portfolio, and each process depends on completion of previous processes.

Figure 1. The Dependent Processes to Update Portfolio



Compounding the challenge, *each process* needed to be completed for the *entire portfolio* for *every cycle*. So EM&V processes, for example, covered the entire three years of the cycle, and needed to consider all measures in the portfolio in order to feed into the next ex ante update, goals, etc. for the following three-year cycle.

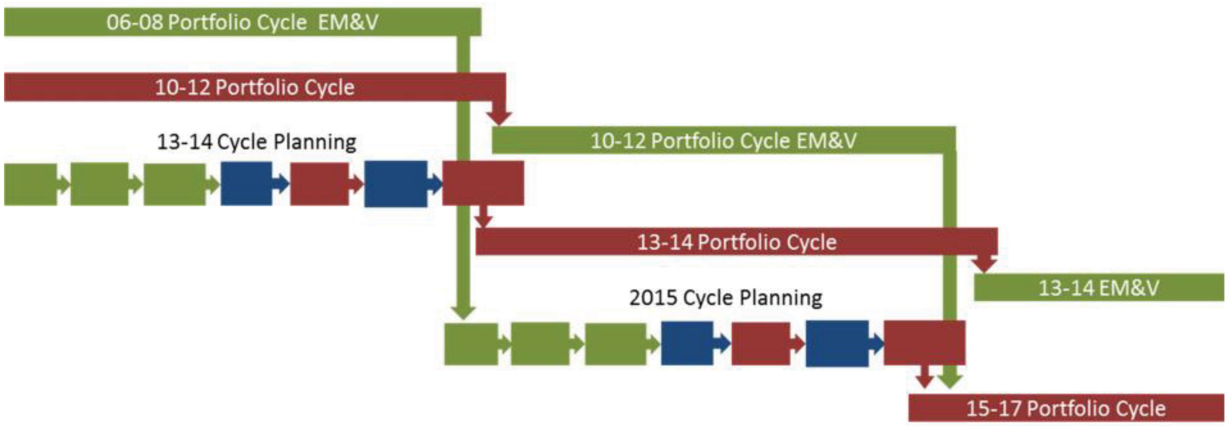
---

[3] R.13-11-005, at 8.

[4] Commission adoption of a long term funding commitment in D. 14-10-046 resolved one of the most significant structure challenges to the three cycles—funding uncertainty. Commission staff have also worked on a number of internal process changes needed to implement "Rolling Portfolios, such as revising EM&V research roadmaps to allow for ongoing evaluations and to align them with annual ex post ESPI savings results; the potential and goals model was developed to enable an easier update.

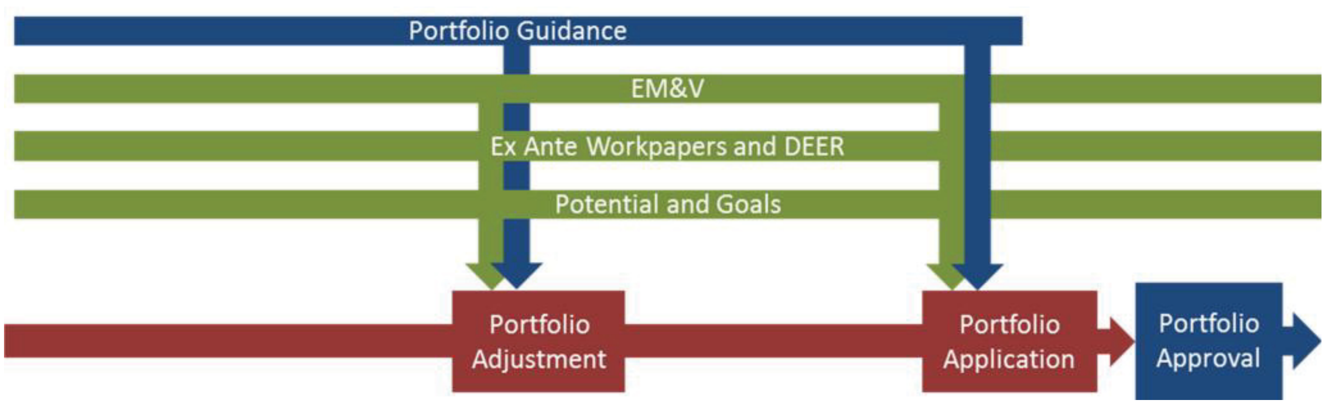
The length of time required for each process listed in Figure 1 has made it effectively impossible to complete all of these processes within three years. Additionally, since the next opportunity to update the portfolio would not occur for another three years, there has been intense pressure to make sure that all necessary updates were captured. Finally, since funding was only authorized for the current cycle, funding for energy efficiency programs was dependent on the Commission adopting the next portfolio before the previous portfolio expired, which created significant market uncertainty.

Figure 2. Three Year Portfolio Cycle Flow Diagram



Staff's view is that the "Rolling Portfolio" cycle should allow the portfolio *update and review* and portfolio *planning* processes to run in parallel. This will enable the update process to speed up to occur on an frequent, predicable basis, so if we miss the opportunity to make an update to a particular element of the portfolio, we will have another opportunity to make a change at a defined point in the near-future. We also intend to clarify the Commission's role in regulatory oversight.

Figure 3. Parallel Processes as Intended by "Rolling Portfolio" Cycles



C. Structural Challenges for ““Rolling Portfolio” Cycles

Transitioning to parallel processes is not as straightforward as it might seem, since each element of portfolio planning and review is by nature dependent on one another. Moreover, enabling the parallel processes involves reorganizing operations within the Commission and speeding up several complex activities that are already under tight time pressures.

Staff has been laying groundwork over the past year to help transition our systems to do updates annually and to run in parallel. The Commission Staff that works on EM&V in particular has already made, or is in the process of making, many of the changes that the joint parties have proposed.

II. Commission Portfolio Review Process

A. Funding Authorization

Joint Party Proposal: The Joint Parties propose that the Commission review and approve a long term funding authorization once every five years. PAs would file "business plans" with the Commission every five years; possibly more frequently, if there are major changes to the regulatory or business environment. The Business Plan would include a schedule over the following years for significant "re-looks" at "market sectors." PAs would perform these re-looks in conjunction with stakeholders. There would be no formal Commission involvement in the "re-looks."

Staff Recommendation: The joint parties' proposal appears to suggest that a review every five years of the business plan could entirely *replace* the various proceedings we use for policy direction and budget review, which does not seem realistic. There are a number of important policy issues that need to be addressed in coming years, which are likely to have profound impacts on the structure of the portfolio. Possible changes within the scope of Phase III of R.13-11-005 include:

- Addressing the declining cost effectiveness in the portfolios
- Consideration of changes to baselines and the budget/cost-effectiveness implications
- Reorienting goals and cost effectiveness for locational targeting
- Incorporation of recommendations from AB 758

In addition to policy issues, the Commission will also need to review significant changes to budgets that may flow from policy changes. The joint proposal does not appear to provide an opportunity for such review.[5]

Staff proposes that applications with business plans would be filed initially, and then not filed again until either (1) a trigger mechanism requires a subsequent application, or (2) a program administrator elects to file a new business plan. In the meantime, various annual filings and formal policy proceedings would move forward in parallel. Commission Staff recommends that the following circumstances trigger a new application:

- A PA is unable to adjust its portfolio in response to goal, parameter, or other updates to:
  - meet savings goals,

---

[5] The joint party proposal contemplates budget review to be limited to review of Tier 1 advice letters. These advice letters are, per GO96-B, effective without any Commission or Commission Staff action.

   - stay within budget (i.e., beyond the banking and borrowing provisions discussed later in this proposal), or
   - meet the Commission-established cost effectiveness (excluding Codes and Standards and spillover adjustments)[6]
- The Commission calls for a new application as a result of a decision in the policy track of the proceeding (or for any other reason);[7]

B. Content of the Business Plan Filing

Joint Party Proposal: The Joint Parties propose to use the Business Plans to articulate their strategy and approach to pursuing energy efficiency. The Business Plan approach would give the PAs greater ownership over implementing the goals of the Strategic Plan. The Joint Parties indicate that the Business Plans would include the following elements:

a. Portfolio summary and description of broadly applicable intervention strategies
b. A chapter for each of six sectors (residential, commercial, industrial, agriculture, public, cross-cutting)

   - A description of each PA's overarching goals, strategies and approaches
   - Vision, outlining near-, mid- and long-term strategic initiatives
   - Description of which strategies are coordinated statewide and regionally amongst PAs
   - Portfolio and sector-level metrics for regulatory oversight (GWH, MW, therms, cost-effectiveness, and other metrics where applicable)
   - Sector-specific intervention strategies
   - Portfolio and sector-level proposed budgets
   - Separate milestones with associated timelines to track PA programs in a sector, that are not formally reported (proposed only by some parties)

Absent from this list are Program Implementation Plans, which have historically been part of PA applications.

Staff Recommendation: The Business Plan proposal sounds like a great opportunity for the PAs to articulate an overarching strategy to identify and pursue energy efficiency. The PAs have not previously filed this type of high-level strategic document with the Commission. By its title, the Business Plan will also be a professional and public-facing document, with associated levels of professional quality of organization and presentation of material.

---

[6] Staff recommends that the threshold be set initially at 1.15 for 2016 and increase to 1.25 for 2017, as called for in the 2013-2014 portfolio funding decision).

[7] We discuss the tracking concept more below.

Commission Staff also see the business plan approach as allowing for streamlining of the current application requirements. As we will discuss in more detail below, there is a great deal of material we have required from PAs in the triennial application process that we can streamline (especially parts of the Program Implementation Plans).

That said, Commission Staff is unclear about the basis upon which to evaluate the Business Plan and its implementation. While the Business Plan could reflect a thorough re-consideration of program design, it could also potentially replace clearly defined programs with a long, vague, non-substantive narrative. We also have concerns about PAs setting the standards against which we will subsequently measure PA performance. The proposal does not include sufficient metrics to ensure appropriate regulatory oversight of program objectives and spending.

Further, the proposal only indicates that metrics will be provided at the sector level. We support the proposal by some parties to require separate milestones with associated timelines to track PA programs in a sector. This would not need to be a part of the formal filing, but should be added to the updates to EEStats,[8] discussed in Section VII.1. We recommend further that PAs identify three metrics for each non-resource sub-sector area in their business plans, in addition to metrics for each sector.

The challenge is striking the right balance between being specific enough to be strategic, but general enough not to end up duplicating implementation plans. To avoid the potential vagueness problem mentioned above, Commission Staff recommends the following additional requirements:

a. A presentation of management and staff resources that will be devoted to delivering the sector-level goals and strategies, including a high level organizational structure diagram. This should occur at a high level but one that is sufficient to indicate via Commission review that the PAs have sufficient resources to meet the indicated objectives.
b. Proposal for how to change the portfolio to meet the portfolio savings and cost effectiveness requirements
c. Program performance metrics for Non-Resource programs

The ultimate usefulness of the business plan, as a separate product from the Implementation Plans, will be demonstrated in the initial filing. Commission Staff supports an initial filing of business plans for 2016.

---

[8] EEStats is a web-based database, http://eestats.cpuc.ca.gov/.

C. Changes to Other Filing Requirements

For the Commission, filing requirements are not only the most important components of the application in terms of meeting our statutory obligations, but also the components with the greatest opportunity for reform to reduce regulatory churn. Commission Staff has contracted consultants to develop several technical system improvements in order to streamline the PA filings, which will reduce the administrative burden, create greater transparency and simplify the review process.

1. Program Implementation Plans

Notably absent from the list of what to include in/with business plans are Program Implementations Plans (PIPs). The joint party proposal offered up three major changes with respect to PIPs. We outline each below, along with our responses:

a) Remove PIPs from applications.

Joint Party Proposal: PIPs would not be subject to Commission approval, and would be maintained on the PAs' own websites.

Staff Recommendation: Staff agrees that it is not necessary for PIPs to be filed with the applications. They should, however, reside on a Commission-maintained server rather than (just) with PAs. PIPs are important for transparency and accountability, and need to be kept with the Commission and kept up to date. It will be much simpler for the Commission to track changes to PIPs if PIPs reside with the Commission.

To simplify and streamline the maintenance of PIPs, Commission Staff plan to develop a program oversight database, which can hold the program narratives and cross reference budget, savings, and cost effectiveness data, so that PA staff will not need maintain the current volumes of documents for filings and reports. Staff plans to work with the PAs to make the database interface easily with PA systems. We discuss this proposal in Section VII on Reporting Requirements.

b) Reduce PIP requirements for each program.

Joint Party Proposal: PIPs currently include a long list of information requirements that must be filled out for each program. Much of this information is simply cut and pasted from other PIPs in a labor-intensive process that yields little in the way of additional useful information for Staff. The joint party proposal indicates that these requirements would be reduced.

Staff Recommendation*:* Many of the current PIP requirements request information that is very important for one or a few programs, and less important for others. Staff proposes that the PIP requirements be reformed based on program groups, to limit the performance metrics to two or three per program. Staff recommends that the PIP reform process would be addressed through Program Review Groups (PRGs).

c) Redefine "programs" by sectors and strategies.

Joint Party Proposal: The joint parties propose that we stop talking about "programs," and instead focus on "intervention strategies" by sectors and sub-sector. In their proposal, there would only be one overarching energy efficiency program, and the program sectors would be categorized as residential, commercial, agricultural, industrial, public and cross cutting.

Staff Recommendation: Staff appreciates the PAs' concerns that the program designations create confusion in the marketplace. If it would reduce customer confusion and enable better program resource integration to redefine "programs," then Commission Staff support the joint parties' reorganization. *However*, the level of detail in budget and savings that PAs currently provide to us with their applications and in reports is important information for the Commission, particularly the information contained in the "placemats." IOUs should still disclose the budget, savings, cost effectiveness, and strategies for each government partnership, third party contract, and statewide strategy, regardless of whether they label them as "programs."

Meanwhile, the joint parties' specific program structure seems like it will create a new source of confusion, since cross-cutting is not actually a sector, and many of the programs in it are very distinct and not closely related. Staff recommends that the joint parties colloborate with staff to develop a new set of naming conventions for define the program structure, and that the Commission reviews this proposal as part of the decision on 2016 programmatic changes.

2. Cost Effectiveness Calculators

Staff is aware of the regulatory burden created by the cost-effectiveness calculators, which require excel spreadsheets to be input individually for each of the hundreds of programs for every funding review. To reduce this burden, staff has contracted to develop an *SQL-based web-hosted database* to replace the current spreadsheet-based calculators. With this database, PAs would no longer need to file separate excel spreadsheets for each program, since Commission Staff would be able to access the database for review of the final summary sheets. The new database will be online in time for the 2016 portfolio filing.

Staff proposes that we work directly with PAs to develop an appropriate set of agreed-upon cost-effectiveness data that will be required to support the Business Plans.

D. Responses to Scope/Agenda Questions

Scoping Memo Question	Joint Parties' Response	Commission Staff Recommendation
What Program Administrators (PAs) file, when, and with whom (e.g., advice letter; if so what tier? Application? Something else?) & frequency of review	• Application → Year 0, TBD after that • PAs' Business Plan and budget → Year-0 and Year-5 [format in Year 5 TBD] • PAs' Annual Report [s]* → Annually • The Implementation Plan will be available for public review but not filed for approval • Funding Advice Letter → Annually *See *Major Submissions by PAs* matrix on previous slides for the complete description. Note also that SoCalREN & NRDC propose Retrospective and Prospective Annual Reports be combined	• PAs file an Application with a Business Plan and budget in year 0, • PAs do not file an Application again until: • A "trigger" is pulled (e.g., cost effectiveness drops below a threshold) • PA elects to file (e.g., because PA wants to revise business plan to propose a change in strategic direction) • Commission directs PA to file • PAs upload Program Implementation Plans to EEStats in year 0, and then if/when the PIP changes. • PAs file budget requests annually as tier 2 advice letters
Whether/how to select subsets of the portfolios for review	Areas of review based on: • Proposed schedule milestones in BPs as approved by CPUC • Unplanned external triggers (e.g., code change for a sector, etc.) • Sectors would be reviewed via informal "relooks"	• Same • Comprehensive review of programs will result from the triennial Evaluation Summary Report
Burden of proof: Is it up to the PA to provide evidence in support of a proposed change, else the status quo continues? Or is it up to respondents to provide evidence in opposition to a proposed change, else the	• Similar to current process, PAs provide evidence in support of application (aka budget, cost effectiveness, etc.) • PAs continue to be able to make changes within its authority per current CPUC direction • If a change triggers formal CPUC process, then PA needs to provide support for why change is	• Same; see also the staff recommendation re a dispute resolution process, below

change goes through?	warranted. • Parties continue to have the current authority and processes to voice their support/oppose for the PAs proposals	

Planning for change, whether change to things we can control (e.g., changes to IOU role) or things we cannot (e.g., changes to codes and standards)?	• JPs believe the process for these changes would be similar to process for less extensive changes as described in the refresh process
	• E.g., if there is a major policy change (e.g., cost-effectiveness) the PAs would:
	  o review their portfolios and develop proposed changes.
	  o the major changes would be vetted through the stakeholder engagement process, as practical
	  o modifications would be implemented (if within PA authority) or filed with CPUC (if changes required by CPUC process).
	• A similar process would occur to changes in response to changes in codes & standards or legislation
		• The "trigger" provision will determine when a new Business Plan/Application must be filed.
		• Policy Track of the proceeding is described in Section IX; Proceeding Schedule

III. Portfolio Oversight in between Business Plan filings

A. Discussion

Joint Party Proposal: As just discussed, the joint party proposal contemplates PAs filing business plans every five years. Between those filings, PAs would file annual reports informally via EEStats, and budgets via Tier 1 advice letter. The annual EEStats filings would update to budget and (prospective) cost effectiveness information. PAs would also update (but not file) implementation plans. PAs would have a schedule for taking a "re-look" at sectors on some regular timeline and these re-looks would drive implementation plan updates. PAs could also update implementation plans on an *ad hoc* basis.

Staff Recommendation: Broadly speaking, staff supports the concept of a less-frequent applications, with more-regular smaller filings, supplemented by various updates that are not filed at all or filed informally (e.g., on EEStats) rather than via application or advice letter.

However, we do not think that the Commission would be fulfilling its obligations to protect ratepayers if budgets are not formally filed for more than ministerial review. We note that tier 1 advice letters are effective absent any action by Commission Staff or the Commission.[9] While we have no desire to turn each budget update into a reprise of the current application process, this joint party proposal proffers a more "hands-off" approach between business plan filings than we think the Commission should accept.

We recommend that annual budget advice letter is filed as a Tier 2 advice letter rather than a Tier 1 advice letter. The advice letter should include:

- A narrative description of portfolio changes
- Updated sector-level tables with forecasted budgets and savings
- Portfolio Cost effectiveness showing based on updated inputs (only cost calculator *outputs* need be filed; the full-fledged cost calculator submittals would be in EEStats and not accompany the advice letter)
- Report of all fund shifting in the past year
- New accounting standards established for disclosure of annual spending

During the proposal development, there was a lot of early discussion of reviewing the portfolio on a sector basis each year, so that each sector received a closer look by the Commission every three to four years. Commission staff independently considered a similar sector-based approach (e.g., annual PA filings of applications for a subset of market sectors, with the Commission ultimately reviewing all sectors at least once every three to four years). The joint parties' proposal did not ultimately endorse this approach, but rather suggests that the sectors would receive "re-looks" through the informal process.

---

[9] General Order 96-b, General Rule 5.1.

Commission staff supports the joint party "re-look" approach over annual sector-based filings for the following reasons:

1. Many of the elements of energy efficiency policy are not easily categorized by sector, but rather apply across the sectors, such as baseline issues, lighting, emerging technologies, locational targeting, among others.
2. It is difficult to anticipate what policy issues will arise and need to be prioritized, so we are reluctant to predetermine when a particular sector will be focused on.
3. We were concerned that going the "sector-based" annual filing route would exacerbate many of the timing and "bottleneck" problems associated with triennial review.

While we ultimately decline to endorse a sector-based approach to PA's filing obligations, there is a virtue to that approach that we want to highlight before moving on. *Deadlines have a way of focusing attention*. Filing deadlines like those in the sector-based approach (and in the triennial cycle approach, for that matter) are one way to ensure that the Commission reviews all aspects of all energy efficiency portfolios at regular intervals. The Commission will need to carefully track programs *even without hard deadlines* to ensure that the programs conform to the Commission's broader strategic approach to energy efficiency, and that they do not stagnate. Staff sees the Commission's triennial Evaluation Summary Report to the legislature (required by PU Code § 384.2) as the natural opportunity for the Commission to do a comprehensive review, using the data that PAs will provide as discussed elsewhere in this white paper.

.

B. Responses to Scope Questions

Scoping Memo Question	Joint Parties' Response	Commission Staff Recommendation
What Program Administrators (PAs) file, when, and with whom (e.g., advice letter; if so what tier? Application? Something else?) & frequency of review	Develop a Prospective Annual Report: • Prospective demonstration of cost-effectiveness (portfolio level only, on pass/fail basis, assumes all assumptions are frozen) • Qualitative planned program changes (abbreviated/ high-level) • Non-PA stakeholders to note major differences through documentation (details TBD) Annual Advice Letter Filing (Tier 1) : • Budget escalator (TBD) • Carryover (as applicable) • Return of unspent funds (as applicable) • Borrow forward (as applicable)	Annual Tier 2 Advice Letter Filing to include: • the information identified in the joint parties' proposed AL filing and proposed Prospective Annual Report. • annual fund-shifting report

IV. Stakeholder Engagement

A. Discussion

Joint Party Proposal: The Joint Parties propose that much of the portfolio review that the Commission and its staff currently perform instead be conducted through a variety of informal stakeholder processes. They specifically propose the formation of a Coordinating Committee that would be open to the public and regularly scheduled, and would be broadly scoped. The stakeholder proposal does not indicate specifically what topic areas the Coordinating Committee will focus on, suggesting that the agenda is open ended.

Additionally, the joint parties request that parties are eligible for intervener compensation for their participation in the Coordinating Committee. Staff's participation in the Coordinating Committee is requested.

***Staff Recommendation*:** Generally speaking, staff agrees that stakeholders should be engaged more productively, and understands the limits to their resources. Staff also agrees that PAs and stakeholders are free to, and should, meet as often as they like to review and discuss the issues before the Commission.

The Commission has been expanding its informal stakeholder processes for years, and has found that many of them languish from a lack of participation. Stakeholder processes for energy efficiency that already exist are often poorly attended and/or disparaged by stakeholders as ineffective. Commission Staff's question has been and still is how to prevent the stakeholder processes that the joint parties propose from suffering the fate of their predecessors. Notable pitfalls include PA disregard for stakeholder input, stakeholder dissatisfaction and nonparticipation, and wheel-spinning.

The major challenge is determining how to set up stakeholder processes that are worthwhile for all concerned and that will qualify (or at least not be rejected out of hand) for intervenor compensation.

While Staff generally supports the formation of the Coordinating Committee, we feel that its scope should be reasonably circumscribed. We are concerned that the open-endedness of the Coordinating Committee's objectives could make the group ultimately un-productive unless there is a structure for identifying straight-forward objectives and milestones. These are structural problems inherent in stakeholder processes regardless of who leads them. Staff has been on both sides of these sorts of processes (e.g., running EM&V stakeholder meetings; participating in stakeholder events at the CAISO). In our experience, effective stakeholder processes must have a clear objective from the outset of the process, where it is clear how the work products will flow into the larger decision making process, and need some type of time containment. Furthermore, the scope of the Coordinating Committee's agenda should pertain to the scope of the proceeding or review of the portfolios.

For a general discussion of issues arising with intervenor compensation for activities outside formal proceedings, see an April 28, 2014 letter from Acting Chief Administrative Law Judge Tim Sullivan to TURN (attached). As noted in footnote 3 of that letter, D.05-01-055 expressly provided prospectively for intervenor compensation for continuing intervenor work as energy efficiency Program Advisory Group members. Commission staff would support a similar approach here, but needs to ensure that if the agenda is stakeholder led and open ended, the time spent yields outcomes that support formal proceedings. Commission staff recommends that the Coordinating Committee file a Tier 1 Advice Letter in the most recent application proceeding on a periodic basis (quarterly) that outlines:

- Their objectives for the next quarter and year, e.g., working with the PAs to develop their business plans
- What and how they plan to issue, e.g., the coordinating committee will publicly post their recommendations during the review process and the PAs will provide responses on how they incorporated the recommendations or why they did not
- The proposed amount of time that will be spent of the process (e.g. "the committee will meet bimonthly with one day-long workshop")

If the committee wants to consider an issue out of scope of the immediate proceeding, it should be raised as a topic for consideration in the above advice letter before the committee invests a significant amount of time on it.

B. Responses to Scope Questions

Scoping Memo Question	Joint Parties' Response	Commission Staff Recommendation
What informal forums would be established to reduce litigation in proceedings?	• A "Coordinating Committee" (CC) would be established to provide an ongoing forum for transparency and provide a place to resolve differences prior to formal litigation. • Existing successful forums would be leveraged and regular meetings could potentially be combined for efficiency. • The CC could call for ongoing forums or short term working groups if necessary to fill a gap, produce a set of recommendations to be submitted to the CPUC for consideration, etc. • CC meetings will be open to the public • Agenda, notes, ppts publicly posted	• Same, plus CC to file agendas with Commission as Tier 1 advice letters at the beginning of a proceeding phase or year. • Advice letters should include scope of issues for the upcoming time period; and anticipated process for addressing issues
How would stakeholders be involved in review and informal oversight of portfolio implementation? AND What opportunities would stakeholders have to provide new ideas and input regarding strategies and portfolio direction as well as sun setting programs?)	Examples of types of stakeholder input into activities and issues important to implementing a "rolling portfolio": • During the development of the business plans, the stakeholder engagement process would be used to vet ideas and receive input prior to filing and provide new ideas for consideration. • After the PAs develop proposed changes to their portfolios in response to key information (e.g., new market data, AMI info, technical updates, on/off ramp, etc.) the draft ideas would be discussed at topic-specific groups to get stakeholder (party or nonparty) feedback • Periodic reports on progress and plans for new activities could also be made at CC meetings (e.g., quarterly) to increase transparency and offer an opportunity for	• Same

	informal oversight and input. • Meetings provide a forum for stakeholders to bring ideas for consideration (e.g., new ideas) that could be referred to the appropriate topic-specific subgroup.	
How would the stakeholder engagement proposal relate to the CPUC formal process and other existing forums?	• The proposal does not contemplate any change to the current formal process • Roles/responsibilities remain the same • Parties would continue to have the ability to submit individual comments or other public process options per Commission direction • The proposal will leverage successful existing working groups and not create duplicity [criteria to determine what is 'successful' is TBD].	• Same

V. Accounting and Spending Oversight

A. Accounting Issues Generally

In order to develop a more effective and transparent accounting system, Commission Staff has contracted with the State Controller's Office to review the current PA accounting systems and make recommendations for improvements. While we are not yet in a position to speak to details, we can provide a few high level recommendations on accounting issues.

1. **Clean-sheet approach:** The Commission has imposed a variety of non-standard accounting requirements on PAs over the years, in pursuit of various policy objectives (e.g., an administrative cost cap and accounting categories adopted in D.09-09-047). All of these requirements should be up for reconsideration. Questions the State Controller's Office will consider are: is the policy underlying the accounting requirement still valid? If so, is there a way to achieve the Commission's policy objective that does not require use of non-standard accounting rules?

2. **Use standard accounting conventions:** PAs should use generally applicable accounting principles (GAAP) wherever possible. If we can achieve a policy goal (e.g., reduced administrative costs) within a commercial off-the-shelf accounting framework, then that is preferable to our creating unique accounting rules.

3. **Clarify 'committed', 'spent/unspent' and 'encumbered':** We need to simplify or eliminate use of committed/encumbered/unspent funds as the basis for determining carryover amounts. See (b) for how we hope to do this. That said, we recognize that smaller PAs like CCAs and RENs may have particular concerns here.

B. Budget Carryovers

The Joint Parties' Proposal on spending oversight was limited to budget carryovers, discussed below.

Joint Party Proposal: The joint parties propose that budgets be annualized. PAs may carry forward up to 20% of each year's budget if unspent. PAs would report unspent funds to be carried forward/returned in rates and resulting revenue requirements by Tier 1 advice letters. Additionally, PAs may request to carry forward more than 20% or borrow up to 15% of funds authorized from the next year's budget by filing Tier 2 advice letters.

There is an alternative proposal by MCE and the RENs to essentially keep current accounting practices in place with respect to "committed" funds. MCE and the RENs assert concerns about their ability to "smooth" cash flow across multiple years/programs. See point (3) above.

***Staff Recommendation*:** We are not yet far enough along with our accountants to make recommendations on accounting issues.

C. Fund-shifting Requirements

Parties did not provide a proposal for changes to fund-shifting rules. Rather, they responded that fund-shifting requirements should be developed based on portfolio structure decisions and further dialogue with staff.

Staff makes the following recommendations for changes to fund shifting requirements in for "Rolling Portfolios":

1. **Eliminate advice letter requirements for general fund-shifting:** Staff recognizes that many advice letters filed regarding fund shifts are not reviewed, have no significant impact on the portfolios, and contribute to regulatory churn. Staff also recognizes that there are a variety of "work-arounds" that PAs can employ to avoid triggering fund shifting reporting requirements.

   Consequently, staff recommends that fund shifting no longer trigger an advice letter filing, and that instead the Commission require PAs to track fund shifting on EEStats and report updated budgets in their annual compliance filings.

   In the event that staff or stakeholders identify fund-shifting activities that substantially depart from Commission policy direction or, in the opinion of staff or stakeholders, are not in the best interest of ratepayers and/or the efficiency programs, staff or stakeholders can initiate the dispute resolution process described in Section VI.B to trigger Commission review of the fund shifts of concern.

2. **Set fund shifting requirements for certain programs:** While staff recommends that general fund shifting filing requirements be eliminated, we recommend that these filing requirements remain in place for programs and/or activities identified by the Commission as important policy priorities that are expected to be preserved. In some cases, the rules listed above might need to be preserved due to earlier CPUC directives, such as rules that require a minimum of 20% of portfolio budgets being subject to third party solicitations and rules preventing more than a certain percentage of portfolio budgets going to administrative or marketing, education, and outreach (ME&O).

D. Responses to Scope Questions

Scoping Memo Question	Joint Parties' Response	Commission Staff Recommendation
Administrator Budget Categories	• The JPs have not directly addressed administrator budget categories or the accounting issues • Individual parties may choose to address such matters during the "alternative proposal" section.	• Commission Staff is working with the State Controller's Office to develop a proposal
Fund-shifting	• To be developed based on portfolio structure decisions and dialogue with CPUC Staff	• Eliminate fund shifting requirements advice letter filings • Possible new fund shifting restrictions may be considered in the next 2016 program changes decision

VI. Program Oversight

Joint Parties' Proposal: As a general objective of the "Rolling Portfolio" cycle, the joint parties indicated that the regulatory burden needed to be reduced. To this end, their proposal focused on reducing the number of advice letter filings that were required to be submitted.

Staff Recommendations: While staff sees merit in encouraging collaborative, stakeholder processes for designing and implementing the efficiency portfolios, the Commission needs a process to ensure that energy efficiency programs are being implemented effectively.

Staff recommends two oversight processes that the Commission should employ to achieve this end between Application filings: Advice Letters and a dispute resolution process.

A. Advice letters

Type of Advice letter	**Included**	**Type**
Annual budget review	• Portfolio Cost effectiveness showing (only cost calculator *outputs* need be filed; the full-fledged cost calculator submittals would be in EEStats and not accompany the advice letter) • Application tables with forecast budgets and savings • Narrative Description of portfolio changes • Report of all fund shifting in the past year • New accounting standards established for disclosure of annual spending	Tier 2
Add programs	• Program objectives, role within the larger business plan objectives • Budget • List of DEER and/or work paper parameter, or if necessary, original work papers • Project final report, if program is based on an ideation project • Program Implementation Plan filed on EEStats	Tier 2
Eliminate programs	• Reason for program termination • How business plan objectives will be met without this program • How budget will be reallocated	Tier 1

B. Dispute Resolution Process

The Commission has already directed staff, PAs, and other stakeholders to collaborate on a breadth of planning processes and activities. Collaboration is the optimal path that when well executed, should produce the best outcomes for energy efficiency, but they do not always work as intended. Tension can develop in these forums and lead to gridlock. For this reason, staff recommends that a dispute resolution process be developed to facilitate moving past instances in which the collaborative process breaks down.

Existing Energy Efficiency policies already feature numerous dispute resolution processes. The Commission has formally adopted processes for the ESPI/EM&V [10] and for ex ante review,[11] and established an *ad hoc* process for resolving a dispute between Utility Audit and Financial Compliance Branch and SCE in A.12-07-001. Finally, while not limited to energy efficiency, D.12-12-036 establishes an expedited complaint procedure that CCAs can invoke in response to an IOU's alleged rules violation.

Staff proposes adoption of a standardized dispute resolution process modeled on Attachment 4 of D.13-09-023, for all disputes relating to energy efficiency *other than* CCA claims that an IOU has violated the D.12-12-036 code of conduct.[12] The standardized process would consist of the following, which should be invoked only after informal attempts to resolve disputes have been exhausted):

1. A party or Commission Staff may file a "Motion for Energy Efficiency Dispute Resolution" in the most recent application proceeding (i.e., the proceeding in which the relevant PA filed its most recent business plan).

2. If an entity is not already a party in the relevant docket, a motion for party status would be necessary.

3. If Commission Staff files the motion, the Commission Staff involved in the dispute shall be "walled off" from advising decision makers on the dispute. For the limited subject(s) in the dispute, they shall also be subject to the ex parte rules as if they were a party to the proceeding.

4. Any Motion for Energy Efficiency Dispute Resolution must include a statement from Commission staff giving its side of the dispute and documentation of an attempt at informal dispute resolution. The ALJ assigned in the docket may undertake any

---

[10] D.13-09-023, ATTACHMENT 4: Dispute Resolution Process for Ex Post Evaluation Matters.

[11] *See* D.13-09-023, at 43 ("The "ex ante review" process adopted for the 2010-2012 cycle, including its dispute resolution provisions, is still in place for 2013-2014, as articulated in D.10-12-054 as subsequently modified by D.11-07-030 and D.12-05-015.")

[12] Such CCA claims would continue to be subject to the process set up in D.12-12-036.

appropriate process to gather further information. The ALJ may issue a Ruling to resolve the dispute.

5. In a Motion for Energy Efficiency Dispute Resolution filed pursuant to this process, the filing party or Commission Staff may ask that the matter be resolved by the assigned Commissioner or the full Commission.

    a. In that case, the Administrative Law Judge (ALJ) will consult with the assigned Commissioner to determine the appropriate course of action.

    b. The assigned Commissioner or ALJ may nonetheless issue a ruling to resolve the dispute.

    c. If the assigned Commissioner determines the matter should be brought before the full Commission, the ALJ or assigned Commissioner shall issue a Proposed Decision and allow for comment under Rule 14 of the Commission's Rules of Practice and Procedure.

C. Responses to Scope Questions

Scoping Memo Question	Joint Parties' Response	Commission Staff Recommendation
Determine what year-to-year changes are permissible for PAs	• Use current processes and policies but integrate a more meaningful and transparent stakeholder participation opportunity • Develop potential modifications to triggers that initiate CPUC review	• Same, but if there is a conflict between the PA's direction and stakeholders or CPUC's, then dispute resolution may be applied
How will PAs roll off old programs and roll in new ones*	• Modifications would be based on EM&V, AMI, and other relevant information as well as based on approved BP performance metrics and/ or milestones • Would use stakeholder input process as appropriate to allow for improved transparency and input opportunity • Potential for 'new program reserve** would ensure for ongoing new ideas • If A/L required, would go through stakeholder input process	• Same, but Tier 2 advice letter required for adding new programs and Tier 1 Advice letters to eliminate old programs
Program changes	• Same as current process with opportunity to vet through stakeholder process • Filed as Advice Letter if modifications trigger CPUC review	• Advice letter process triggered when adding or eliminating programs, but not for fund-shifting
Pilots	• Similar to above for new ideas • Additional detail upon discussing with staff	• Same as current policy

VII. Reporting Requirements

Joint Parties' Proposal: The joint parties' reporting requirements proposal focused on budgeting and accounting, which we address in Section V, above.

Staff Recommendations: Staff recommends that reporting requirements continue to be managed through EEStats, but plans to develop new functionalities that will further simplify and streamline reporting. The website enables the PAs to upload their reporting data, so that it can be collated and aggregated for evaluation purposes, as well as for policy analysis purposes. The website includes a repository of reporting templates and guidance documents, which Commission Staff has worked with the PAs each cycle to update.

A major aspect of the portfolio cycle bottleneck is the preparation and review of compliance filings and program implementation plans. Staff sees opportunities for these filings to be streamlined and simplified through IT solutions and refinement of the reporting requirements. This proposal includes IT projects already under development in to support the portfolio planning phase, compliance review, report submissions, evaluation sampling and public release of savings and other EE performance metrics. Additional IT solutions are proposed below.

A. Improvements to Filing and Reporting Systems

Applications and compliance filings draw from the same data year after year, and PAs fill in the same templates. Staff proposes implementing a database that draws together the existing savings claims data with the other elements of the application and compliance filings to facilitate review and to produce reports. Staff would work with PAs to ensure the database interfaces with their internal systems.

The referential data structure would enable the CPUC's various templates to be automatically populated to produce the filing documents that are filed on the docket. Meanwhile, this data structure could provide built-in queries to support comparison against past cycles, other programs, other sectors, and a variety of meta-data that we now use in our analytical review. Support documents—useful information that does not readily fit the basic template—can be added via hyperlinks to this page.

This format can also enable a tracked online dialog between staff and applicants, based on standard tracking software that could replace the time-consuming data request process on which Commission Staff now rely when they need clarification of application values.

EEStats will be upgraded to integrate the following data:

1. **Existing Program Savings Data and Goals**: Data imported from the Potential and Goals model, SPTdb, monthly and annual reports

2. **Budget Tracking :** Contains fund shifting, carryover and other budget/accounting rules

3. **Cost Effectiveness Tool:** The current excel-based Cost Effectiveness calculators have long been identified as a source of inefficiency, both in terms of preparation by the PAs and review by the Commission. Staff has contracted a developer to create a new Cost Effectiveness Tool (CET) that manages the data and calculates the portfolio and program cost effectiveness. This product is ready to launch, and will make the updating and reviewing of the cost effectiveness inputs much more efficient.

4. **Program Implementation Plans** Staff proposes that instead of filing Program Implementation Plans as documents, PIPs would be input and integrated into the portfolio review database. With a change tracking function, the database will simplify the efforts to maintain updated documents.

Scoping Memo Question	Joint Parties' Response	Commission Staff Recommendation
Changes to Reporting Requirements for compliance filings; Monthly, Quarterly and Annual reporting; Cost Effectiveness Calculators	• The JPs included high level reference to reporting requirements as it pertains to the initial application and annual reporting (e.g., BPs/IPs, prospective portion of annual report, etc.). • The Joint Parties anticipate an improved reporting requirement proposal would flow from the decision regarding portfolio structure and plan to develop such a proposal after further Commission direction • The JPs have not discussed modification to the format of the specific reports or cost-effectiveness calculator • The JPs would like to confer with staff during the drafting of a reporting reform proposal to ensure all legal, technical, and oversight • Matters are sufficiently covered prior to a proposal submission	• With respect to performance reporting, staff is working to update its PIP and cost calculator infrastructure to simplify data entry for PAs. • With respect to financial reporting, Commission Staff is working with the State Controller's Office to develop a proposal. • Staff concurs that revising reporting requirements is not a prerequisite to otherwise moving forward with "Rolling Portfolios."

VIII. Technical Updates

Joint Parties' Proposal: The joint parties' proposed that complete EM&V and other technical parameters will be used at a specific point in time, a "bus stop," for developing and/or updating deemed ex ante estimates. If data are not considered "complete" by that date, then the data will be catalogued and included in an update at the following "bus stop." The joint parties' propose the following amount of time for each step in the process:

- Update DEER and the READi tool (occurs Jan to Mar, 3 months)
- Stakeholder QC Review (Jan to Mar, 3 months)
- Workpaper updates (Apr to June, 2 months)
- Work paper review and revisions (June to July, 2 months)
- Approved values added to portfolio (August, 6 weeks)
- Portfolio Planning (Aug to Sept, 2 months)
- Portfolio Reviewed by ED (Oct through November, 2 months)

Staff Recommendations: Staff finds the bus stop concept to be potentially the most useful aspect of the joint party proposal and believe it will be a key component of the "Rolling Portfolio" process. However, we do not find the details of the schedule to be realistic and see important issues that need to be resolved, such as how to determine the scope of the ex ante updates.

The scope of technical updates must be contained in order for review and vetting to be timely. Staff recommends updating ex ante values based on the uncertainty associated with the existing values. At this time, staff does not make a recommendation as to the threshold uncertainty level that would trigger an update, though this issue will need to be addressed at a later time.

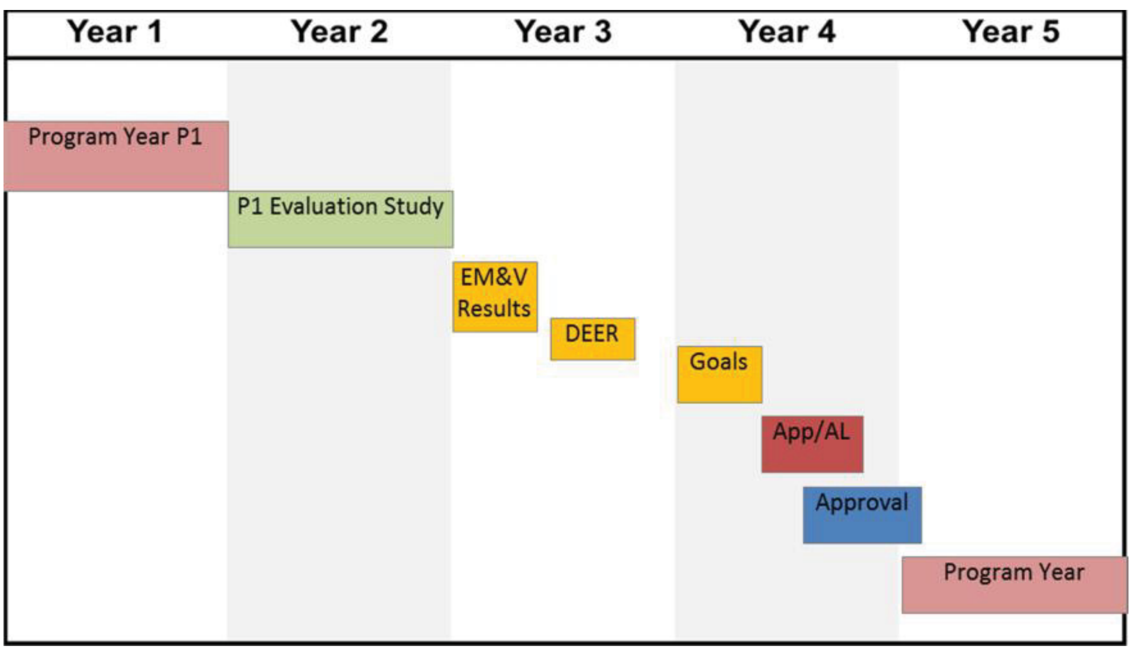
The Joint Parties' proposed schedule does not actually carry the bus stop concept all the way through all technical updates. It sets up ex ante review as a series of "critical path" processes, any one of which could hold up the portfolio update. In addition, some of the timeframes in the joint party proposal are unrealistically short and/or involve timing conflicts for certain parallel processes. Staff has prepared an alternate Gantt chart that adds and changes bus stops and includes other key dates. Staff also identifies additional components that will be critical to making the bus stop concept functional. Staff proposes the following (using bus stops leading to the 2018 program year as an illustration):

- EM&V bus stop is March 1, 2016, so evaluations have 14 months from the end of a program year to deliver results (or will roll to the following annual bus stop)
- DEER update bus stop is September 30, 2016 (6 months after the EM&V bus stop)
- Work paper updates and review are iterative, occurring during the alternate 6 months from the DEER update (i.e., from September 1 through March 1)
- Goal update bus stop is February 28, 2017 (4 months after the DEER update bus stop)

- PAs incorporate new values into portfolios, prepare 2018 program year Advice Letter (or application if triggered) by May 31, 2017 (3 months)
- 2018 program year Advice Letter or Application review and approval by November 30, 2017 (3-6 months, depending on size of changes)

The underlying implication of staff's proposed changes to the Joint Parties' proposal is that data updates roll into the portfolio one year later than is implied by the parties' proposal. The Joint Parties' proposal suggests that EM&V results at the end of Year 2 would be immediately available to include in DEER, update work papers, the portfolio, and be approved in Year 3 for use Year 4. This is not realistic, since the evaluations cannot finish collecting data until Year 2 is complete, so in reality, the EM&V results will not be available until the end of Year 3 anyway. Since the parties' schedule does not provide enough time for each of the processes to be completed, the data will miss its bus stop and take longer to be picked up in the portfolio. Staff thinks that our proposed schedule reflects the minimum amount of time needed to complete each process of rolling data into the next portfolio, as illustrated in Figure 4.

Figure 4. Vintage of Program Data



1. Potential and Goals Bus Stop

***Joint Party Proposal**:* For the Potential and Goals Study process, joint parties propose that the Potential Study itself will be updated every two years, resulting in goals being adopted every two years, to coordinate with the CEC IEPR and CPUC LTPP processes and adoption of long term ten-year outlook. The Commission should also provide increased stakeholder opportunity for input on methodologies.

Staff Recommendation: The joint party proposal is, essentially, the plan that staff has already put in place with CEC in the demand analysis working group. However, there may be a year where policy changes necessitate an update during the off year.

Staff recommends one additional change to the current structure: in addition to the next set of goals, the Commission should also adopt the overarching potential and goal development modeling framework in the first Phase 2 decision, rather than simply the results of the Potential and Goals Study. This way, future goals updates only need to be adopted by Commission decision if they include a change to the adopted framework.

2. EM&V Bus Stop

***Joint Party Proposal*:** The proposal assumes the EM&V and technical parameter work will be conducted on an ongoing basis. A complete EM&V study is defined as a completed, vetted with stakeholders, and reviewed by CPUC staff, not part of a dispute resolution process, and publicly available. Program administrators will consider study recommendations in between bus stops to ensure live feedback for program design and implementation improvements.

Staff Recommendations: Staff has already begun to implement an annual EM&V cycle as envisioned by the joint parties. We are integrating the ESPI schedule with EM&V bus stop, such that the EM&V results will align with the ESPI draft results, and the Ex Ante Uncertainty list will inform ESPI as well as the annual EM&V plan.

Staff adjusted the EM&V bus stop to capture EM&V results as soon as possible to feed into the DEER update.

3. DEER/ Ex Ante Methodology Bus Stop

***Joint Party Proposal*:** The joint parties propose that new measure review process will be consistent with the current process and the format of new workpapers will be developed that leverage ongoing enhancements, is acceptable to parties, and will allow for expeditiousness. The parties also recommend continuing to freeze ex ante data for reporting purposes for a one year period. As evaluation information becomes available, PAs and implementers would evaluate the information through a preset process to determine which information qualifies for the next update. Also, database and IT structural and format changes should be coordinated with timing of work activity. Parties have discussed but not arrived at consensus on the concept that evaluation results are not used to restate achievements.

The stakeholders also propose that the workpaper effort should be guided by a work plan developed after the DEER is updated, leverages the ESPI uncertain measure list, uses EM&V and other sources as triggers for performing workpaper updates, identifies measures considered for methodology changes to facilitate transparency, and allows for a stakeholder vetting and commenting process.

Staff Recommendation: Staff agrees that a work plan that ties in the ESPI uncertain measure list to the ex ante updates would be useful to initiating the PA's annual update process. We also support maintaining the current structure of freezing ex ante data for the one year period. However, while we will continue to support stakeholder engagement in vetting evaluation results and determining how they should be applied to next update, this final decision must remain with staff and consultants to the Commission who do not have a financial interest in the outcomes of the savings estimates.

Furthermore, we are seeking to continue to improve the ex ante review process. As with EM&V, the Commission is working toward a structural transition in the ex ante review process, although the transition in EM&V has made further progress at this time. We are currently working with the IOUs on an effort to develop an ex ante database that will enable the implementers and PA to more easily access the data needed to develop estimates. Although it will not likely be available by 2016, Commission Staff is continuing to explore new opportunities for technological solutions to the challenges of updating, accessing and reviewing energy savings estimates.

Staff recognizes that there will be issues related to technical updates that will not be resolved through a "Rolling Portfolio" structure. For instance, the quality of program administrators' internal ex ante review work and clarity of Commission ex ante guidance both require improvement and the timing and scope of technical updates will not resolve these issues. Additionally, the translation of backwards-looking EM&V results into forward-looking ex ante results must be smoothed out and streamlined in order to realize efficiencies in the technical updates process; however, the "Rolling Portfolio" structure and schedule will not address this issue. The California Technical Forum (CalTF) proposed some potential solutions for these issues, among others, in their comments on Workshop I, which Commission staff is considering but does not explicitly address here.

Scoping Memo/Agenda Question	Joint Parties' Response	
What is the method and frequency for updating ex ante values?	• Technical values would be updated periodically based on the "bus stop" concept. • For deemed values, many parties propose these values would be updated and locked annually for planning, reporting, and evaluation purposes (and apply to the timeframe for which those values were used in portfolio planning and implementation).	• Same • Further improvements to the ex ante review process to be considered and implemented informally (specifically improvements to ex ante database)
How are ex ante values folded into the new portfolio?	• Once values were locked down by the "bus stop" process, PAs would use updated information to assess proposed portfolio modifications. This information would use the stakeholder engagement process, and then changes would be reported in the annual report. • PA's to work with stakeholders to implement an ex ante update plan	• Same
What is the timeline/frequency for updates to the Potential and Goals Study and to the portfolio refresh?	• Potential and associated goals would be updated in line with the CEC IEPR/Demand Forecast and CPUC LTPP processes (i.e., every 2 years).	• Same, but acknowledges possibility that updates may need to be adopted in the off-years under certain circumstances • Staff recommends that the Commission adopt the goals framework in the next decision, such that a future update to goals values does not need to be adopted via Commission Decision

Establishing a continuous feedback loop between EM&V and program design/modifications as well as portfolio review (How can we use EM&V data and information more effectively and with greater visibility in the course of portfolio review?)	• Each year, information associated with completed EM&V studies that "got on the bus" will be catalogued and used to update DEER/workpapers. • Values included in portfolio adjustments as appropriate, using stakeholder engagement process. • If an EM&V study is not ready, it can get on the next bus (if ready), ensuring an ongoing process that enables timely use of information. • In preparation for the annual bus stops, PAs will consider EM&V data and process recommendations, AMI data, and other pertinent information to provide an additional timely feedback loop for continuous portfolio improvements, also using the stakeholder engagement process.	• Same, but integrate ESPI schedule and data inputs and outputs into the process (as shown in Gantt Chart)

IX. Proceeding Schedule

A. Proceeding Tracks

***Joint Party Proposal**:* The joint parties include in their proposed Gantt chart five "tracks."

Staff Recommendation: Staff recommends grouping some of these smaller tracks into two larger overarching tracks – a Portfolio Update Track and a Policy Track.

- **Portfolio Update Track:** Activities in the portfolio update track would be coordinated with each other, held to a stricter schedule, and would not be held up by the complex issues that must be resolved in a policy decision. Most of what is in the joint party proposal would slot into the Portfolio Update Track. These activities would include:
    - Periodic budget/portfolio reviews
    - Potential and goals updates
    - Efficiency Saving Performance Mechanism (ESPI)
    - Oversight of technical update bus stops
- **Policy Track:** On a parallel track in the EE proceeding, or in a separate EE policy-making proceeding, policy decisions can be developed based on the Commission's policy priorities and can proceed on whatever schedule needed for record development, though coordination with the portfolio track will be necessary, (e.g., to ensure that parties are not filing comments on both tracks at the same time). Policy track activities would include, for instance:
    - Portfolio Guidance and/or changes to the "Rolling Portfolio" cycle rules
    - Energy Efficiency Policy Issues (e.g., Phase III issues of current proceeding)
    - Integration with other proceedings—IDSM, DRP, LTPP, RA
    - Guidance on how to incorporate outcomes from the Water/Energy proceeding

B. Gantt Chart

***Joint Party Proposal**:* The joint parties developed a Gantt chart to define the schedule of the bus stops for Technical Updates.

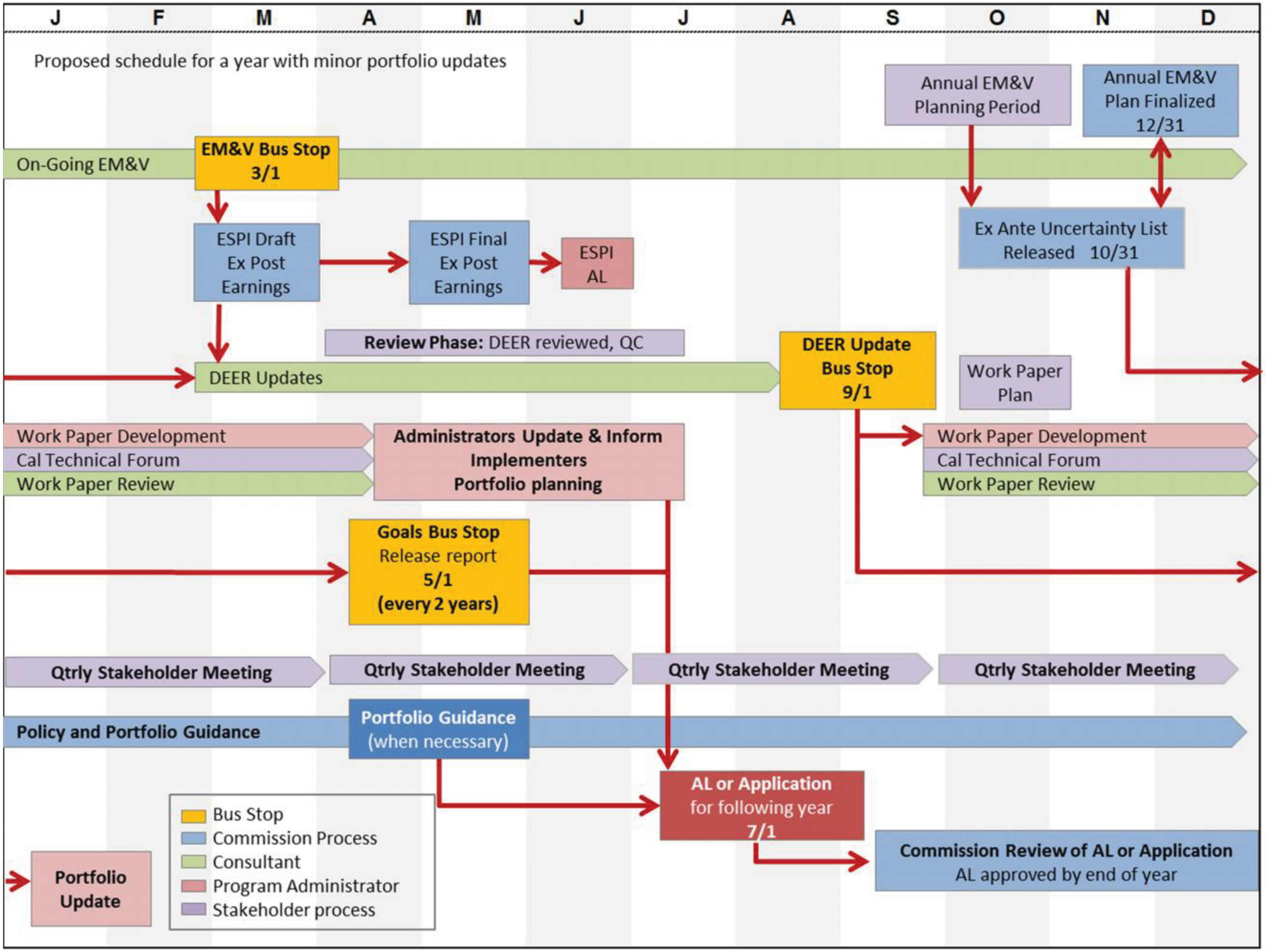
Staff Recommendation: One of staff's primary concerns with the joint party Gantt was that it lacked regulatory touch points for portfolio guidance and approval. Staff prepared its own Gantt chart, starting with the joint parties' as a basis. We did not include all details in the schedule, in order to focus on the key processes the fed into the portfolio update, and created "dependent processes". Staff's proposed schedule includes the following changes:

- Reverses the timing between the EM&V and DEER bus stops, making the EM&V bus stop in March and DEER bus stop in September
- Adds the policy and portfolio guidance track of the proceeding

- Adds the schedule of the ESPI Results, and key part of the EM&V and ex ante update process
- Clarifies that the Portfolio update may be submitted as an advice letter or an application, and moves up the filing to July 1.

This proceeding structure provides the most efficient opportunity for EM&V results to be incorporated into the portfolio.

Proposed Rolling Portfolio Cycle Schedule



STATE OF CALIFORNIA

EDMUND G. BROWN JR., *Governor*

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

April 28, 2014

File No.: R.13-12-011
and A.12-08-007

Mark W. Toney
TURN
785 Market Street, Suite 1400
San Francisco, CA 94103

RE: Response to TURN letter re Availability of Compensation for Intervenor Participation in Project Coordination Group Efforts

Dear Mr. Toney:

I write in response to your letter of February 19, 2014. In that letter, you asked for clarification that participation in Project Coordination Groups (PCGs) is eligible for intervenor compensation to offset the reasonable costs of making meaningful contributions. You identified two particular proceedings in which "PCG-related activities" have become a recent focus: Rulemaking (R.) 13-12-011 (concerning the water-energy nexus) and Application (A.) 12-08-007, *et al.* (concerning energy efficiency marketing, education, and outreach).

ALJ Division oversees the Commission's intervenor compensation program. Accordingly, Commission President Peevey has delegated to me the task of responding to your letter. I provide in this letter ALJ Division's understanding of possible eligibility for intervenor compensation for PCG participation. I appreciate that The Utility Reform Network (TURN) would like guidance on eligibility *before* committing resources to PCG participation. However, as you know, the Commission speaks through its decisions and can only formally respond to you via a Commission decision. Such a decision would most likely be in response to a request for compensation for *past* PCG participation. That said, I can provide you with the following informal guidance.

The touchstone for analysis of eligibility for intervenor compensation is Cal. Pub. Util. Code §§1801, *et seq*. The scoping memorandum of January 22, 2014, in proceeding R.13-11-005 (energy efficiency) outlines the general principles applicable to collaborative work in general, and I would expect these principles to apply to PCG participation.

> "Section 1801 establishes a program of 'compensation for reasonable advocate's fees, reasonable expert witness fees, and other reasonable costs to public utility customers of participation or intervention in any

> proceeding of the commission.' Section 1801.3 provides additional gloss on the program. It provides for compensation 'formal proceedings of the commission involving electric [and] gas [] utilities.' The purpose of the program is to 'encourage the effective and efficient participation of all groups that have a stake in the public utility regulation process.'
>
> * * *
>
> Any claims for intervenor compensation will, of course, be subject to the usual requirements applicable to intervenor compensation claims. Claims must include enough information for the Commission to make the findings required by §§ 1801-1812. In particular, an intervenor seeking compensation for work on the joint proposal must clearly describe its unique contribution(s) to developing a proposal that helps to achieve the overarching process goals articulated in R.13-11-005. A claimant must also demonstrate reasonable collaboration with others to avoid duplication of effort. Claimed amounts must be reasonable. I expect parties to focus their time and attention on primarily on Phase I issues for the next several months, and for any claims relating to work on Phase II issues during that time to be modest."

R.13-11-005, and the scoping memorandum in that proceeding, encouraged ongoing collaborative work. Accordingly, the Assigned Commissioner concluded that "[w]ork on the joint proposal that R.13-11-005 requested parties to develop is work in a 'formal proceeding' of the Commission. Eligibility for compensation for that work will 'encourage the effective and efficient participation' of intervenors in this proceeding." Therefore, the Assigned Commissioner determined that participating in such collaborative work could be eligible for compensation, subject to the "usual requirements" listed in the preceding quote.

The PCGs in R.13-12-011 and A.12-08-007, cited in your letter are Staff creations, at least initially. This distinguishes them from the similar-sounding *Procurement Review Groups* (PRGs), which the Commission itself expressly created. Decision (D.) 07-11-024 authorized intervenor compensation for participating in PRGs,[1] but denied intervenor compensation for participating in Staff-developed "technical review committees."[2]

---

[1] *See also* D.02-10-062, which expressly provided for intervenor compensation for continuing participation in a PRG.

[2] "Nor will we compensate under the intervenor compensation statute for participation in ad hoc technical review committees that Energy Division may informally convene outside of these groups, as needed, in order to assist in carrying out its ongoing evaluation, measurement and verification (EM&V) responsibilities. In D.05-01-055, we encouraged Energy Division to draw on the experience of the Public Interest Energy Research (PIER) program run by the California Energy Commission (CEC) in creating

I extract the following general guidance from §§ 1801, *et seq.*, the scoping memorandum in R.13-11-005, and D.07-11-024 and the other decisions referenced in this letter:

1. Section 1801.3 provides that the intervenor compensation program applies to all formal proceedings of the Commission involving electric, gas, water, and telephone utilities. (Emphasis added.) Section 1802(f) defines "proceeding" as "an application, complaint, or investigation, rulemaking, alternative dispute resolution procedures in lieu of formal proceedings as may be sponsored or endorsed by the Commission, or other formal proceeding before the Commission." Therefore, the Commission may consider intervenor compensation claims for PCG or similar "collaborative" work only where the Commission expressly directs or authorizes parties to participate in such work in connection with a formal proceeding.[3] The Commission *will not* compensate intervenors for participating in PCGs or similar "collaborative" work where Staff or others have established the PCG (or similar group) absent explicit Commission, Assigned Commissioner, or assigned Administrative Law Judge (ALJ) direction or authorization.

2. The Commission may consider intervenor compensation claims for PCG or similar "collaborative" work performed after the PCG or other collaborative work is drawn into a formal proceeding, subject to terms and conditions the Assigned Commissioner or ALJ may impose, as in R.13-11-005.

Your letter describes two Staff-established PCGs. As summarized above, work on those PCGs would not presently appear eligible for intervenor compensation. However, if an Assigned Commissioner or ALJ subsequently directs formation or continuation of a

---

such committees for its own purposes. Based on the CEC's experience with the PIER ad hoc committees, we concluded that this approach could draw on a pool of EM&V experts in California and other states who are willing and able to provide Energy Division with technical feedback at 'very little or no cost' to ratepayers. Energy Division is currently investigating the payment of per diems to participants in ad hoc technical review committees. However, we do not modify D.05-01-055 to identify this type of participation in energy efficiency implementation activities as eligible for intervenor compensation, as one intervenor has recently suggested in R.06-04-010.3."

[3] *See, e.g.*, D.12-05-015 at 355-56 (authorizing Commission Staff to establish a "Project Coordination Group whose primary function will be to review, deliberate, and provide feedback on IOU proposals for changing the Market Transformation Indicators adopted in the upcoming Ruling."); *see also D.05-01-055* (expressly providing prospectively for intervenor compensation for continuing intervenor work as energy efficiency Program Advisory Group members).

PCG in connection with a formal proceeding (as your letter suggests may happen in R.13-12-011), such work could be eligible for compensation going forward.

I want to reiterate that this analysis is not binding upon the Commission. Nonetheless, I hope you find this helpful in considering whether and how TURN will participate in PCGs in the future.

Sincerely,

Timothy J Sullivan

Timothy Sullivan
Chief Administrative Law Judge (Acting)

cc: Commissioners
Paul Clanon, Executive Director
Richard Smith, Assistant Chief Administrative Law Judge
Karen Clopton, Acting General Counsel
Todd Edmister, Administrative Law Judge
Steve Roscow, Administrative Law Judge

(End of Attachment)