



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

FILED

8-08-16
04:59 PM

Order Instituting Rulemaking Concerning
Energy Efficiency Rolling Portfolios, Policies,
Programs, Evaluation, and Related Issues.

Rulemaking 13-11-005
(Filed November 14, 2013)

**OPENING COMMENTS OF THE CALIFORNIA ENERGY EFFICIENCY INDUSTRY
COUNCIL ON PROPOSED DECISION PROVIDING GUIDANCE FOR INITIAL ENERGY
EFFICIENCY ROLLING PORTFOLIO BUSINESS PLAN FILINGS**

August 8, 2016

Kellie Smith
Policy Director
California Energy Efficiency Industry Council
1535 Farmers Lane, Suite 312
Santa Rosa, CA 95405
Telephone: (707) 480-1844
E-mail: policy@efficiencycouncil.org

TABLE OF CONTENTS

		Page
I.	Introduction	1
II.	Gross to Net Goals	2
III.	Codes & Standards	4
	A. Potential C&S Program Savings Reductions	5
	B. Apparent Reversal of Policy Emphasis on Integration Between Voluntary and C&S Programs	6
	C. Potential Reduction or Elimination of C&S Program Impact Evaluation, Tracking and/or Reporting	7
	D. Diminished Flexibility to Achieve SB 350 Doubling Goals, and Zero Net Energy Buildings	7
	E. Alternative Solution for Addressing Double Counting	8
IV	Existing Conditions Baseline	8
	A. Exclusion of Industrial & Agricultural Sectors	8
	B. CalTF as Working Group Lead	9
	C. Effective Date of Policy Changes	10
V.	Statewide Programs	11
	A. Definition applied too broadly	11
	1. Government Partnerships	11
	2. Emerging Technologies	12
	B. Premature to Move Downstream Programs	13
VI	EM&V	14
VII	Conclusion	15
APPENDIX	Recommended Changes to the Findings of Fact, Conclusions of Law, and Ordering Paragraphs	16

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Concerning
Energy Efficiency Rolling Portfolios, Policies,
Programs, Evaluation, and Related Issues

Rulemaking 13-11-005
(Filed November 14, 2013)

**OPENING COMMENTS OF THE CALIFORNIA ENERGY EFFICIENCY INDUSTRY
COUNCIL ON PROPOSED DECISION PROVIDING GUIDANCE FOR INITIAL ENERGY
EFFICIENCY ROLLING PORTFOLIO BUSINESS PLAN FILINGS**

Pursuant to Rule 14.3 of the Commission’s Rules of Practice and Procedure, the California Energy Efficiency Industry Council (Efficiency Council) respectfully submits *Opening Comments of the California Energy Efficiency Industry Council on Proposed Decision Providing Guidance for Initial Energy Efficiency Rolling Portfolio Business Plan Filings* (PD), issued on July 19, 2016. These comments are timely filed and served pursuant to the Commission’s Rules of Practice and Procedure and the ALJ Ruling.

I.

INTRODUCTION

The Efficiency Council generally supports the PD and is particularly pleased with acknowledgement of the key role that a competitive marketplace has in meeting the state’s energy efficiency goals as reflected by the increase in the role of third-party providers. We also appreciate the efforts to simplify the implementation of existing conditions baseline and related metered measures which we think can result in higher customer uptake that can offset the marginal risk for incremental free-riders. We also think that the increased use of public forums such as the California Energy Efficiency Coordinating Committee (CAEECC) and the California Technical Forum (CalTF) to process specific issues and bring recommendations to the Commission will enhance program effectiveness and reduce regulatory fatigue.

We do see areas where the PD can be improved and are recommending the following modifications:

- Continue the use of gross goals, and re-double efforts to be undertaken up-front to ensure program designs have addressed the risks of free-ridership;

- Continue setting demand and energy savings goals for the entire portfolio – including codes and standards (C&S) – and address double counting of C&S advocacy by subtracting the “to-code” savings component of voluntary program impacts out of the attributed C&S program impacts where existing baselines are used;
- Extend the use of existing conditions baseline to industrial and agricultural sectors;
- Specifically request the CalTF to facilitate meetings on the custom review process and other issues identified in the PD at section 3.13;
- Require that the utilities bring plans for all programs transitioning to the new baseline rules on January 1, 2017 to the CAEECC to help ensure as orderly a transition as possible, with everyone clear on steps and rules for a January 1st effective date;
- Permit program administrators (PAs) to file tier 1 advice letters to modify HOPPs filed before the effective date of this decision the provisions of this decision to apply the provisions of this decision;
- Modify the statewide program list by striking the Emerging Technologies Programs and Government Partnerships from the list of programs under the definition of Statewide Programs;
- Eliminate downstream programs from moving to statewide administration at this time; and
- Require PAs to manage and oversee the process and market evaluations of their own as well as third party programs.

II.

GROSS TO NET GOALS

The PD expresses that existing conditions baseline “creates a real and significant risk of a widening gap between expected and actual free-ridership if programs target projects that customers have traditionally undertaken without any program intervention.”¹ We acknowledge this possibility but do not agree that the impact is so great that switching from gross to net is the appropriate or required remedy to address the issue. Nor should this drastic change be implemented when it could be temporary as indicated in the PD which states that we may need to go back to gross savings “once the methodology and approach to be used by the CEC in setting overall SB 350 goals becomes clearer.”² We therefore recommend that the Commission address the concern of free-ridership by the use of vigilant program design and customer-segment targeting and remain with gross goals at this time.

¹ PD at 19.

² *Id.*

A shift from gross to net may not solve the stated concerns. When in fact, due to the limitations of the self-report method, there is a strong possibility to overestimate free-riders. The anticipated target for projects using the existing baseline methodology are buildings that have failed to upgrade over many years of available efficiency programs. If prior action is an indicator, the probability that these buildings will retrofit in the next year is very low. The subsequent explanation for why these program participants choose to convert in any given year then will likely be muddled by the 30 years of efficiency messaging, their past versus current business conditions, and the general psychological difficulties in reporting on the counterfactual in which all contribute to an overestimation of free-riders.

Alternative methods do exist for estimating net savings and such research should be considered up-front in conjunction with program planning to improve targeting of programs and program design. The commission has actually explored how other jurisdictions have used such approaches, often efficiently across customer segments, to ensure program funding is used effectively.³

For instance, the CA saturation studies suggest that for the commercial sector business segments there may be from 12 to 30 percent lamps remaining as T-12. There is evidence from CA saturation studies on the relative rate of conversion by segment. Thus, a market approach based on targeting and comparing change in saturations over time could provide a sound approach to ensure the IOUs achieve improvement in the saturations. This would include a target requirement for changes in saturation by market segment and permit the use of gross savings goals. A key factor to moving in this direction will be to design studies narrowly at the segment level (i.e. avoid the possibility of conducting large-scale, market-based studies where actual results are too vague across the market to determine movement of progress indicators, or can require too much time to actually see market movement). One approach to consider could be panel studies where the survey/sampling infrastructure is already in place but is flexible where evaluators can insert a few focused questions related to the program efforts/market indicators. Such studies could cost significantly less than program-specific, net-to-gross savings studies, and would likely provide more timely and productive information to the programs. While this is just one example, we ask that the Commission explore this type of option before deciding to end gross goals.

³ The Commission and IOUs explored several approaches extensively over the past six to seven years via workshops on market effects indicators and produced two white papers on frameworks for market-based program design. See NMR Group, Inc., *A Review of Effective Practices for the Planning, Design, Implementation, and Evaluation of Market Transformation Efforts*, 2013; and, Mitch Rosenberg, DNV GL, Lynn Hoefgen, Nexus Market Research, *Market Effects and Market Transformation: Their Role in Energy Efficiency Program Design and Evaluation*, 2009. Also, during 2012-13, the Commission and IOUs began a process for establishing market transformation indicators that were based on market segment indicators such as saturation levels, etc.

We raise an additional issue associated with net goals which is a disruption of the market. Net goals are determined *after* EM&V has been completed, which can take time, and is determined based on many factors some of which are beyond the control of the implementers, customers, or utilities. This will definitely raise the cost of delivering programs (since an additional risk factor will need to be added to costs), and may likely cause delay. Finally, we object to using net savings as it adds confusion when engaging and retaining customer participation in programs as they do not understand the use of the term or understand its calculation.

Changing the goals to net savings is not the most effective way to address the concern and is instead most likely to result in a more contentious and litigious process around shareholder incentives. Therefore, the Efficiency Council recommends that the use of gross goals continue and that efforts be undertaken up-front to ensure program designs have addressed the risks, and encourage programs to improve customer targeting and program design.

III.

CODES & STANDARDS

Section 3.4 of the PD addresses the relationship between the baseline and utility credit for the statewide C&S Advocacy Program. As noted in the PD, “TURN and ORA argue that the Commission should remove the codes and savings [sic] advocacy element of program administrator energy efficiency savings goals to eliminate potential double counting issues as portfolios transition more fully to programs that do not have a code or standard baseline.”⁴ Based on these arguments, the PD proposes to “remove the codes and standards advocacy goal-setting from the portfolio. We will also remove the crediting of energy savings from codes and standards advocacy towards codes and standards goals. Instead...we will credit the program administrators with savings achieved programmatically to bring facilities not only up to code, but also above code, in instances where this occurs.”⁵

We acknowledge the Commission’s assertion in the PD about the exclusion of C&S impacts in the primary portfolio cost-effectiveness metric (TRC) effective since 2013. We also understand that the Commission and others want the key portfolio metric (TRC) to exclude C&S impacts to enable clear tracking of the voluntary programs portion of the portfolio separately from the large, low-cost C&S program impacts that might otherwise obscure the cost performance of voluntary programs alone. That said, we believe there are several important reasons to continue setting C&S goals, crediting C&S

⁴ PD at 17.

⁵ *Id.* at 28.

savings to the extent they are not double counted, conducting C&S evaluation, and tracking overall portfolio cost-effectiveness (at least as a secondary metric). We additionally note that even the PD and Staff White Paper acknowledge that this issue is clearly not fully developed and is “targeted as a topic for further exploration at a later time.”⁶ Consequently we recommend a modest adjustment in C&S to address the known impacts at this time and that the most successful program in the portfolio continues.

A. Potential C&S Program Savings Reductions

The policy change put forth in the PD swings the pendulum far beyond the actual double counting of savings due to the new baseline policy on some programs and is likely to have unintended consequences. A key concern is that PAs will rationally reduce their focus on C&S advocacy work since there would be no explicit C&S goals or credit for C&S impacts, and because C&S advocacy may hinder reaching incentive program goals, which are measured against goals and for which more considerable performance incentives are available. This consequence would have a disproportionate impact on the overall portfolio savings.

C&S advocacy creates very large impacts at very low cost. For example, based on the latest impact evaluation for the 2010-2012⁷ period, utility program C&S advocacy contributed a net 37% of CEC total Title 24 savings which were 561 GHh/year. In addition, these savings are secured at a very low cost: the CEC estimates that total statewide benefits in residential and commercial buildings in 2017 will be \$4.0 billion⁸ in savings due to added Title 24 requirements. Assuming approximately one-third of this was due to utility advocacy programs (based on the 2010-12 evaluation above), it means that the utility cost of about \$6 million for the program resulted in \$1.5 billion ($\$4.0 \text{ B} * 0.37$) in savings (this is just for 2017 Title 24; the impacts from Title 20 and federal standards advocacy would add further significant benefits). Thus, a material reduction in advancing C&S work would severely undermine future savings in both new and existing buildings now achieved through regulations and would require, instead, programs and incentives for new buildings and appliances to achieve comparable savings, if even possible.⁹

⁶ *Id.* at 26.

⁷ See Cadmus and DNV GL, *2014 Statewide Codes and Standards Program Impact Evaluation Report For Program Years 2010-2012*, prepared for CPUC, CALMAC ID CPU0070.03.

⁸ See

http://www.energy.ca.gov/title24/2016standards/rulemaking/documents/EFIS_2016_title24_parts_01_06/Revised_Attachment_to_Fully_Executed_Economic_Impact_Statement_2015-03-13_TN_75475.pdf

⁹ Analyses by the statewide C&S program suggest that approximately 50% of electric savings of the portfolio is delivered by the C&S program at a cost that is less than 3% of the overall portfolio budget. See Comments of

On the other hand, the double counting issue that the Commission seeks to address is limited to a fairly small portion of the total attributed C&S savings. Analyses reported in comments filed by McHugh Energy¹⁰ suggest that overlap in 2016 is on the order of 15 to 20 percent. Given the potential risk for reduced C&S savings and the fact that alternate more targeted solutions exist to address the double counting, we encourage the Commission not to proceed as proposed.

B. Apparent Reversal of Policy Emphasis on Integration between Voluntary and C&S Programs

We are concerned that the conflicting message sent by this PD makes it more challenging for PAs to continue to push C&S program activities into “a central strategic position within the IOU energy efficiency portfolio”¹¹ as the Commission previously called for in 2012, and prior to that in 2005, when the Commission originally recognized the value of establishing an integrated portfolio as follows:

We believe that the concept of estimating the potential for the combination of all program efforts (including C&S advocacy work) and establishing energy efficiency portfolio goals on that basis has considerable appeal. Doing so could better enable us to assess the economic potential of improved codes and standards alongside direct installation and other resource programs, as well as their associated savings achievements. It would also remove conflicting signals to the utilities that arise if the savings potential of energy efficiency is ratcheted downwards to reflect the higher codes and standards that their advocacy work in previous years has produced...Using ratepayer dollars to work towards adoption of higher appliance and building standards may be one of the most cost-effective ways to tap the savings potential for energy efficiency and procure least-cost energy resources on behalf of all ratepayers.¹²

In view of the importance of the integration strategy promoted by the Commission above and as further described by McHugh Energy,¹³ and the work being done in the current business planning process to deliver on this vision,¹⁴ we believe it is paramount for the Commission to continue signaling clear support for such integration and to avoid setting policies that could lead to a diminished understanding of the full portfolio cost-effectiveness.

McHugh Energy to Proposed Decision Providing Guidance for Initial Energy Efficiency Rolling Portfolio Business Plan Filings, R.13-11-005, August 5, 2016, at 9.

¹⁰ *Id.* at 7-8, reporting research by Yanda Zhang and LADWP.

¹¹ *See* D.12-05-015 at 246.

¹² *See* D.05-09-043 at p. 127 and 177.

¹³ *Supra* note 10, at 12.

¹⁴ *See*, for example, statewide C&S team strategy presented in the May 4, 2016, CAEECC C&S Stage 2 Subcommittee meeting (<http://www.caeccc.org/#!blank-34/dy5v9>); and PA comments in the Commercial Sector Stage 2 Meeting presentations show increased emphasis on code readiness strategies (<http://www.caeccc.org/#!blank-25/tul9c>).

C. Potential Reduction or Elimination of C&S Program Impact Evaluation, Tracking and/or Reporting

We are concerned that the PD might result in reduced emphasis on goal setting, evaluation, tracking and reporting of C&S Program impacts. This reduction is problematic because the PD strategy doesn't actually address the double counting problem from the statewide policy perspective, but rather allows the Commission to simply ignore it for the purposes of portfolio tracking. The utilities and the Commission currently have a robust and rigorous methodology for tracking and attributing savings from the C&S program. Other stakeholders such as CEC and municipal utilities leverage this information for purposes of reporting and the California Demand Forecast. The CEC or other agency must track this double counting in order for the Demand Forecast to be accurate. Inaccuracies in the Demand Forecast could result in expensive over or under procurement of supply side resources. Thus, the current C&S savings methodology developed by the Commission will be important and valuable for this process and should not be deprioritized as we fear might happen in response to the PD.

D. Diminished Flexibility to Achieve SB 350 Doubling Goals, and Zero Net Energy Buildings

Portfolio cost-effectiveness has been dropping in recent years due to naturally occurring efficiency improvements and increasingly stringent C&S. Looking forward, the combination of the upcoming, dramatic reduction in avoided costs together with another cycle or two of C&S, it is clear that meeting cost-effectiveness goals without consideration for C&S program savings will be a great challenge. That challenge will be magnified by efforts to double savings to comply with SB 350, which implies deeper, more expensive energy efficiency program investments. We are concerned that the Commission may be inadvertently distancing the C&S program savings from general reporting and consideration of the cost-effectiveness of the portfolio at a time when it is needed more than ever. Other California audiences, including the California Legislature, may become concerned about what appears to be an uneconomic portfolio, when in fact the portfolio is still cost-effective when considered in total (including attributable C&S program savings).

Successful development of Zero Net Energy (ZNE) building codes will likely require the deployment of focused, strategic voluntary market interventions that on their own will not be cost-effective, but are required to "condition the market" to prepare the way for such ZNE building codes. Further constraining the consideration of the combined cost-effectiveness of such code readiness and code strategies will make such strategic voluntary initiatives difficult for PAs to justify given difficulty of keeping TRC without C&S program impacts above 1.0.

E. Alternative Solution for Addressing Double Counting

We recommend the Commission continue setting demand and energy savings goals for the entire portfolio – including C&S – and then address the double counting concern through a more targeted and technical approach. We recommend that the Commission set a specific policy and procedure for subtracting the “to-code” savings component of voluntary program impacts out of the attributed C&S program impacts where existing baselines are used. The Commission should require the C&S program to work with the CEC to collect data and conduct analysis to quantify savings overlap between incentive and C&S programs. This is consistent with the CEC’s recent recommendation. In fact, we note that the current C&S evaluation methodology specifically accounts for utility programs in its assessment of naturally occurring market adoption. The Commission could also direct PAs to demonstrate how incentive and C&S programs are coordinated to optimize resource allocation.

IV.

EXISTING CONDITIONS BASELINE

A. Exclusion of Industrial & Agricultural Sectors

We appreciate that the PD recognizes the value and potential of the industrial sector in achieving savings and reaching goals, but must express our continued concern with the exclusion of the industrial and agricultural sectors from broad application of existing conditions baseline and normalized metered energy consumption (NMEC). As indicated in the PD, most parties are in agreement that the tools authorized by AB 802 should apply to the industrial and agricultural sectors. We have provided different strategies in previous comments and forums to approach these sectors in an attempt to address concerns about free-ridership to no avail. At this juncture we request that the Commission revisit our substantive and thorough arguments as presented in our prior comments and extend these tools to these critical sectors.¹⁵ The notion that industrial projects are already underway and largely are not influenced by PA programs and third party implementers reflects a lack of understanding of the industrial market sector and the barriers that exist to energy efficiency implementation. We support the PD consideration of a “separate inquiry or rulemaking into the approaches for energy efficiency specific to the industrial sector.”¹⁶ We are confident that such an inquiry will provide all stakeholders with a better

¹⁵ See Comments of the California Energy Efficiency Industry Council on Administrative Law Judge’s Ruling Seeking Comments on Energy Efficiency Baseline Policy and Related Issues, R.13-11-005, May 17, 2016, at 11-22.

¹⁶ PD at 40.

understanding of the barriers in this sector and the opportunities for effective use of existing conditions baselines and NMEC.

We support and acknowledge the allowance for Strategic Energy Management (SEM) program eligibility for existing conditions baseline and NMEC for industrial customers and “process-oriented projects.”¹⁷ However, this implied definition of SEM in the PD is a departure from the holistic SEM approach that is in standard use. The minimum elements of effective SEM programs include a project register which describes the “actions to be undertaken over the course of one or more years... [and] can include capital projects as well as improvements to operations and maintenance practices.”¹⁸ We encourage the broader application of SEM to also include capital projects as included in the Consortium for Energy Efficiency SEM Initiative.¹⁹

B. CalTF as Working Group Lead

We now move to the direction called for in the PD to establish a “working group and that facilitated meetings be held to allow stakeholder input on the custom review process, and the development of a streamlined approach...”²⁰

Customers, implementers and utilities have struggled for years to make the custom review process work, and we are grateful that the PD overtly recognizes the need to identify solutions. We particularly support an independent facilitated conversation with all stakeholders in the room. Because this step is so essential to being able to continue to secure savings from this large sector, we ask that the Commission be more definitive in its order by: tasking the CalTF to convene a working group; that CalTF be asked to facilitate a public discussion to investigate the challenges of (and solutions to) custom review, industry standard practice, preponderance of the evidence, and other program issues outlined in Section 3.13, with Energy Division staff, stakeholders, and PAs in attendance. If the stakeholders can develop consensus on process improvements, the Commission decision should direct the staff and PA’s to immediately implement the consensus improvement recommendations by way of a formal resolution. If consensus cannot be reached through the CalTF process, Commission staff should convene a workgroup facilitated by an independent party. We recognize that this is an additional task for the

¹⁷ PD at 36.

¹⁸ See CEE Strategic Energy Management Minimum Elements, Consortium for Energy Efficiency, at 2, at https://library.cee1.org/sites/default/files/library/11283/SEM_Minimum_Elements.pdf

¹⁹ *Id.*

²⁰ PD at 37.

CalTF, and would like the commission to acknowledge that it will likely require additional funding to accomplish.

C. Effective Date of Policy Changes

The PD establishes an effective date for the new baseline policies of Section 3 for “January 1, 2017, assuming the working group(s) can agree quickly on an approach to the deferred issues articulated in section 3.13 above.”²¹ We very much appreciate the ALJ setting a near-term date of January 1, 2017 for the important change to existing conditions baseline. We believe that further discussion will need to occur to make sure there is a smooth transition of existing projects and programs to the new set of rules. For example, if an existing program changes to the new baseline rules on January 1st, what happens to projects in the pipeline that span the January 1st date? We also assume that if the new rules become effective January 1, 2017, new contracts will need to be in place with implementers far enough ahead of that date that refreshed materials to customers can be developed. We recommend that the final decision require that the utilities bring draft plans for all programs transitioning to the new rules in October, 2016 to the CAEECC for comment to help ensure as orderly a transition as possible, with everyone clear on steps and rules for a January 1st effective date.

We also see HOPPs as a special case for the application of an effective date since it might not make sense for previously approved HOPPS programs to run for a few months under the temporary baseline rules that existed before this decision. There are several HOPPs which have already been or will be approved by the Energy Division before January 1 and many of the changes in the PD will encompass elements of those proposals. We submit that early HOPPs should not be disadvantaged by a specific effective date nor should they be required to delay projects or file new applications to utilize program changes authorized by the final decision. We request that the utilities be authorized to apply to have HOPPs programs grandfathered into updated rules via submission of a tier 1 advice letter, regardless of when the HOPPs proposal was originally filed and that when the issues in section 13.3 of the PD are resolved any changes in requirements shall be retroactively effective for any filings submitted after the approval date of the Decision.

²¹ PD at 45-46.

V.

STATEWIDE PROGRAMS

A. *Definition applied too broadly*

The PD applies the concepts of “upstream and midstream” much more broadly than we think is prudent. Specifically we disagree with the characterization of the Government Partnerships and Emerging Technologies as upstream and/or midstream programs and think that these programs should be deleted from the group targeted for statewide administration. Additionally, and more significantly, both of these programs are working successfully within the current administrative structure and we do not think it wise to disrupt the course at this time without an obvious purpose served or desired outcome to be achieved by changing the administrative structure.

1. *Government Partnerships*

We were surprised to see the inclusion of Government Partnerships in the PD particularly when they were not mentioned in the May 24th ruling. However, they are now designated for statewide administration and we are specifically concerned that this program, which is currently operating as a hybrid of the statewide administrative model in the PD, would be disrupted by this action. These programs currently employ a single statewide administrative consultant, under contract to a lead utility, to manage the program on behalf of all stakeholders (utilities and customers), but continue to rely on the individual utilities in their respective regions for delivery of all energy efficiency options including deemed, third party and customized programs. This structure also leverages other utility staff, such as those from emerging technologies, and account service representatives who often have deeper relationships and a broader view than just related to energy efficiency in this complex customer base. Finally, the current structure enables the coordination with publicly owned utilities, which often have pre-existing arrangements with IOUs in their region, as demonstrated by the recent inclusion of LADWP in the UC/CSU partnership.

We recognize that the community colleges, California State University, and the University of California all have statewide governing bodies. However, the work on energy efficiency and other capital outlay projects are managed campus-by-campus and the Government Partnerships are a customer-facing, downstream program on a day-to-day basis.

2. *Emerging Technologies*

ET is specifically and intentionally not designed for uniform and consistent delivery and should be excluded from the definition of “statewide” as called for in the PD.²² The purpose of ET is to identify and validate new technologies, systems or practices that have significant energy savings potential for adoption by diverse, locally administered programs at each utility as well as by statewide programs. This requires a high degree of understanding and administrative flexibility and adaptability to address distinct customer and program needs at *each* of the four utilities and should not be a statewide program.

Designating ET as statewide and enforcing uniformity and consistency across utility service territories would undermine its flexibility and adaptability and would be disruptive and potentially destructive to its success.

Statewide designation of ET could jeopardize the deep collaborations that already exist among a large number of parties in the state. As it has evolved over the last decade and a half, California’s statewide ET initiative has succeeded based on the strong and balanced collaborative network formed by ET program staff at the four IOUs plus SMUD and LADWP, with implementation by a blend of third party and in-house subject matter experts.

This collaborative network has proven effective in overcoming the California utilities’ geographical and fuel diversity and other differences. In addition, each utility’s ET staff has developed a strong internal network to facilitate transfer of promising technologies to and adoption by local PAs and implementers. The ET programs also collectively maintain a strong and balanced collaborative relationship with CEC EPIC and natural gas PIER research funding programs that would be less effective if the ET program were run by a single utility or other entity.

The ET programs’ staff technical expertise on site at each IOU allows for more sophistication in the collective administration of ET by all IOUs. Additionally, the current shared administration of IOU ET programs creates additional value for ratepayers by providing subject matter expertise at each IOU suitable for exploring integration of energy efficiency with other technologies. This assists the IOUs in keeping abreast with emerging demand management, microgrid, smart grid, and distributed energy resource technologies vital to their future role as smart distribution grid managers.

Since there is no mechanism to enable management of staff at multiple IOUs by a lead IOU administrator, and setting up such a mechanism would be costly and cumbersome, the requirement for a “single lead program administrator” as part of the definition of “statewide” appears to dissolve the

²² PD, Ordering paragraph 5, at p. 88; see also pp. 55-56 which lists affected programs.

collaborative IOU-POU-CEC network that is a core strength of the ET programs and the continuous improvements to which all parties are committed.

Instead, the Commission should designate ET as distinct and separate from statewide programs to preserve the administrative characteristics that enable its effectiveness.

B. Premature to Move Downstream Programs

The PD sets an ambitious agenda for the movement of 30 percent of portfolio programs to statewide administration. We are concerned with the ability to smoothly transition this volume of energy efficiency programs and that it will severely disrupt the progress toward goals. Moreover, this is a grand undertaking with little foundation.

Workshops in the spring of 2015 reviewed the advantages and disadvantages of statewide administration of programs but this PD does not acknowledge the disadvantages or consider how and when the new model should be evaluated. Moving swiftly toward shifting 30 percent of the portfolio to statewide administration leaves no path to address what were identified disadvantages such as “the less homogenous, the higher need for flexibility.”²³ Nor are the “Potential Constraints” of statewide administration addressed which were identified at the March, 2015 workshops as:

- Too generic to meet local needs
 - Need to customize for geographic differences
- Ownership constraints
 - Need to negotiate changes
 - Longer planning cycles
- TRC constraints
 - Uneven savings/costs due to variances in target markets.²⁴

Finally the PD appears to assume that there is one answer for administration of statewide programs. However, we learned at the March, 2015 workshops, which included a presentation on the models of other states that “There is Not One Answer: Any administrative model can successfully deliver cost-effective energy efficiency programs, provided the appropriate policies, oversight mechanisms, personnel and administrative structures are in place.”²⁵ Another interesting take-away

²³ See Valerie Richardson, DNV-GL, *Standardize Statewide Programs*, presentation to Statewide Programs Workshop Kickoff, March 23, 2015, available as attachment to *Administrative Law Judge’s Ruling Re Comments on Phase II Workshop 3 (Statewide and Third Party Energy Efficiency Programs)*, R.13-11-005, April 1, 2015.

²⁴ *Id.*

²⁵ See Charles A. Goldman, Lawrence Berkeley National Laboratory, *Energy Efficiency Program Administration: Options and Issues*, presentation to CPUC workshop, March 24, 2015, available as attachment to *Administrative Law Judge’s Ruling Re Comments on Phase II Workshop 3 (Statewide and Third Party Energy Efficiency Programs)*, R.13-11-005, April 1, 2015.

from this presentation is the number of different models working in different states – none of which are as large and diverse in geography, demographics, or climates as California.²⁶ The region of any one of our IOUs is larger than many of the states reviewed.

We argued in our opening comments against moving downstream programs to statewide administration for many reasons including a disconnection of the PAs from customers, interfering with meeting the unique needs of a diverse state, barriers to customer data across IOU territories, and additional complexity in the development of integrated distributed energy resources. Most significantly, moving programs to any model where one utility is implementing a downstream program on behalf of another utility may create unintended consequences which could reduce innovation and data driven program approaches. Furthermore, this change could hinder other goals of the Commission, including the potential to deploy EM&V 2.0 tools in downstream program to meet the needs of AB 802 and conducting ongoing data collection and analysis as required in the evaluation "preparedness" section of the business plans.²⁷ We reiterate those points and reinforce the need to exclude any downstream programs from statewide administration at this time. It will not only take a good deal of time to transition the upstream and midstream programs to statewide administration but it will take even longer to understand and evaluate the implications of the new model. There is no consideration in the PD of the impacts of this change on savings goals, the market, IOU workforce disruption or any other factors. We therefore ask that downstream programs not be required to move to statewide administration at this time.

VI.

EM&V

While we anticipate that the Commission will continue to take the lead on impact evaluation of all programs, whether third party, IOU, REN or other approved entities, the responsibility for process evaluations and market assessments remains unclear and should be clarified in the PD which currently calls for “collaboration among the program administrators and commission staff.”²⁸

The Energy Division should have a clear role as overseer of evaluations (including budgeting, ensuring that work is completed and conducting large-scale market studies to inform statewide strategic planning as needed). The PAs are best suited to manage and conduct process evaluations and market

²⁶ States reviewed included Hawaii, Maryland, Wisconsin, Indiana, Oregon, Massachusetts, Connecticut, New York.

²⁷ See CEEIC comments at 8-10.

²⁸ *Id.* at 68.

characterizations that drive program design, as these are activities that need to be conducted close to the implementation management team so they can be conducted with speed and relevance, as immediacy is critical to providing value.

This clear bifurcation of responsibilities between the Commission and the PAs would help to ensure that appropriate levels of funding exist and removes the issue of funding as one that may preclude these types of evaluations from happening. The PD directs the parties to “collaborate” on “appropriate evaluation activities to meet the sector and portfolio needs”²⁹ but we think it is important to clarify that PAs manage and oversee the process and market evaluations of their own as well as third party programs.

The policy directive would ensure that process and market characterization work will be funded for all programs going forward by setting expectations for who will conduct that work, and ensuring that sufficient funds are allocated.

VII.

CONCLUSION

The Efficiency Council very much appreciates the opportunity to comment on the PD and urges the Commission to adopt the Efficiency Council’s proposed modifications herein and in Appendix A hereto.

Respectfully submitted,

August 8, 2016

/s/ KELLIE SMITH

Kellie Smith
Policy Director

California Energy Efficiency Industry Council
1535 Farmers Lane, Suite 312
Santa Rosa, CA 95405
Telephone: (707) 480-1844
E-mail: policy@efficiencycouncil.org

²⁹ *Id.*

APPENDIX A

Recommended Changes to the Findings of Fact, Conclusions of Law & Ordering Paragraphs (Deletions in ~~strikethrough~~, additions underlined)

Proposed Changes to Findings of Fact:

11. Giving utilities energy savings credit against their goals for codes and standards advocacy and also for the same associated savings from programmatic activity that is allowed to count below code savings would represent double counting of savings credit.

Proposed Changes to Conclusions of Law:

11. We should continue to use gross ~~Our~~ energy efficiency goals ~~should be revised from gross to net to align with remain~~ until the CEC's demand forecast activities and our long-term procurement planning activities have been established to conform with the requirements of SB 350. Pending that work, program administrators shall improve customer targeting and program design to ensure that the risks of free-ridership are minimized.

15. Utilities should ~~not~~ be assigned ~~or~~ and receive credit towards energy efficiency savings goals for codes and standards advocacy except in cases where attributed codes and standards savings overlap with savings from incentive programs that are allowed to count below code savings.

23. Comprehensive Strategic Energy Management (SEM) programs in the industrial sector, which can include behavioral, retrocommissioning, ~~and~~ operational aspects, and capital projects, should have their baseline set based on existing conditions.

25. ~~Behavioral, retrocommissioning, and/or operational programs~~ Programs in the agricultural sector should have their baseline set based on existing conditions.

31. Commission staff shall ask the California Technical Forum to convene a working group to assess and develop a streamlined approach to the custom review process, develop a list of measure level baseline rules, and develop a consensus-based approach to defining the "preponderance of the evidence" standard. Should the CalTF fail to act, Commission staff should convene a workgroup facilitated by an independent party. Staff shall bring a resolution for the Commission's consideration by January 1, 2017 with recommendations for resolving these issues.

31. ~~The Commission should defer to a working group organized by staff or utilize the California Technical Forum to develop a list of measure level baseline rules.~~

32. ~~The Commission should defer to a working group organized by staff or utilize the California Technical Forum to develop a consensus-based approach to defining the "preponderance of the evidence" standard.~~

33. The new default baseline policy adopted in this decision should go into effect January 1, 2017 and program administrators should bring draft plans for all programs transitioning to the new rules on January 1st to the CAEECC in October, 2016 for comment to help ensure as orderly a transition as possible, with everyone clear on steps and rules for a January 1st effective date.

~~41. It is appropriate to pilot the use of a statewide approach on some downstream programs to test the use of common elements even with regional or local variations.~~

56. The collaborative process for assigning priorities and undertaking activities for EM&V between Commission staff and program administrators has been working well and should be continued and they should ensure that program administrators should manage and oversee process and market evaluations of their own as well as third party programs.

62. Any high opportunity programs and projects specified in AB 802 and filed prior to the effective date of this decision should be handled according to the rules contained in the December 31, 2015 ACR in this proceeding. The baseline rules in this Decision shall be effective for filings submitted after the final date of this decision. Program administrators may consider the filing of a tier 1 advice letter to modify HOPPs filed before the effective date of this decision to apply the provisions of this decision.

Proposed Changes to Ordering Paragraphs:

3. The adopted baseline policy to apply to energy efficiency programs and projects beginning January 1, 2017 shall be as shown in Table 1 in this decision.

4. Commission staff shall ~~facilitate a working group process and/or utilize an existing working group such as the~~ request the California Technical Forum to assess and develop a streamlined approach to the custom review process, discuss measure-level baseline rules and documentation required to meet the “preponderance of the evidence” standard for accelerated replacement and repair eligible projects. Should the CalTF fail to act, Commission staff should convene a workgroup facilitated by an independent party. Staff shall bring a resolution for the Commission’s consideration by January 1, 2017 with recommendations for resolving these issues.

5. For energy efficiency program purposes, “statewide” shall be defined as: A program that is designed to be delivered uniformly throughout the four large investor-owned utility service territories. Each statewide program shall be consistent across territories and overseen by a single lead program administrator. One or more statewide implementers, under contract to the lead administrator, should design and deliver the program. Local or regional variations in incentives levels, measure eligibility, or program interface are not generally permissible (except for measures that are weather dependent or when the program administrator has provided evidence that the default statewide customer interface is not successful in a particular location. Upstream (at the manufacturer level) and midstream (at the distributor or retailer level) interventions are required to be delivered statewide. ~~Some, but not all, downstream (at the customer level) approaches are also appropriate for statewide administration.~~ Statewide programs are also designed to achieve market transformation.

7. The following programs from the existing portfolio, plus new programs proposed in business plans that are market transformation, upstream, or midstream, shall be delivered statewide according to the definition in Ordering Paragraph 5 above: Residential: Plug Load and Appliance Midstream, Heating Ventilation and Air Conditioning (HVAC) Upstream/Midstream, New Construction; Commercial: HVAC Upstream/Midstream, Savings by Design; Lighting: Primary Lighting, Lighting Innovation, Market Transformation; Financing: New Finance Offerings; Codes and Standards: Building Codes Advocacy, Appliance Standards Advocacy; ~~Emerging Technologies: Technology Development Support, Technology Assessments, Technology Introduction Support~~; Workforce, Education, and Training: Connections; ~~Government Partnerships: California Community Colleges, University of California/California State University, State of California, Department of Corrections and Rehabilitation~~; Marketing, Education, and Outreach: Energy Upgrade California Campaign.

~~8. The program administrators shall propose in their business plan filings at least four downstream programs to be piloted on a statewide basis and shall include a proposed lead administrator and other program details.~~

18. High opportunity program and project proposals as specified in Assembly Bill 802 from 2015 and filed prior to the effective date of this decision shall be governed by the rules contained in the December 31, 2015 Assigned Commissioner's Ruling in this proceeding, which is also affirmed as adopted policy of the Commission. The baseline rules in this Decision shall be effective for filings submitted after the final date of this decision. Program administrators may consider the filing of a tier 1 advice letter to modify HOPPs filed before the effective date of this Decision and apply the provisions of this Decision.