

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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

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

**REPLY COMMENTS OF THE
CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT COUNCIL
ON THE PROPOSED DECISION MODIFYING THE
ENERGY EFFICIENCY THREE-PRONG TEST RELATED TO FUEL SUBSTITUTION**

July 23, 2019

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I. INTRODUCTION

The California Efficiency + Demand Management Council (the “Council”) appreciates the opportunity to submit these Reply Comments to the Opening Comments on the *Proposed Decision Modifying the Energy Efficiency Three Prong Test Related to Fuel Substitution* (“Proposed Decision” or “PD”), which was issued on June 28, 2019. These Reply Comments are timely filed and served pursuant to Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission.

The Opening Comments reflect the industry’s interest in clarifying the three Prong Test Rules, now called the Fuel Substitution Test (“the Test”), and enabling the market certainty necessary for the development of new innovative programs, technologies, and solutions to achieve California’s climate and energy goals. The Council appreciates the opportunity to respond to the comments submitted on July 18, 2019, and looks forward to continued engagement on this important issue.

The Council’s Reply Comments focus on the following topics:

- Supporting the usage of the Avoided Cost Calculator for Prong 1 calculations and requesting further clarification on Prong 2 calculation methodologies;
- Requesting the Commission dismiss the Public Advocates Office (“PAO”) request for cost-effectiveness to be applied at measure level for Fuel Substitution Measures;
- Requesting the Commission dismiss PAO’s proposed Fuel Substitution pilot status and 2021 rule cliff;

- Supporting multiple parties request that Fuel Substitution measures be approved at a statewide level; and
- Supporting multiple parties' request that eligibility rules for non-regulated Commission utilities and unregulated fuels be clarified.

II. BACKGROUND

The Council is a statewide trade association of non-utility businesses that provide energy efficiency, demand response, and data analytics services and products in California.¹ The Council's member companies employ many thousands of Californians throughout the State. They include demand response and grid services technology providers, implementation and evaluation experts, energy service companies, engineering and architecture firms, contractors, financing experts, workforce training entities, and manufacturers of energy efficiency products and equipment. The Council's mission is to support appropriate demand response and energy efficiency policies, programs, and technologies to create sustainable jobs, long-term economic growth, stable and reasonably priced energy infrastructures, and environmental improvement.

III. COUNCIL REPLY COMMENTS TO OPENING COMMENTS

A. The Council supports the usage of the Avoided Cost Calculator for Prong 1 Calculations but requests that the Commission provide additional clarity for Prong 2 Calculations.

Multiple parties including the BayREN and Natural Resource Defense Council ("NRDC) and Sierra Club (jointly),² support the PD's usage of the Avoided Cost Calculator ("ACC") for calculating source energy for the Prong 1 test, Source Energy Consumption. The Council supports this approach as well ensuring that the ACC is regularly updated and is a readily available tool that the Commission can quickly utilize to calculate Source Energy consumption of proposed Fuel Substitution Measures.

To provide further regulatory certainty and streamline the Fuel Substitution approval process, the Council requests additional clarity be provided for the Prong 2, Cost-Effectiveness calculations. The PD is unclear as to whether the savings in the original fuel and penalty in the new fuel usage should be used in their respective units within the Cost-Effectiveness Tool

¹ Additional information about the Council, including the organization's current membership, Board of Directors, antitrust guidelines and code of ethics for its members, can be found at <http://www.cedmc.org>. The views expressed by the Council are not necessarily those of its individual members.

² Opening Comments of BayREN, at p. 2; Opening Comments of NRDC/Sierra Club, at p. 4.

("CET") or whether the savings should be converted to the new fuel units as described in the Energy savings Credits section. For example, for natural gas to electrical Fuel Substitution Measures, it is unclear if the CET inputs for Prong 2 include positive therm savings and negative kWh savings or if the therm savings should be converted directly in kWh units. Ensuring both test calculations are clear will help provide certainty to all stakeholders and ensure the successful development of Fuel Substitution Measures.

B. PAO's reinforced support for a measure-level cost test would create market uncertainty and leave the industry in a state of status quo.

In their Opening Comments, the Public Advocates Office ("PAO") requests that "the Commission should retain the measure-level cost-effectiveness requirement of the three-prong test in the Fuel Substitution Test"³ in an attempt to address the broader issue of load building and to avoid "fuel wars" between utilities. While the Council acknowledges the need for clarity on the topic of load building, the Council strongly disagrees that a measure-level cost test will single-handedly solve this issue.

The PD considers this topic and concludes: "We do not wish to continue to erect cost-effectiveness barrier for fuel substitution measures that represents a higher hurdle than any other measure included in the energy efficiency portfolio."⁴ The Council agrees with this conclusion as it creates a level playing field for all energy efficiency technologies amongst the Program Administrators portfolios and creates an environment in which these technologies can be deployed by industry in a way that helps California achieve its energy and climate goals. In contrast, if the Commission adopted the PAO's proposal, it would leave the industry in a state of status quo at a time of much-needed innovation in both program development and technology deployment to achieve California's climate and energy goals.

C. PAO's request that Fuel Substitution measures be authorized as a pilot with an indiscriminate date of 2021 creating market uncertainty and making it difficult for Fuel Substitution measures to launch.

PAO's requests that the Commission should "[r]evise the PD to authorize fuel-substitution measures in the EE portfolios on a pilot basis while the Commission develops a broader policy framework" and should "specify that the Fuel Substitution Test described in the PD will apply only until the end of 2021" will create massive market uncertainty. While the

³ PAO Opening Comments, at p.5.

⁴ Proposed Decision, at p. 21.

Council recognizes PAO's desire to clarify issues like the Avoided Cost Calculator's inability to accurately reflect possible benefits of "building electric load at times when there is an abundant supply of renewable electricity, and desire to "avoid adopting confusing or contradictory rules in different proceedings" placing an indiscriminate cliff date on the rules of 2021, in the name of regulatory rule perfection, causes two major issues.⁵ The first major issue is that at the time of this comment filing the end of the calendar year 2021 is less than three years away. This indiscriminately selected date makes it significantly less attractive for program administrators to dedicate the resources necessary to submit Fuel Substitution Measures for approval by the Commission and develop programs that use approved measures. This unnecessary timeline sends the marketplace a signal of instability that will inhibit programmatic development and industry investment and suppress business model innovation and manufacturer technology research and development. The second major issue is that in a scenario in which a program administrator dedicates the necessary resources to this effort, with the proposed 2021 rule cliff in place, the experience gained from any successfully launched program will be short-lived and limited. Given that PAO identifies the pilot as a way in which the Commission and stakeholders can "gain experience in dealing with technical issues" of Fuel Substitution measures, it should recognize that this rule cliff will limit the amount of experience that will be gained negating any believed benefit of having this timeline in place.⁶

The Council does not believe there is a logical argument as to why this 2021 rule cliff should be adopted. The pilot timeline, as proposed, creates market uncertainty and, if adopted, will minimize any beneficial experience gained from the deployment of Fuel Substitution measures. The Commission should reject this 2021 rule cliff proposal and reevaluate if there is a logic-based timeline in which the Fuel Substitution rules should be clarified given the timelines of both the Energy Efficiency Rolling Portfolio, Policies, Program, and Programs, and Related Issues, R.13-11-005, and the Building Decarbonization proceeding, R.19-01-011.

D. To provide market certainty statewide, the Commission should permit statewide approval of Fuel Substitution Measures.

Several Parties, including BayRen, NRDC & Sierra Club, in their Opening Comments, requested that the Commission clarify and accept that once a Fuel Substitution measure is

⁵ PAO Opening Comments, at p. 2.

⁶ PAO Opening Comments, at p. 2.

approved, it is approved statewide.⁷ Given the Commission’s desire to move toward statewide work paper for energy efficiency measures, the market certainty benefits, and regulatory clarity statewide approval will provide the marketplace, the Council supports this proposal. Statewide approval of measures will shorten the timeline in which third-party implementers can begin to develop, deploy, and refine innovative programs that help California achieve its climate and energy goals.

E. Clarify rules as it relates to both non-regulated CPUC utilities and unregulated fuels.

As noted by BayRen and NRDC/Sierra Club in their Opening Comments, the topics of how the proposed Fuel Substitution rules apply to both non-regulated Commission utilities and unregulated fuels needs further clarification.⁸ Clarification on both of these topics is necessary to ensure that all California utilities, whether regulated by the Commission or not, and the industry have clarity on how to proceed forward with the development of customer-facing programs that help California achieve its energy and climate goals.

IV. CONCLUSION

The Council appreciates the Commission’s effort to provide the market with certainty on the topic of Fuel Substitution. The Council looks forward to seeing the adopted decision, implementing the changes, and continuing to refine the rules as necessary to ensure California achieves its climate and energy goals.

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Respectfully submitted,

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⁷ Opening Comments of BayREN, at p.3; Opening Comments of NRDC/Sierra Club, at p. 8-9

⁸ Opening Comments of BayREN, at pp.3-4; Opening Comments of NRDC/Sierra Club, at p. 9