Notes from Energy Efficiency Coordinating Committee Meeting #6

5/19/2016 9:30AM to 4:30PM Location: PG&E's Pacific Energy Center
Meeting Co-Chairs: Lara Ettenson, NRDC, Meghan Dewey, PG&E
Facilitator/Notes: 2050 Partners
Meeting materials can be found at this location: http://www.caeecc.org/#!blank-37/ijqvj

Notes: Presentations are generally not summarized in these notes. Please see presentation slides on www.CAEECC.org website for context. Lack of attribution for meeting participant comments is intentional by agreement of Coordinating Committee.

Welcome and Background – Ted Pope
- Usual protocols: members of CC have priority for discussion; there will be time for public input as well.
- Safety message – Brandi Turner
- Will post draft notes within about one week of meeting; please notify us if there are any changes. We will post final notes a week later.
- Introductions
- Objectives for the day – reviewed agenda

Standing Topics – Ted Pope
Any new issues? [No comment.]
Facilitator proposed 2 potential issues:
- From Codes & Standards Subcommittee meeting, discussion about how local governments are actively developing reach codes and PAs admitted challenge in keeping up with what everyone is doing around the state
- From Industrial Subcommittee meeting, a lot of discussion about Custom Review process and need for task force; any interest in stakeholder discussions with ED to try to enhance that process?
- No comments on potential issues

Question: Will we be able to know who task force members are? For any task force.
Response: We don't have a formal process for identifying members of a task force but all task force issues will be included in the Comparison Document and interested parties will be listed (pro, against, neutral). We can discuss further.

Session 1: ED's Conflict of Interest Guidance – Lara Ettenson
- Providing highlights of ED conflict of interest guidance. [*See slides*.]
- Want to make sure we are all on the same page and asking questions where unclear.
- Guidance addresses potential concern that there could be discussions during subcommittee meetings that may benefit implementers.

- We expect to be able to mitigate potential issues while talking about Business Plans because we can keep discussions at a high level.
- We need to create a process during Implementation Plan process so that we can continue to get valuable input and information from implementers but avoid potential conflicts.
- ED has proposed to address potential conflict by listing all members at subcommittee meeting and including attribution to comments.
- Next steps: CC will develop a process to comply with potential conflict of interest, discuss with ED lawyers, and revise as needed.
- With new schedule for filing of Business Plans, we have time to deal with this.

Comment: CEEIC raised this several months ago. Commission authorized this process and directs that market actors should be included in the process – but also need to set up systems to prevent self-dealing and other violations of statute. CC needs to come up with process for dealing with this – CC needs to come up with a process to protect the system. Need to protect against compliance officers and implementers who might lose out of a bid against complaint of undue influence.

Comment: Endorsing CC task force or working group that proposes plan to the Commission. It will not be that hard to do. Meeting notes are comprehensive.

Comment: I assumed that the fact that the process is transparent would be sufficient, and apparently that is not enough.

Comment: (from program implementer) We have great concern with the guidance document. I am involved with the process because I want to understand how policy effects our customers. Questioning whether this is more of a PA problem.
Response: No, it is everyone's problem. We want CC to present proposed process solution to our legal.
Question: On page 3, "CPUC may wish to consider ordering the Committee to incorporate this control into the Coordinating Committee and PA contracting process." What does that mean?
Response: If CC refuses to come up with process to follow guidance, then CPUC may need to impose controls on CC.
Response: These pieces of guidance were written by legal. Commission always has authority to control CC. Boundaries require compliance with state contracting law.
Response: As an implementer, I'm really concerned about this. I spend a lot of time trying to participate and understand this. If there is any issue about conflict of interest, then I need to step out of the process. This document is vague and unclear. There is no definition of "market actor." If process is to be open and transparent then we can't leave.
Question: Can implementers be part of setting up the process?

Comment: These meetings are public meetings so it is difficult to understand the conflict issue. There is also an issue regarding enforcement. It would be good if we can come up with

"guidance" for PAs. Local governments have procurement guidelines that they have to follow. I don't see how we can override local government procurement process rules.

Comment: I want clarity as well. Sounds like the issue has more to do with conflict in processes of PAs. Or is there something else?
Response: As I said at the beginning, PAs should have processes in place to prevent self-dealing in contracting. If we wait until contracts are signed, it will be too late. Commission is involved with the process and signed off on this. We have PAs' backs on this. Commission created this. We collectively need to come up with a process that satisfies Commission and legal so process is in compliance with state contracting law.

Question: Will lawyers be available to participate in task force?
Response: CPUC legal team will probably be available to answer clarifying questions.
Question: And also confirm what law they are relying on?
Response: Yes.

Comment: It is very difficult to know what we can do at this point. Where notes are taken at a meeting, does it mean that I am not conflicted because notes are taken and everything is public or conflicted since I have attribution to a comment?

Comment: This violates the whole purpose of why we are here. This does not seem like the business of our committee. Seems like it should be work of Commission and its attorneys. This is counter to the whole idea of non-attribution. We need to resolve this quickly or I'm out!

Comment expressing agreement with prior comments. Commission needs to clearly and quickly articulate its concerns.

Co-Chair Comment: Understanding is that the CPUC's concerns is that they will be on the hook legally if an implementer feels the process was not fair and/or led to advantages for those implementers who were involved. To address this, CPUC has asked CC to come up with a process so there is a bright line. What is not clear is how to address it.

Comment: This process can be analogized to system for evaluation contractors. They are not allowed to participate in studies that they might bid on later. It is not just about putting implementers' ideas into Implementation Plan but also knowing what will be in the RFP so that implementers know what to put in their bids.

Comment: Currently the Commission has addressed conflict of interest in existing portfolio between EM&V and implementers. Maybe we can look to that for guidance. Maybe implementers can set up firewalls within the companies. We are considering administration and outsourcing of implementation. We can also consider managing potential conflict of interest with potential bidders for RFPs. There should be some guidelines for RFPs.

Comment: (responding to comparison of this process with evaluators) These processes are distinctly different. Currently, there is a public process for choosing evaluator, but the firm has a direct hand on the product. The resulting study is not public. It would be a direct conflict to then bid on the program after the study. The CC process is very different. This process is very public. PAs are the ultimate decision makers about what goes into their Business Plans. Implementers are not writing the PAs' Business Plans. Federal procurement process looks much more like this process.

Comment: I agree there could be a potential conflict but confirming need for input from public in this process. We do want clear lines going forward. Distinction between what is in the BP, how we break out market sectors, what we will put out to bid and next step: Implementation Plans. Feels like this is an easy line to specify.

Question: Are local governments also considered implementers?
Response: Yes.

Comment: We really appreciate your setting up process to get this resolved soon. I have a long list of questions – If I can help by sending them. Will send list of questions to Facilitator (see addendum to notes)

Comment: The guidance document does not address just implementers but "market actors" which could include everyone in the room.

Comment: I agree with almost everything said so far. I want to reinforce that we are choosing to invest time into this process. I am really concerned about the guidance. Until this is resolved, third party implementers need specific guidance about when they might be straying into conflict.

Question: If someone participating in this process as a representative of a PA wants to move from PA to implementer will they be barred by conflict of interest policy?

Question: In terms of Implementation Plans and conflict, is there a threshold conflict regarding PAs deciding which programs will be done by them and not bid out? At least in the case of SoCalREN, LA County as administrator has hired consultants to assist in drafting Implementation Plans. Does the conflict of interest directive imply that Program Administrators can only use their own staff (and not third party consultants) to draft Implementation Plans?
Response: I will not answer any individual questions. We are identifying this issue. It is not a huge issue but it needs to be resolved by attorneys. Questions need to be grouped and vetted. Some questions may need to be submitted to CPUC legal. This is a public process. I can't imagine that someone can't show up and listen. Commission is directing this process and we want to make sure that it will work!

Comment: The guidance document refers to those who "participate" so maybe we can't even show up and listen.

Comment: Endorse clarification as a committee, and recommending immunity for participants until issues resolved.

Co-Chair Comment: I think guidance is directed to IPs, not BPs. Should not be a significant issue now because we need to stay high level for BPs.

Question: Are we talking about Subcommittee meetings, as well? Issues are still in place.

Facilitator Question: I think there are fairly straightforward and simple solutions. What are the next steps?
Co-Chair Response: Leadership is committed to this process. We need PA lawyers and reps to get together with Ted and Lara to come up with proposed process. Anyone else interested in joining?
Response: I will look at whether implementer can participate in setting up plan?
Based on this discussion, "participate" and "market actor" may have been loosely used.

Session 2: Content of BPs v IPs and Number of Metrics in BPs – Lara Ettenson
Issue: How do we get enough information in BPs to support strategies, but not too detailed so seems like IP? [*See slides*.]

Question: Are we asking PAs to include policy analysis of each issue and how it relates or just making sure strategies align but don't need to explain in BP?
Response: Good question – This is the kind of thing that we need to clarify. How much analysis should be required?

Questions: Where do you stop? What is the list? Directive is unclear. I can see "don't be in conflict with legislation" but there is so much legislation and it is changing all the time so you can't tell PAs that they can't be in conflict with any legislation. We can tell PAs that they need to comply with all legislation.

Co-Chair Comment: What we are really expecting PAs to do here is tell the story of why they selected a strategy. There was a gap in an area and now we need to do something to address it. There should also be descriptions of near, mid and long term strategies, and evidence supporting these strategies.

Questions: Can PAs coordinate statewide issues?
How do they work in Cross-Cutting?
Are programs and strategies synonymous?
How much proof is sufficient?
Does professional opinion count as proof?
What is the line?
What are we talking about in terms of legislation?
Is it a complete list?

Question: In guidelines, how does requirement for long, mid and near term strategies translate in terms of quantitative analysis?

Response: There are certain things PAs need to do over the next 5 years to achieve their stated goals. PAs should be able to provide a road map of what they expect to do to achieve those goals, and then provide more detail on an annual basis.

Further response: Decision *dicta* speaks to a number of these issues. We don't want fluff. We want everything tied to data and evidence. Our goal here is a prevent rejections. We are trying to spell out things we are looking for.

To answer a previous question, if you are looking at long term contracts, there will be a lot more you can say about programs that will run for longer periods of time than those programs that will run for a shorter term. Make sure you are speaking to issues raised in current EE market.

Comment: Application requires cost effectiveness. PAs have been struggling with how much detail is required for each year.

Response: We know that we can't hold you to cost effectiveness for the next 5 years. We understand how cost effectiveness works. But you need to show us that the portfolio will be cost effective in the long term. Best way to start is with 2017.

Further discussion regarding timing for Advice Letters and budgets. Advice Letter due September 1, for 2017. September 1 advice letter should be added as appendix to BPs. We are in transition period here. Note transition arc in Advice Letter. You should be creative about how you handle longer term ranges on sector level. You can probably fix by giving ranges with more flexibility rather than less. You can also "PFM" the issue.

ED staff and other reviewing parties love appendices. You will file your annual budget for 2017. Reference budget in Business Plan – even if not yet approved. Use tables and appendices when necessary. Reasonable to address programs and attach appendices regarding programs that you have used in the past and what you anticipate using in the future. Appendices are a great way to clarify.

We do not want to see all programs. Just reference certain programs – high level

Question: A lot of rules don't come into effect until BPs are approved. Does Annual Budget Advice Letter need to be filed before BP is approved?

Response: Current rules apply until BPs are adopted and Implementation Plan process is in place. There still needs to be a filing for 2017 program funds.

Comment: There was no filing in 2016 for 2017.

Response: CPUC will provide formal direction on that.

Question: With regard to long-term goals, are we still talking about market transformation? If so, then speak to how near and mid term market strategies address ultimate goal of market transformation. Under 2c (page 5) "coordination of statewide efforts and cross-cutting strategies" – Can CC address this?

Co-Chair Question: Can we use this forum to discuss statewide consistency? I presume PAs will address this to make consistent. Are you asking for discussion among CC?
Response: PAs need to be in ongoing coordination discussions.

Discussion re Number of Metrics in BPs. [*See slides summarizing guidance.*]

Comment: CPUC decision does not require any particular number of metrics. There is an element of trial and error in determining the right number and type of metrics. In addition to framing what they want, guidance is trying to eliminate fluff.

Facilitator Question: Does anyone feel a need for a lot of consistency between conceptual indicators?
Response: (from PA) If we agree to use certain metrics and we are wrong that will be bad. Use of metrics needs to be open to margin of error.
Response: Maybe there should be a place for open discussion among PAs. If they can use the same metrics then it is easier for readers, the Commission, etc. But they should not be required to use same metrics if they feel strongly about using something else.
Response: (from PA) We should be able to use different sector metrics depending on the focus. Whatever PA chooses to do on sector side will depend on what they use for their metrics. We should not use metrics unless applicable to sector.

Co-Chair Comment: Flexibility is important. Metrics need to be relevant.

Facilitator Comment: Indicators are non-binding.

Question: Can we agree on what we mean by near and long term?
Response: Numbers are not included for a reason. We don't want to put every thing is a box. Near term is basically a year. Mid and long term is based on the "life" of a program. Also looking at value based on "life" of a program (technological life, market life, customer adoption life). Analysis should be contextual.
Response: There is no definition for near, mid and long term. PAs should work on developing their own definitions of near, mid and long term.
Response: There are also differentials between programs in different territories.
Response: There were some time frames (for these terms) included in the checklist.
Response: Those are rough guidelines.

Comment: PAs should have expertise for what should go in BPs and what are appropriate metrics. I would also like to see what the mitigation plans are if expected metric isn't met. With pay for performance contracts, it would be helpful for utilities as administrators to stop projects that aren't working.
Co-Chair Response: I thought issue of what to do with failing programs would be addressed by subcommittees and Coordinating Committee in year 2.

Response: The idea is that there are reasonable expectations that some programs will not go as planned. The administrator working with the implementer should have mitigation strategies for what to do if things don't go as planned.

Comment: If PAs see something that is a great opportunity to GHG reduction but terrible TRC, they should still put in the program.
Co-Chair Response: Or they can raise issue at CC and we will put in our Comparison Document.

Comment: We talk a lot about metrics of programs, but what about metrics of performance for administrators? Possible bases include contracting processes, ability to make changes, how well the implementation industry works with them.

Question: On topic of BPs tying in other proceedings, including metrics for energy demands and GHG, how can we measure?
Response: We have been wrestling with silo-ed proceedings. There is a lot of policy around cost effectiveness. Demand is one of the energy savings goals. We are trying to flag that there will be a need to find offerings that cross different demand-side resources. We don't want to be oblivious to that. We recognize that issue and need to connect the dots. We want ideas from PAs about how to do that.

Session 3: Do we really have a one year program cycle?
[*Deferred for another meeting*.]

Session 4: CC Topic Task Force Updates

Separating the Roles of Energy Efficiency Administration from Implementation and Related Issues – *Margie Gardner*
Document provided is a work in progress based on ongoing conversations with interested parties. Disregard table; it is not final.

There are exceptions to the overall proposed rule:
- If administrators want to implement, they need to do an RFP. If RFP is unsuccessful, then PA can implement if able to show it is best fit for the job.
- REN, CCA, local governments and local government partnerships: If cumulative budget reaches 20% of overall portfolio budget, then need to re-examine. Until then, exempted.

Outstanding issues:
- How do we move from where we are today (at least 20% out-sourced) to full portfolio?
- How quickly?
- What does it look like?
- How do you evaluate after it has been running for a while?
- How do we define what is "administration" v "implementation"?

Anyone who is interested, please join us. We are meeting by phone.

Question: Where does this go next?
Facilitator: Primary objective is to narrow issues. Ultimately, most issues will end up in Comparison Document. Individuals can take issues to Commission in litigated process after BPs are filed. We intend to capture issues for Comparison Document, the point of which is to represent different view points for issues. Comparison Document will be sent to Commission.

Question: When is the litigated proceeding?
Co-Chair: BPs will be filed and then other parties have 30 days to file formal comment. The Commission has encouraged us to get going on these issues so that history is established for phase 3.

Comment: thanking task force for its work on this issue. We do not want budget limit defining administration to be set at 10% (page 4). We think that number can be driven down as implementation gets better, more efficient. We support expectations to be included in RFP.
Response: The concept is that the PA could choose to say, for example, this upstream program has been working well, we have very clear parameters for the program, and want to bid it out; or PA can ask for best ideas for improving a market segment (eg. hospitals) and request bids for programs that address market.

Comment: regarding 10% administration issue: Program may be more costly based on type of program, especially new programs and certain programs that require a lot more administration.

Comment: To the extent that something is bid out, what the vendor is doing is mostly implementation. Program administration manages the contract and the RFP. We should be able to get a clear idea of cost basis for programs.

Question: I'm assuming this discussion will be in Comparison Document. Does that mean that the PAs do not have an obligation to respond and resolve the issue?
Response: I think there are issues that PAs may not incorporate in their BPs.

Comment: Consider indicators or non-binding metrics (i.e., reduced costs, higher TRC, reduced customer burden) in the proposal.

Comment: It would be helpful to auditors for synthesized administration of metrics for all PAs.
Question: Would it help to set a metric that is budget rather than definition? For example, did the PA file for less than 10%?
Response: Auditors look to the Commission for direction. They don't really look at what is filed. 10% cap is for administration. You need to take time to do due diligence on defining nomenclature. It would be beneficial if everyone is using the same definition of "administration." Even if you don't have a threshold, you should still use a consistent definition. May be able to review audits for relevant definitions.

Comment: If we want to go definitional route, someone needs to do work to help define terms. Or we could use rule of thumb (10%).

Comment: Definitions are in the Policy Manual (administrator, marketing, direct administration).

Comment: re exception for RENs and CCAs: I don't see rationale for exception for RENS and CCAs.

Response: A lot of language was submitted by task force members. I decided maybe we didn't need rationale since it is such a small amount of budget. We can add arguments if we need to.

Response: Administration issue at programmatic level, doesn't really matter. At program level, it is all included in the costs and everyone wants to drive down costs. With regard to the issue of how IOUs are different from others, the State granted monopoly position to private corporation and instituted CPUC to regulate that. CCAs and RENS are local governments and are beholden to public policy. CCAs and RENs are not driven by profits but public policy goals. It is appropriate to have different set of controls over them.

Comment: We are all tasked with administering rate payer funds. We should all be held to same standards.

Comment: Just because CCAs and RENs have a different credo doesn't mean they automatically implement better. Other issues still need to be considered.

Comment: If rationale is that CCAs and RENs have better connection with community, that might be a better rationale for difference in treatment.

Comment We were proposed to work with local governments and approved because of connection: with local community.

Question: What is the process for the Comparison Document? When were we going to be done with proposals?

Response: No answer right now given new schedule for filing BPs. Proposals need to be done before Comparison Document is drafted.

Margie Gardner: We will have another meeting on this subject. Please let me know by email [mailto:mgardner@efficiencycouncil.org] if you want to participate.

Coalition for Energy Efficiency Proposals – Bernie Kotlier

Simplification
- We are proposing this for awareness (in terms of participants and contractors, there is a low level of awareness of programs, they are difficult to understand, there are too many programs, programs overlap) and reducing confusion between programs. Increase in efficiency is also a main reason for simplification of programs.
- We want to reduce large number of regional programs to a number based on market segments.
- Proposal calls for PAs to be able to establish local programs. For each of the market segments, PAs would provide certain information (market characterization, target

metrics, budgets, etc). Based on that information, PAs would submit initial scopes for work which would be approved by the Commission.

- Proposed schedule included.

- Major reasons for bidding are to utilize markets' talent for creativity and to bring greater efficiency into the system.
- Reduce number of programs, based on market segments, statewide with some local programs (with justification). Each program would have one third-party implementer. Co-funding from other IOUs or PAs.
- Process: [*See proposal*.]

Independent Evaluator
[*See proposal*.]

Question: Can you give an example of type of program that is appropriate for statewide administration?
Response: Lighting efficiency program. Lighting is consistent statewide. Under proposal, marketing, outreach, etc. would be handled by one statewide administrator.

Question: What would criteria be for who would qualify as statewide administrator?
Response: Yes, there would have to be criteria.
Co-Chair Response: Criteria about what would qualify as statewide programs would also be helpful.

Question: (Regarding need for independent evaluator). Is there bias somewhere that is not obvious?
Response: We are talking about good government. It seems like an independent evaluator is needed where so much money is spent on administration.

Comment: We endorse value of independent evaluator. Independent evaluator would review the process to make sure it is fair. Independent evaluator would review what is being proposed and give thoughts about how it looks in terms of overall goals. To the extent there would be a protest, everyone would know what issues are up front.

Question: Would independent evaluator look at all [500] bids and provide evaluation of those?
Response: No.

Question: We are already hiring PAs to do this job. Why do we want another layer? Is there a way to do this without adding another layer? If this is an issue of poor process, it doesn't make sense to add another layer. Also concerned that this proposal might slow down the overall process. Maybe we need to look at other options, like random sampling, etc.

Comment: Concern about adding independent evaluator to the process. What problem are we trying to solve here? Can't we just do a sample of random bids? Maybe we can set up best practices and then spot check to make sure following procedure.

Question: How would the process work with a single administrator?
Comment: Energy procurement people go through several steps. The utility notes what type of energy it will need and puts out bids. Evaluator looks at what is being proposed for bid and makes sure bids are asking for what utility is looking for. Then various bids are received. Evaluator looks at bids to make sure the bids meet needs of utility.
Response: We are not talking about an audit. We are not talking about every single project. We are talking about some sampling of projects. We are not talking about holding anything up.

Question: Does each step need to be approved by the Commission?
Response: No. If there is something that is particularly concerning, there should be a process to raise the issue and other parties can weigh in.
Comment: PAs do not want to be required to do another filing for CPUC approval.

Question: Right now Advice Letter is only sent in for new programs. Does proposal for bidding require another Advice Letter?
Response: Good question. This is a grey area that needs further clarification. We'd be happy to receive comments from interested parties but Coalition will decide ultimately what it wants to propose.

Comment: Another big issue is clarifying the difference between PA and IOU. We are happy to receive comments on what is appropriate.

Coalition default position: Any program that could be statewide, should be statewide. We recognize that there are programs that shouldn't be statewide but PA needs to justify that. There has been some discussion that there may be sector programs that should be bid out together either because they work well together or implementer covers well. We need to work more on defining these cases. We are not necessarily proposing that bids be done in one large block.

Comment: The next versions of proposals should include: 1) what Coalition is trying to solve, 2) what the scope of work is for the evaluator, and (3) a fleshed out version of how the process would work for each proposal, taking into account questions that came up in conversation.

Comment: I'm confused about proposal to reduce number of programs. Call to reduce to statewide programs but then allow some local programs sounds like what we already have. How is it simplified by going to statewide plus local programs?
Response: There are dozens and dozens of programs that are not statewide but very similar. To start the process, Coalition proposes to merge programs that are very similar or the same.
Comment: there are differences in these programs. I'm not sure one statewide administrator solves the issue. Can PAs decide that there is a better way to implement similar programs?

Question: How do you envision this working? How do programs work together in the market place where statewide programs and local programs are also run by CCAs and RENs?
Respone: It is more difficult to apply this to RENs and CCAs. It is easier to give examples for IOUs. It is not efficient to have three sets of administrators for programs that are virtually the same. Proposal assumes that every program that could be statewide should be statewide.

Comment: There has been an evolution over time about "statewide-ness." There may be three different programs that seem the same but each has a local nuance. It is important to have nuance at local level even for statewide programs.
Response: It is our view is that some of the local nuances should be streamlined. This will make it easier for contractors. Contractors working in different areas need to comply with separate rules, file separate documents, etc.
Comment: The proposal offers a fundamental shift in the way programs are being administered.
Response: That is correct.

Comment: It would be helpful if we discuss how coordination gets done around the state. There has to be some way of sharing credit among the PAs.

Question: How do you deal with contractors on statewide basis?
Response: It doesn't have to be a statewide contractor. There can be a local smaller contractor dealing with the challenge. There will still be a lot of local programs even if we are able to get statewide programs. We just want to consolidate programs that are so similar to avoid confusion and make portfolio more efficient.

Comment: We have similar programs that are administered by different PAs. There are differences in how PAs administer programs based on market.

Comment: IOUs have been working on thoughts about this issue. We believe there are some economies of scale to be had with a statewide administrator. We see 4 scenarios:
1) Single IOU manages the program: pretty noncontroversial, low touch (e.g., lighting)
2) Where program is similar statewide, it can be administered by one program administrator statewide
3) Statewide umbrella framework, delivered locally, same consistent rules set across statewide. Implement locally
4) Hyper-local focus – everyone does their own thing.

We hope that as we move forward in program planning we will find economies of scale.

Co-Chair Question: What are the next steps? Please refine these proposals so we have a better understanding of requests.

Comment: Other PAs would like to be included in these discussions.

Comment: Coalition should highlight issues it is trying to resolve and identify the programs at issue so PAs can address in BPs.

Question: Which simplifications is Coalition looking to be addressed in BPs? Should there be an expectation around that?
Facilitator comment: It is not clear that all questions and concerns will be addressed in BPs. Some of these issues maybe not be addressed until IPs.

Comment: Maybe Coalition can identify market indicators so we can track progress over time.

Comment: It would be helpful to get an understanding that it will be cost effective to use independent evaluator. Keep in mind that the scope of the EE portfolio is on the order of a several hundred million dollars where as IOUs expenditures are a magnitude more on energy procurement contracts. So, even though it has been pointed out that such an independent evaluation function is provided in the context of energy procurement contracting, there is a much larger overall budget to support that function as compared to the EE contracts.

Session 5: Comparison Document Planning – Lara Ettenson

We are working on the following documents: [*see table*]
- Comparison Document: essentially a table of issues, includes different issues, rationale, and supporters by name
- CC Letter of Issues: putting on record issues CC thinks the Commission needs to address (examples: controls)

Lara Ettenson will start drafting but ultimately everyone needs to read and confirm that they are accurately represented.

Question: Can you identify during which stage an issue was raised?
Response: The stage doesn't really matter. We are capturing issues in each stage to include in Comparison Document and CC Letter of Issues. If there are issues that aren't included on this list, need to submit to CC.

Request to include greenhouse emissions on the list of issues.

Comment: I'm struggling with the difference between submitting input to facilitator, and then getting those issues moved into the realm of the Comparison Documents and CC Letter of Issues.
Co-Chair Response: Every issue raised and input submitted is included on issue tracker. We will use issue tracker when we are reviewing draft Business Plans. If an issue in the issue tracker is not included in a draft Business Plan, we will ask PA for a response to why that issue was not addressed in Business Plan. Comparison Document submitted to Commission will include all issues that have been raised at CC but not resolved in Business Plans. CC Letter of Issues will include issues we all recognize need to be addressed but can't resolve yet.

Facilitator: The process for moving issues into CC Letter of Issues is not perfect. We are looking for CC themes. We have another spreadsheet called CC key topic list. We will also include issues raised at Standing Topic time in CC meetings. Contact Facilitator directly about issues that don't seem to have been picked up yet in the summary documents.

Co-Chair Comment: Comparison Document will get filed by PAs with their application – unless there is a request for an alternative format to get it on the record, this seems the easiest way. For each issue, it will include proposal, who supports proposal, counter, and who supports counter. The filing of the CC list and comparison document does not mean the PA agrees with everything, it means that the PA agrees that the document is representative of what was discussed up until the filing.

Question: Does Comparison Document need to be on the record?
Co-Chair Response: Yes. One of the reasons we have participated in this process is that we can rely on Comparison Document which will allow us to limit comments to Commission after BPs are filed. This is a more streamlined process for everyone involve.

Comment: agreement with benefit of streamlined process.

Question: What is the process for missing issues?
Co-Chair Response: We need to come up with deadlines for comments.

Comment: We'd like to add workforce standards to issues for July CC meeting.
Co-Chair Response: That is #5 on the list. We can address at next meeting. The current procedure does not preclude additional proposals.

Session 6: June/July CC Process Discussions – Ted

Looking at schedule for CC meetings; proposal to:
- Cancel June 8
- Keep one day in July – maybe July 12 or 13
- New deadline for Stage 3/4 draft Business Plans

Comment: It will probably be very difficult to limit BPs to 20 pages per chapter. Thinking more like 30-50 pages. Cross-cutting will be different.
Comment: PAs want to make sure content is correct. Can cut back on length if possible once content is good.
Co-Chair Comment: Reminder to include appendices.

Facilitator: How does new time line affect actual process?
Comment: This is the part where PAs really need to be taking issues raised into account. The more time PAs can work on BPs, the better.
Comment: MCE is planning to update its BP based on feedback received through process.

Comment: NRDC agrees to need for more time to draft BPs.

Comment: I feel extreme frustration with this process. I'm not happy with further delay.
Comment: We endorse continuation of current strategy.
Comment: I think we are talking about August for draft BPs. We don't know what the August decision will say. Maybe 2 potential dates … We are trying it implement sweeping changes. We PAs need more time to do that.

Co-Chair Comment: Perhaps we can get drafts earlier for issues that don't rely on decision, and set date for issues that rely on decision for later in August. Almost everyone has started draft business plans for Stage 2. Is it beneficial to keep date and add one more?
Comment: Keep July meeting, and kick back time line moderately. Better for everyone.
Comment: For July meetings maybe PAs can provide all high level strategies. Decision on AB 802 could completely change everything.

Comment: Some of these issues may need to be addressed in subcommittee meetings.

Comment: At this point, the next thing that is produced should be as straightforward as possible; close to the whole picture. I do not want to rush to another deliverable. We need to provide a quality document.

Co-Chair Question: A lot of issues in AB 802 are already addressed in BPs. How is AB 802 going to dramatically change BPs?
Response: It is possible that a decision to set net goals could change everything.
Comment: I am frustrated. This process has already been going for several years. I already thought deadlines were pushed out too far. I don't think we should push out further. I think it will be useful to see drafts so we know where things stand. Don't want the first time we see something in writing in August.
Co-chair response: There have been a number of opportunities to see products, we have over 100 public stakeholder comments on drafts thus far. We had stage 1 gaps, the last stage 2 just ended showing what the problem statements were and possible strategies for addressing them. It's not a fair statement that August would be the first time anyone sees anything on paper.
Comment: We have only been doing this since January.

Facilitator Comment: I understand desire of PAs for more time. But it doesn't make sense to move due date back more than two months. I am concerned about stakeholders having enough time to read all the Business Plans.
Co-Chair Response: How about early August for meeting? And third week of July for draft BPs being posted?
Comment: Nobody wants to delay the process. If there is any place to give more time to work, this is it so we can give best proposals.

Co-Chair Comment: *We will cancel June 8 meeting; set CC meeting in July; draft BPs will be due around third week of July; and schedule CC meeting around second week in August.*

Comment: The 13 Coalition members want to maximize time to review Business Plans once they are submitted.

Co-Chair Comment: Let's do a master schedule including proposals for closing down discussion comments

- Public Comment Period
- Workforce will be discussed at next CC meeting
- July will be in Northern California
- August will be in Southern California

Public Comment Period

Comment: If this keeps rolling forward and we are never getting anywhere, maybe we require PAs to submit 4 year portfolios. At what point do we admit this process has not worked?
Response: I have had reservations and concerns about this process from PA perspective. But brand new processes take time. We have come this far. We need to give it more time.
Co-Chair Response: I agree. A lot of benefit of this process will be in year 2 and year 3.

Comment: I'd like to make a plug for EM&V stakeholder meeting on June 14.

Comment: We are still excited with rolling portfolio but happy to discuss end date for process at some point.

Comment: Conversations in IDER proceeding may impact what is cost effective.

Comment: I want to support position of getting earliest possible look at Business Plans and to try to work with PAs for cooperation. I don't see this as an adversarial process. I also want inclusion of workforce standards on agenda for next CC meeting.

Comment: I think that was a pretty good meeting.

Question: Are we bridging right now or rolling?
Facilitator Response: We are not in a one-year cycle. We are in rolling cycle.
Co-Chair Response: We are rolling. We have funding until 2024.

Facilitator Comment: PAs should not be telling implementers that they can't write a program for more than one year.
Comment: PAs are in holding period. Some contracts might be one year – some are three. This might continue for a few years as we move out of this holding period.
Question: When are we going to be out of the holding pattern?
Co-Chair: It is our understanding that 2017 is basically status quo.

Comment: This is the first time we have opportunity to file application for additional funding. It is like a bridge year but it is different because we can ask for additional funding.

Comment: If we pick up topics like this at next CC meeting, maybe PAs can write out what they are thinking. It would be helpful for them to explain more about their positions.

Question: I would like clarification as Co-Chair of a subcommittee about whether I will be precluded later from bidding on projects as implementer, especially in the sector for which I am co-chairing subcommittee.

Co-Chair Reponse: It shouldn't be a conflict b/c it's at the subcommittee level and the issues are more at the implementation plan level.

Question: Are there going to be more subcommittee meetings?

Co-Chair Response: Currently, none scheduled. We have advised subcommittee Co-Chairs to talk to PAs before they schedule anything.

Addendum (added July 6, 2016)

May 27, 2016

The Efficiency Council's members would like clarity on the boundaries and basis for preventing a conflict of interest when individual companies participate in the Coordinating Committee, Subcommittees and Work Groups. We're asking for clarity so individual implementation and evaluation companies can protect their independent status and not participate in discussions that would create a conflict.

We appreciate the need to prevent conflicts, as well as the expressed desire to have input from key market actors, including implementation and evaluation companies. Once the rules are clear, everyone can abide by them, and we offer these questions as an avenue to create deeper understanding of the what, how, and why.

Thank you in advance.

1. The CPUC Guidance document from May 2, 2016 indicates, "market actors should not participate in any conversations related to the development of implementation plans" (IPs).

   a. Does "participation" mean listening in to a public meeting where IPs are discussed, and therefore listening would create a conflict?

   b. Does "participation" mean speaking at a public meeting where IPs are discussed, and therefore speaking would create a conflict?

2. If a company attends a public meeting and says something about IPs that is put in the record/minutes (as suggested in the white paper), does this mean they have no conflict and can speak/participate freely?

3. Do the rules apply to other meetings that are not part of the Coordinating Committee? Examples include a) HOPPs webinars, b) CPUC workshops, c) meetings of IOUs and their vendors.

4. The guidance document asks that agendas separate the material of the implementation plans into a separate section. Is full participation in the non-IP-identified sections of the agenda OK, and then the answers to question 1 above would apply to the IP-sections of the agenda?

5. Are RENs and CCAs market actors who might have conflicts under these rules? Sometimes they are perceived as implementers.

6. We seek clarity on the basis for the conflict of interest that the Commission has identified. We are not aware of any specific state law that applies to the perceived conflict of interest that could arise for market actors and would like to request a citation to those statutes or pertinent case law. We are inferring from the guidance that the Commission thinks that a market actor would have an inside track and therefore an

advantage in preparing any bid to an IOU because they have been made privy to information upon which the bid is based, e.g. through attendance at a CAEEC meetings. The heart of the issue is whether and what information the parties receive by attending, listening to, and/or commenting at a CAEECC meeting that gives them an advantage over other bidders. Every CAEECC meeting is publicly noticed to the same universe of parties that the CPUC includes in its notices. There is a website that includes all agendas, meeting presentations and summaries. Please clarify where the advantage or disadvantage is created.

    a. What is the legal basis on which the guidelines are built?

7. Are market actors who work on CPUC contracts for various programs also conflicted since they have an inside track for altering programs?

8. We're not clear how someone offering an opinion who has no power or authority over any aspect of an RFP or program design should not participate public meetings that affect their business interest?

9. If a utility staff person participates in the development of an IP and then later moves to work for an evaluator or implementer in a capacity for a program that they influenced while at the PA, would the new company be conflicted? If so, would this restrict employment opportunities?

10. Who makes the decision in the end that "company x has a conflict"? Is it the CPUC staff, commissioners, or PAs? Whoever it is also needs to be responsible for the rules, and on ensuring they're understood and followed.

11. *Comment*: We would appreciate it if the Chairs/facilitators of the Coordinating Committee and subcommittees could be responsible for alerting meeting participants whenever a potential conflict situation is arising. The Chairs/facilitators will have a much better sense of the rules than the large number of attendees from companies who only attend occasional meetings and whose expertise lies more in implementation and evaluation than in conflict rules. We suspect the guidelines were trying to get at this when they asked for an entity that is responsible for ensuring the boundaries are maintained, and we'd like to see this clarified further.