

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 EFFICIENCY + DEMAND MANAGEMENT COUNCIL ON  
ADMINISTRATIVE LAW JUDGE'S RULING SEEKING COMMENT ON MARKET  
TRANSFORMATION STAFF PROPOSAL**

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MARKET TRANSFORMATION STAFF PROPOSAL**

**I. INTRODUCTION**

The California Efficiency + Demand Management Council<sup>1</sup> (the “Council”) is pleased to submit our comments in response to the Administrative Law Judge’s Ruling Seeking Comment on Market Transformation Staff Proposal (the “ALJ Ruling”), issued on August 29, 2018, in the Energy Efficiency Rolling Portfolio proceeding (R.13-11-005) pursuant to Rule 14.3 of the California Public Utilities Commission’s (the “CPUC” or “Commission”) Rules of Practice and Procedure and the ALJ Ruling. We very much appreciate the thought Staff has devoted to developing the Staff Proposal attached to the ALJ Ruling, and its intent of unlocking efficiency value for California’s energy customers.

Our responses to the questions posed in the ALJ Ruling are presented in Section III, below, and include the following observations and recommendations:

- CPUC Staff is to be commended for the thoughtful, creative approach embodied in the Staff Proposal.
- Stakeholders should be included in developing ideas for market transformation initiatives from the outset, and in subsequent steps of the process.

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<sup>1</sup> More 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.

- The Commission’s increasingly market-based approach to energy efficiency should be more clearly adopted in market transformation, including enhancing the role of third-party providers in developing and implementing market transformation initiatives.
- The relationship of the market transformation process to the rolling portfolio process needs clarification. We believe these processes should be carefully integrated to maximize energy efficiency benefits, as well as attract investment.
- Cost-effectiveness must, at a minimum, be assessed over the full life cycle of the products and services targeted by market transformation initiatives, including codes & standards phases. Cost-effectiveness metrics must reflect all of the direct and indirect benefits to achieving the Commission’s energy system objectives, not just the avoided cost of generated energy supply.
- A comparative analysis of market transformation deployment in other jurisdictions, similar to the Commission’s approach with the Customer Choice Green Book, would aid in further developing the Staff Proposal.
- The Staff Proposal represents a strong start to the development of a market transformation framework, but much work remains to be done before it is ripe for Commission review and adoption. We look forward to working with Commission Staff and all other stakeholders to build on the Staff Proposal’s foundation.

## **II. BACKGROUND**

The Council is a statewide trade association of companies that provide efficiency, demand response and data analytics products and services in California, other than utilities. Our mission is to support energy efficiency and demand management policies and programs for all Californians to create sustainable jobs, long-term economic vitality, stable and reasonably priced energy systems, and environmental improvement. The Council has been active throughout this proceeding, commenting on numerous occasions.

## **III. COMMENTS ON THE ALJ RULING AND STAFF PROPOSAL**

The Council has long been an ardent supporter of market transformation and believes that California could greatly benefit from adopting a market transformation approach. The Staff Proposal has much value to offer, and clearly reflects a great deal of research and considered thought. We believe the effort to develop a model of market transformation that will further

California's historic energy efficiency accomplishments, in the context of our rapidly changing energy system, would likely prove a worthy investment. Market transformation can, and should, significantly contribute to achieving California's ambitious energy and climate goals.

While we commend and support the staff's initiative, a significant amount of work remains before the proposal would be ripe for the Commission's consideration and adoption. Our comments include identification of several areas that would benefit from deeper discussion with Commission Staff and stakeholders. We strongly recommend a series of those discussions as a constructive next step in further developing the preliminary approach outlined in the Staff Proposal. The Council looks forward to collaborating with Commission Staff and all stakeholders to build on the foundation established by the Staff Proposal.

#### **IV. RESPONSES TO QUESTIONS IN THE ALJ RULING**

**1. What are the best characteristics of the market transformation framework in the Staff Proposal? What attributes are the most valuable and should be retained?**

The Council is most appreciative of the initiative and ingenuity demonstrated by Commission Staff, including staff's effort to create a framework that has the potential to capture benefits from emerging technology and systems. While the framework is innovative, its staged approach remains largely consistent with successful market transformation efforts, such as that implemented through the Northwest Energy Efficiency Alliance. The focus on stakeholder involvement in the Staff Proposal is also particularly commendable; it should be enhanced by involving third parties at the outset, when potential market initiative targets are first identified.

**2. Do you agree with the staff recommendation to begin the development of market transformation initiatives initially separately from the business plan portfolios? Why or why not?**

It is not clear to the Council how the development of transformation initiatives could realistically be kept separate from the rolling portfolio process, without causing untenable interference that could degrade each process. We believe, through close and well-considered coordination and integration, market transformation and the business plan portfolio approach can be synergistic. Absent clear ties that benefit both approaches, we are concerned the market transformation process would create uncertainty in the rolling portfolio solicitation process, chilling bids as well as needed investment in efficiency. Careful management and oversight will be necessary to ensure both processes have sufficient overall resources for success, and to avoid spreading public and private resources too thin at any one time to achieve meaningful progress.

**3. Do you agree with the budget limit of \$12 million per PA for operations outside of the business plan portfolios suggested in the Staff Proposal? Why or why not?**

The Council believes that, while \$12 million per Program Administrator (“PA”) would provide appropriate seed money to begin developing the market transformation process, it would fall far short of the amount necessary to fully initiate a successful process. The scope of work that this initial funding is intended to cover is not fully clear from the Staff Proposal. We suggest, once the market initiative proposal has been more fully fleshed out with engaged stakeholders, that the PAs work to provide indicative budgets for each stage of the process. These indicative budgets would create a reasonable basis for assessing budget limits for each stage.

**4. Should there be a limit to the time period for how long market transformation initiatives may operate outside of the business plans before being integrated with the overall portfolio? If so, what is your proposed time limit? Explain your rationale.**

The Council believes that a “one size fits all” time limit for market transformation initiatives would be unwise. The characteristics of market transformation initiatives targets will likely vary significantly, especially given the potential application of emerging new technologies. Deadlines for market transformation initiatives are important to ensure reasonable progress and avoid endless expenditure on initiatives that fail to achieve results, but the appropriate time limit for each initiative should be addressed through the process of in which it is developed and approved.

**5. Do you support the Staff Proposal elements with respect to cost-effectiveness? Why or why not? Describe in detail any changes you would suggest.**

The Staff Proposal’s cost-effectiveness elements are among those most in need of deeper consideration. First, it is essential that the value of efficiency in the ultimate codes and standards phase is incorporated in the cost-effectiveness assessment. To avoid deterring initiatives that would yield valuable energy savings throughout the entire lifecycle, the measure’s lifecycle costs should be weighed against the measure’s full lifecycle value. Savings in the codes and standards phase will likely never be realized if the initial investment in prefatory stages is not made; perversely, the risk of failing to achieve a high cost-effectiveness rating that solely counts prefatory stage savings would preclude otherwise cost-effective initial investments.

Second, and on a more overarching note, market transformation will be implemented during a time of revolutionary change in the overall energy system. Multiple studies, including a

June 2018 study performed for the California Energy Commission,<sup>2</sup> recognize that substantially increased efficiency and flexible demand are critical to achieving California’s carbon goals at reasonable cost, saving tens of billions of dollars on the efforts needed to attain 2030 and 2050 targets.<sup>3</sup> These savings estimates are based on the comparative cost of achieving climate goals through other means, rather than the avoided cost of energy from generator-based supply, and are but one example of the cost savings efficiency can provide as the energy system undergoes the many major changes ahead.

The avoided cost of generated energy, which is already a poor metric of the true value of energy efficiency’s contributions to the energy system and the Commission’s goals, can be expected to have decreasing relevance as our energy system changes. In the near future, overall energy system cost will increasingly be driven by reliability, transmission & distribution, as well as by climate, equity and other policy goals. Cost-effectiveness in this future environment should be determined on the basis of a resource’s contribution to all of the energy system’s needs and policy objectives, rather than avoidance of the cost of generated energy alone. This is particularly important for market transformation initiatives, which would achieve maturity within this very different energy future.

**6. Do you support the concept identified in the Staff Proposal for Market Transformation Accords? Why or why not? Describe in detail your suggested improvements.**

The Council agrees that the Market Transformation Accords approach makes sense in concept. Many aspects proposed for the Accords would benefit from further consideration and stakeholder discussion. For example, the concept that certain assumptions should remain static

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<sup>2</sup> Mahone et al, “Final Project Report; Deep Decarbonization in a High Renewables Future” (June 2018)(prepared for the California Energy Commission’s Energy Research and Development Division).

<sup>3</sup> See discussion id. at pp. 58-61.

may be justified when considering historic energy sector circumstances, but may not be an appropriate fit for future environments in which the energy sector and the nature of many of its key players are very different than today.

- 7. The Staff Proposal includes an allocation of funding for market transformation planning efforts. In some cases, such planning efforts may fail to produce a workable Market Transformation Accord. Should spending on such planning efforts be subject to separate budget caps or time limitations? If so, what should those limits be and why?**

The Council reserves comment on this question at this time.

- 8. Do you agree with the Staff Proposal's recommendations with respect to the interaction with statewide and third-party program requirements in the business plan portfolios? Why or why not?**

We believe that this is an area that requires further discussion. It is far from clear to us how the proposal envisions the interaction of statewide and third-party program requirements, as the proposal seems internally inconsistent on that score. As noted above, we strongly believe that the potential for market transformation and the rolling portfolio process to interfere with each other's ultimate success is very high, absent in-depth consideration of how they should be integrated to maximize efficiency results.

The Council strongly supports the Commission's increasingly market-based approach to energy efficiency, which is integral to the rolling portfolio process now being launched. Consistent with the Commission's overall approach, market transformation should rely on competitive processes to the maximum extent practicable to drive increased performance and decreased price.

- 9. Do you support the Staff Proposal recommendation for how to conduct evaluation, measurement, and verification on market transformation initiatives? Why or why not?**

The Council reserves comment on this question at this time.



**10. Comment on the Staff Proposal’s discussion of milestone-based performance assessments.**

The Council generally supports the concept of milestone-based performance assessments, and believes they should play a central role in market transformation deployment. To avoid premature determination of failure or success, and to incentivize program design for long-term benefits, milestones should be tailored to specific levels of maturity, using metrics and indicators appropriate to the relevant stage of assessment. In general, interim milestones are best designed in conjunction with the design of the initiative itself, while ultimate goals should be uniform across different initiatives.<sup>4</sup>

**11. Do you support the Staff Proposal’s recommendations for the administrative aspects of management of the Initiatives, particularly in Section 5 on procedural approach? Why or why not?**

The Council reserves comment on this question at this time.

**12. Are there other ways (besides those represented in the Staff Proposal) to engage and leverage stakeholder expertise effectively? If so, describe them.**

The Council strongly recommends opening the initial identification of potential market transformation initiatives to stakeholders with efficiency expertise, rather than, as the proposal appears to suggest, having the involvement of those stakeholders begin by responding to initiative ideas proposed by the Program Administrators. The expertise and creativity of the range of stakeholders engaged in efficiency is itself a particularly rich resource in California, and one that should be mined for ideas from the outset. As noted above, the Council also recommends that market transformation follow the Commission’s preference for market-based

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<sup>4</sup> Note that this is not intended mean that the ultimate goals of all initiatives should be the same; rather, the intended range of goals for market transformation should be determined in advance, and initiatives selected in accordance with their likelihood of contributing to one or more of those goals.

approaches, including enhancing the role of third-party providers in developing and implementing market transformation initiatives

**13. Are there characteristics of market transformation initiatives that are not sufficiently embodied in the framework described in the Staff Proposal? If so, describe them and suggest ways these characteristics can be integrated into the framework or requirements.**

The Council was very appreciative of the presentations at the workshop. Based on the information discussed at the workshop, the Council believes a more detailed examination of the experience of the Northwest Energy Efficiency Alliance, as well as other market transformation processes that have been implemented or are being considered, is merited. A comparative analysis of market transformation approaches, similar to that undertaken by the Commission in its recent customer choice Green Book, would benefit further development of the Staff Proposal as well as its consideration by stakeholders and the Commission.

**14. Are there elements in the Staff Proposal that are missing or unclear? Describe.**

While the efforts by staff are commendable, initial efforts such as these are often less than fully complete or consistent. We are concerned about several elements that appear missing, internally inconsistent or simply less than clear, including:

- The relationship between market transformation initiatives and the business portfolios throughout the market transformation initiative lifecycle
- The preventive measures to be taken to ensure launching market transformation does not chill interest or investment in the business portfolio approach. As the Commission has often noted in multiple contexts, regulatory certainty and stability is key to successful energy markets. With the widely anticipated transition to the business portfolio approach well underway, care must be taken to ensure market transformation development does not undermine the rolling portfolio solicitation process.
- A reasonable projection of potential savings and other energy system benefits that may be achieved through market transformation initiatives, which is essential to determining the appropriate investment of time and resources.
- The relationship of the market transformation initiatives to achieving the doubling of energy efficiency by 2030 intended by SB350.

- The relationship of market transformation initiatives to achieving the Commission's climate and other energy system objectives.
- The extent to which the market transformation process would incorporate third-party expertise and perspectives at each stage.
- The extent to which the market transformation process would incorporate competitive processes to decrease price and increase performance.
- The scope of initial market transformation initiative development intended to be funded by the first \$12 million allocation.
- As not all market research targets and initial transformation proposals are likely to mature into actual initiatives, the extent to which simultaneous, parallel exploration of multiple alternatives would be supported.
- The extent to which the use of superior alternatives to Delphi, when they are available, would be supported.
- The extent to which national efficiency initiatives, in addition to regional initiatives, could be incorporated into or coordinated with market transformation initiatives.
- The extent to which the scope of the Market Transformation Development Plans overlap with the scope of the Market Transformation Accords is confusing and appears to introduce unnecessary burden and complexity to the process.
- The elements of the Accords intended to be binding, and those intended to allow flexibility to adjust to changing circumstance, are not clear.

**15. Ultimately, do you recommend that the Commission adopt this framework, or a version of the framework with your suggested modifications described in answers to the above questions? Why or why not?**

The Council reiterates its support of market transformation, and its appreciation of the time, thought and effort that Commission Staff have devoted to the proposal. We believe California's energy system would benefit from implementation of a market transformation approach. As a first attempt to describe a market transformation approach for California, the Staff Proposal has much to commend it. However, the Council believes a great deal more work needs to be done to develop the Staff Proposal, as discussed above. In short, the framework is too preliminary for the Commission to consider adopting it. We look forward to working with Commission Staff and other stakeholders to help develop a framework, and a record supporting it, that the Commission could appropriate consider.

**16. Include any other comments or recommendations not covered by the above questions.**

The Council has embedded its additional comments and recommendations in response to prior questions.

**V. CONCLUSION**

The Council appreciates this opportunity to provide its responses to the questions posed by the ALJ Ruling, and its comments on the Staff Proposal. In summary, the Council recommends:

- Any market transformation initiatives must include stakeholder input throughout the entire process.
- The role of third-party providers in developing and implementing market transformation initiatives must be clearly defined, and the opportunity to meet needs through competitive processes should be maximized.
- The market transformation process and the rolling portfolio process must be carefully integrated
- Any cost-effectiveness approach adopted for market transformation initiatives must be assessed over the full life cycle of the products and services, and must reflect all benefits that the products and services provide to the energy system.
- A comparative analysis of market transformation deployment in other jurisdictions, similar to the approach that the Commission took with its Customer Choice Green Book, would aid in further developing the market transformation framework.
- The Staff Proposal is at a preliminary stage that is not yet ripe for Commission adoption, but it offers a strong start to a well-developed market transformation framework that would advance the Commission's energy system objectives.

The Council again commends Commission Staff for their dedicated hard work, creativity and thoughtfulness. We look forward to working with staff and with all stakeholders to build on this foundation.

Respectfully submitted,

October 5, 2018

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