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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)

RESPONSE OF PACIFIC GAS AND ELECTRIC COMPANY (U 39 M) SAN DIEGO GAS & ELECTRIC COMPANY (U 902 M) SOUTHERN CALIFORNIA EDISON COMPANY (U 338 E) AND SOUTHERN CALIFORNIA GAS COMPANY (U 904 G) TO ADMINISTRATIVE LAW JUDGE'S RULING SEEKING COMMENT ON MARKET TRANSFORMATION WORKING GROUP REPORT

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ADMINISTRATIVE LAW JUDGE'S RULING SEEKING COMMENT ON
MARKET TRANSFORMATION WORKING GROUP REPORT**

Pursuant to the April 10, 2018 Administrative Law Judge's Ruling Seeking Comment on Market Transformation Working Group Report ("ALJ Ruling"), San Diego Gas & Electric Company ("SDG&E"), Southern California Gas Company ("SoCalGas"), Southern California Edison Company ("SCE") and Pacific Gas and Electric Company ("PG&E") (collectively, the "Joint IOUs") submit their responses to the questions raised in the ALJ Ruling.[1]

I. OVERVIEW

The Joint IOUs appreciate this opportunity to provide their responses to the ALJ Ruling's questions and additional comments to the Market Transformation Working Group Report ("MTWGR") regarding the identified non-consensus issues. The following are highlights from the responses provided to the questions below.

[1] In accordance with Rule 1.8 (d), counsel for SoCalGas has been authorized by SDG&E, PG&E, and SCE to sign and file these Joint Responses on their behalf.

A. Utility Administration of Market Transformation Initiatives ("MTIs")

The Joint IOUs should be the Market Transformation Administrators ("MTAs"). As discussed in the MTWGR, the existing IOU Program Administrators ("PAs") are naturally positioned to support MTIs.[2] The IOU PAs are administrators of the rolling portfolio and owners of the business plans, and have experience administering resource acquisition (RA) programs, meeting goals, achieving savings, reporting and having solicitation structures in place that would benefit Market Transformation ("MT"), and ultimately increasing energy efficiency ("EE") savings towards meeting SB 350 EE goals.

B. Cost-Effectiveness Methodology and Thresholds

While establishing a cost-effectiveness threshold is an important element in the MT framework, it is first necessary to determine the method by which cost effectiveness will be calculated. Both the method and threshold should be established before any solicitation for MTI proposals is launched.

C. MTI Budgets

The Joint IOUs recommend that the budget allocation for MTIs be incremental to the currently authorized budget levels within the EE Rolling Portfolios. As the CPUC Staff Proposal and MTWGR notes, MTIs are unique and often must act on significantly longer time horizons in order to achieve high levels of savings and cost effectiveness.

D. Coordination between Rolling Portfolio Programs and MTIs

Coordination of the Rolling Portfolio and the MTIs should be managed through a Rolling Portfolio Coordination Plan, such as that described in the Staff Proposal (see Appendix E of the MTWGR).

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[2] *See* Attachment A of Ruling, pp. A-29 – A-32.

E. Adjustments to Rolling Portfolio Goals and Budgets to Accommodate MTIs

Should an RA program need to be reduced or closed to avoid interfering with an MTI, the MTI Plan should contain an estimate of the reduced Rolling Portfolio savings goal and lowering of the Total Resource Cost test ("TRC") that would result from removing the savings potential of the RA programs impacted by the MTI. Those savings would no longer be within PA control. Acceptance of the MT Plan would be considered Commission recognition that the savings potential associated with the relevant RA programs may be negatively impacted. The impacted PAs should be allowed to file a Tier 2 advice letter to make necessary adjustments to its portfolio to account for this change in its portfolio.[3]

II. RESPONSES TO ALJ RULING QUESTIONS

1. Please comment on the overall energy efficiency market transformation framework suggested in Attachment A and other consensus recommendations in the report. Should the Commission adopt this framework? Why or why not?

Response: The Joint IOUs have worked together with other stakeholders to create the recommended Market Transformation framework presented in the MTWGR. Overall the framework provides the Commission with a structured plan to develop MTIs using third party implementation. Although the general framework is reasonable, the Joint IOUs identify important issues throughout these comments that the Commission should address prior to moving forward with market transformation activities.

[3] Attachment A of Ruling, pp. A-20 – A-21.

2. What concerns, if any, do you have about the market transformation framework as proposed in the MTWG report? What aspects would you modify? What aspects would you keep?

Response: The California definition of MT includes two routes,[4] one ending in a code or standard (top-down MT), and another ending when the particular market intervention is no longer needed due to reduced market barriers (bottom-up MT). The MTWGR framework does not address MTIs that attempt to change a market bottom-up. Bottom-up MTIs may successfully transform the market without resulting in a code or standard, and the adopted framework should contain enough flexibility to accommodate these two routes.

The framework proposed in the MTWGR primarily details processes for oversight and approval of top-down market transformation activities that end in codes or standards, but does not provide guidance on the actual objective of MT, nor the prioritization of MT versus other EE portfolio activities. The Joint IOUs propose that clear, accepted criteria can alleviate ambiguities on objectives and priorities (see Question 8 below).

3. Comment specifically on your preferred resolution of the first non-consensus issue identified in Attachment A (see pages 24-31) with respect to the appropriate choice for Market Transformation Administrator. Parties may also propose other alternatives, if there are administrative models that were not discussed in the report, but should be considered.

Response: The Joint IOUs support the MTWG's proposal for existing PA administration of MT. Specifically, the Joint Utilities support having IOU PAs be the MTAs. As discussed in the MTWGR, the existing IOU PAs are naturally positioned to administer and support MTIs.[5] The IOU PAs are administrators of the rolling portfolio and owners of the business plans, and have experience administering RA programs, meetings goals, achieving savings, reporting and

[4] D.09-09-047, pp. 88-89.
[5] *See* Attachment A of Ruling, pp. A-29 – A-32.

having solicitation structures in place that would ultimately benefit MT.[6] Synergies exist between RA programs and MTIs that the IOU PAs are best fit to address. For example, MTIs can dovetail with RA programs at certain stages to accelerate change. Therefore, it is vital that MTIs complement IOU PAs energy efficiency portfolios.

As administrators of EE portfolios, the IOU PAs can ensure ongoing coordination between MTIs and RA programs. As MTAs, IOU PAs are able to more easily identify gaps in the market and customer coverage in existing EE programs that can be considered when assessing MTIs. Further, IOU PA administration can ensure energy efficiency programs are not adversely impacted by MTIs. IOU PAs have the ability to ensure that throughout the development of MTIs, synergistic implementation of existing and new third-party RA programs and MTIs occur. As the IOU PAs position the portfolios to achieve the 60% third-party program requirements, MTIs must avoid impacting incoming RA programs. The IOU PAs are well-positioned to play a lead role in identifying similarities and evaluate whether, and to what extent, proposed MT initiatives may overlap. Similarly, each IOU PA has the unique ability to ensure collaboration to enhance outcomes by leveraging and co-promoting other demand-side management offerings.

Administration of MT by IOU PAs will ensure continued CPUC oversight on the planning and execution of MTIs. Pursuant to the Senate Constitutional Amendment No. 13, Cal. Stats. 1945, and the Public Utilities Code, the CPUC has full authority to regulate and oversee the IOU PAs. This authority includes ensuring compliance milestones, goals, reporting requirements, and cost-effectiveness requirements that may be placed on MTIs. Ratepayers

[6] Attachment A of Ruling, p. A-30.

would be best served if the Commission is able to directly regulate MTAs and ensure that any requirements placed on MTIs are met and are a prudent use of ratepayer funds.

Administration of MT by IOU PAs will ensure transparency, collaboration and accountability. As described in Attachment A, the proposal for existing PAs administration directs IOU PAs to utilize their current third-party solicitation frameworks as part of their administrator role. The IOUs have spent the better part of a year building their solicitation structures to be transparent and collaborative, which includes a number of interested stakeholders in the procurement review group ("PRG") and a pool of independent evaluators ("IEs") with EE expertise. The Commission should utilize this structure where possible. To ensure transparency, collaboration, and accountability, IOU PAs will utilize their existing pool of IEs to conduct initial assessments of all MTIs presented, and seek input and recommendations from their PRGs throughout the bidding process. Additionally, IOU PAs will be required to work closely with a Market Transformation Advisory Board in the review and evaluation of proposed MTIs.

4. Comment specifically on your preferred resolution of the second non-consensus issue identified in Attachment A (see pages 36-38) with respect to the cost-effectiveness threshold that should be required for market transformation initiatives? Parties may also propose other alternatives.

Response: While establishing a threshold is an important element of establishing an MT framework, it is first necessary to determine the method by which cost effectiveness and codes and standards (C&S) savings will be calculated. Both the method and threshold should be established before any solicitation for MTI proposals are launched.

The Joint IOUs concur with the CPUC Staff Proposal and reaffirm that a 1.5 TRC forecast cost effectiveness threshold is the most appropriate threshold out of the two options considered for each MTI. Holding MTIs to a higher forecasted TRC threshold than the Rolling Portfolio (1.25 beginning in 2023) is appropriate because MTI cost effectiveness will include

C&S savings (as proposed in the MTWGR) in initiatives where C&S applies, whereas C&S benefits and costs associated with the Rolling Portfolio are reported separately. If the Commission determines that C&S benefits and costs should be excluded from MTI cost effectiveness, then a 1.5 TRC should be revisited, and potentially reduced to match that of the Rolling Portfolio.

A higher forecasted TRC for MTIs is also appropriate because MTIs are inherently more prone to the risks associated with the uncertain dynamics of intervening in markets over a longer time horizon, as compared to the typically more short-term endeavors reflected in the Rolling Portfolio. It is important to note that two or three California Energy Commission ("CEC") code cycles will have completed within the duration of a typical MTI. Therefore, it is important to approve MTIs that are expected to have continued value across code cycles. A higher forecasted TRC will be one mechanism by which only the most promising MTIs – initiatives that have a higher likelihood of transforming markets and continued value in helping the State meet SB 350's goals of doubling energy efficiency – will be authorized to proceed.

5. To what extent can current cost-effectiveness tools and methods fully evaluate market transformation initiatives that would result in codes and/or standards? If current methods are insufficient, please comment on the two options outlined on page 35 of Attachment A, and include any other recommendations on this topic.

Response: The cost effectiveness proposal outlined in Section 7, pp. 42-48 of Attachment A cannot fully account for savings from MTIs that would result in codes and/or standards, in part because the current regulatory framework does not allow all savings from the statewide C&S advocacy program to be claimed. Current CEC code provides customers with different ways to comply. However, savings can be claimed only by a subset of code activities.

The MTWGR is therefore also limited in its ability to fully evaluate and claim savings from C&S advocacy activities as a result of the current restrictive C&S framework. This is unfortunate because MTIs may provide great value to the effort to reduce GHG emissions by supporting MT around both advocacy and non-advocacy activities, including compliance options, prescriptive requirements, parallel paths, and reach codes. The C&S program already offers customers support in all these MT activities, but the current regulatory framework does not allow the C&S program to claim those savings.

Until new regulatory and evaluation frameworks are created to allow the C&S program to fully claim those savings, it is unlikely that these savings can be attributed and claimed by MTIs. This limits MTIs to a subset of advocacy activities in order to strive for overall cost effectiveness. The Joint IOUs recommend that the regulatory and EM&V framework for calculating and claiming savings from all advocacy activities in the current C&S program be addressed jointly by the CEC and CPUC, and then incorporated into the MT framework.

6. Should a budget allocation to market transformation be incremental to the rolling portfolio budgets, or should a portion of the energy efficiency rolling portfolio budgets be redirected to market transformation? Why?

Response: The Joint IOUs recommend that the budget allocation for MT be incremental to the currently authorized budget levels within the EE Rolling Portfolios. As the CPUC Staff Proposal and MTWGR notes, MTIs are unique and often must act on significantly longer time horizons in order to achieve high levels of savings and cost effectiveness. A separate budget allocation will also allow MTIs to operate outside of the Rolling Portfolio's current accounting processes and procedures, which are designed to support short term resource acquisition programs and cost effectiveness. To be successful, MTIs must be granted latitude to adjust to market conditions as necessary and focus on long term goals.

7. How much should the initial funding allocation be for market transformation, and for what duration?

Response: Each individual MTI is unique to its scope and timeframe, and therefore, the Commission must ensure flexibility in MTI deployment. The Joint IOUs have no specific funding allocation in mind, but to support the MTWGR's proposal to mirror the CEC's Food Production Investment Program and set a not-to-exceed budget for authorized MTIs.[7]

8. How should the coordination between resource programs and market transformation initiatives be managed?

Response: While not explicitly discussed in the MTWGR, the Stage Gate model offers a method to continuously review the need for coordinating between resource programs and MTIs. In the early stages of development and vetting, the MTA will be able to determine whether an MTI concept can successfully become code and transform the market. The MTA will also obtain baselines, a projection of MTI/code savings over time, along with other information necessary to calculate cost effectiveness. The MTA can compare the project savings and costs of the MTI against those of any resource program and thus make the business case for any MTI that would achieve savings sooner and/or more cost effectively than the resource programs. The stronger business case should prevail.

Overlap between MTIs and resource programs can also be managed at the outset by clear direction from the Commission on the objectives and purpose of MTIs. Clearly, accepted criteria would be used to delineate and prioritize intake ideas that are best suited for an MTI (e.g. measures with low cost effectiveness and/or low market uptake) versus those that are more appropriate for a resource acquisition intervention strategy (e.g. reducing financial barriers for measures that are already cost-effective). Setting clear criteria that is anchored to specific

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[7] Attachment A of Ruling, p. A-40.

objectives for MTIs would help to avoid any duplicative or counterproductive activities, such as prematurely ramping down a currently cost effective resource acquisition program before savings from the MTI can replace those lost savings. Clear and accepted criteria from the outset will help promote a balanced portfolio of both resource acquisition and market transformation intervention strategies working together.

Additionally, coordination between programs would be managed through a Rolling Portfolio Coordination Plan such as that described in the CPUC Staff Proposal (see Appendix E of the MTWGR). If the MTI includes elements in an existing RA program, PAs would present a Rolling Portfolio Coordination Plan that demonstrates support from, and coordination with, all related RA programs. This plan would offer a deemed free-ridership rate or Net-to-Gross ratio for the resource programs for an interim period. This plan should present a schedule and process for updating free ridership assumptions and for phasing out the resource programs altogether over the longer-term, in sync with the progress of the Market Transformation Initiative.

Lastly, the CAEECC framework offers a viable approach to coordinating RA program and MT overlaps in the following excerpt from the MTWGR:

> *"Should a RA program need to be 'ramped down' to avoid interfering with an MTI, the MT Plan should contain an estimate of the reduced Rolling Portfolio savings goal and lowering of the Total Resource Cost test (TRC) that would result from removing the savings potential of the RA programs impacted by the MTI. Those savings would no longer be within PA control. Acceptance of the MT Plan would be considered Commission acceptance that the savings potential associated with the relevant RA programs will be removed from the PA Portfolio savings goals, and that any concomitant reduction in the TRC is also acceptable."*[8]

[8] MTWGR, pp. A-20 to A-21.

a. Would a cooperation agreement between market transformation initiatives and resource programs be useful?

Response: As noted above, a mutually agreed upon Rolling Portfolio Coordination Plan will be enough documentation in lieu of a cooperation agreement. A Rolling Portfolio Coordination Plan is developed by the MTA and program administrators about existing RA programs. A cooperation agreement that tries to constrain future third-party programs and proposals would likely stifle innovation.

b. What should be the required and modifiable terms of such an agreement?

Response: The Joint IOUs support a cooperation agreement that the program (whether MT or RA) presenting the best business case for achieving a Commission-defined priority (e.g. delivering the largest cost-effective energy savings in support of SB 350, in the shortest period of time) would be given funding *after* the conclusion of existing implementation contracts.

9. Once a market transformation initiative is approved, what should be the process for updating or amending key terms (e.g., metrics, milestones, targets, schedules, and savings methodologies) during implementation?

Response: The stage gate process detailed in the MTWGR framework provides natural gates at which MTI progress is reviewed by a MT Advisory Board. The MTA will have an opportunity at those gates to propose new metrics, milestones, targets, etc. that reflect any changes in market dynamics.

10. If a market transformation initiative, once approved, begins to perform poorly:

a. How will the Commission become aware there is a problem?

Response: If the Commission approves the IOU PAs as MTAs, the Commission will have increased transparency through a number of different opportunities throughout the process of onboarding MTIs. First, the Commission will be aware of MT issues through Commission

Staff's involvement in the PRG. The working group report proposal to have IOU PAs as MTAs will require IOUs to utilize their existing PRGs to which the Commission has directed that Energy Division be a part of.[9] Similarly, the Commission can participate in the market transformation advisory board which will review all MTIs and provide MTAs with recommendations throughout every stage of the process. Further, the Commission will have the regulatory oversight to review and approve MTIs, MT plans, and their associated budgets.

b. What should the process be to determine if a market transformation initiative with questionable performance should be amended or terminated?

Response: MTWGR has a brief discussion on this issue, Stage 7- Transition or Sunset MTI. The determination of success, require adjustments, or termination, should be driven by the implementers ability to meet the approved metrics for the MTI. For additional discussion, please refer to response to Questions 9 and 10a above. To formally terminate an MTI, a Tier II advice letter should be required.

11. The MTWG report references "financial commitments to the target market(s)" (see page 17) and a market transformation plan that "solidifies a commitment to the market and relevant actors" (page 18). What kinds of commitments should a market transformation initiative make to the market(s) and market actors? What kinds of commitments are not appropriate, if any?

Response: MT relies on trusted long-term relationships with a market and its actors because of the long-term nature of the program objectives, and the typically front-loaded nature of the financial investment. Commitment to the market is critically important because it provides that market with the confidence to engage and invest in the activities and products necessary to start that long journey towards the ultimate goal of MT.

[9] *See* D.18-01-004, Ordering Paragraph 3.

The market will typically make EE products or equipment available if there is a level of assurance that there will be customer programs that will promote the EE product (not restricted to a specific manufacturer or brand). Currently, it can be observed that EE products promoted by EE administrators have increased accessibility to customers through the availability of rebates, incentives or "marked down" prices through contract arrangement with manufacturers or distributors. In order to encourage markets to create or make EE products available, they need some level of certainty that there will be programs to promote the products either through marketing and education, but more importantly some type of incentive either to the manufacturers/distributors/retailers or to customers. The approval of specific MTIs alongside the program timeframe would signal to the market to work with the program implementers to determine what specific products are required.

Additionally, commitment to a market means that MTAs will be active in that market until the long-term goals are achieved and, potentially, even after MT has been achieved in order to avoid backslide. In more specific terms, commitment early in the stage gate process might mean incentives for a geographically restricted market test or developing testing methodology and/or specifications. During the market development stage, commitment could mean statewide incentives based on market penetration goals with multi-year program budget, along with workforce education and other market barrier-removal activities.

While the MTIs must be agile in responding to market movements, it is the stability and certainty of the PAs, and willingness for long term engagement with market actors, that is crucial for success.

12. Are there other issues not addressed in Attachment A that the Commission should consider as part of its decision establishing a framework for energy efficiency market transformation?

Response: The MTWGR framework primarily details processes for oversight and approval of MT development and continued implementation, but does not provide needed guidance on the actual objective of MT nor the prioritization of MT versus other EE portfolio activities. As recommended in our response to question 8, clear objectives and criteria for MT at the outset will help to mitigate overlap issues between Resource Acquisition and MT initiatives.

III. CONCLUSION

The Joint IOUs look forward to the Commission's approval of the proposed non-negotiable and negotiable terms so that the Energy Efficiency program solicitations can move forward in an expeditious manner.

Respectfully submitted on behalf of SoCalGas, PG&E, SDG&E and SCE,

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