



Memorandum

To: Interested California Technical Forum (Cal TF) Stakeholders

Re: Commission language on non-DEER workpapers

From: Alejandra Mejia, Cal TF

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Background

The Cal TF will be an independent body of experts that will issue savings estimates and other technical information related to California's energy efficiency portfolio. Ideally, Cal TF-issued savings values will be used statewide so that energy savings estimates are consistent across California. To enhance the likelihood that all California energy efficiency stakeholders use Cal TF values, it is important to understand, and to the extent possible, have Cal TF align with, California regulatory policies and guidelines for ex ante estimates. Three memoranda summarize California regulatory directives for ex ante value development:

1. CPUC policies on non-DEER workpapers.
2. CPUC policies on ex ante and DEER values. (see memo)
3. CEC policies and POU practices on ex ante value development, use and updating (forthcoming).

Overview

This memorandum summarizes California directives for non-DEER workpaper (WP) development, content, and review and approval process based on an analysis of Commission decisions from 2008 through the present. It also describes challenges that market actors still have with WP development. A detailed index of Commission language is attached. The memorandum concludes with a brief explanation of how the Cal TF supports the various policy goals the Commission has set forth for the non-DEER WP process.

I. The non-DEER WP process, 2008 through today

Until relatively recently, non-DEER WPs were submitted by utilities in their portfolio applications in a non-standardized fashion.¹ The format and content of the WPs submitted to support savings claims for measures not available in DEER varied substantially across and within utilities. In D.09-09-047 the Commission directed Energy Division (ED) to develop a formal review and

¹ November 18, 2009 ALJ Ruling in A.08-07-021, at 1.

approval process for non-DEER WPs,² and in D.10-04-029 provided further guidance on how the process should be conducted. These decisions and others repeatedly urge WP developers to use DEER values in WP development.³ Similarly, D.12-05-015 directed the IOUs to update their WPs with all applicable updated DEER values.⁴

The Commission has referred to non-DEER WPs and custom projects as the “second tier” of the ex ante deemed savings system. Non-DEER WP must be consistent with DEER, but the vast majority of savings are to be delivered by DEER measures and thus Commission staff is expected to invest a larger portion of resources in DEER oversight.⁵

II. Conflicts in the current process

As the Commission has endeavored to standardize the WP review and approval process, several problems have emerged repeatedly. The following section describes these conflicts and how the Commission has attempted to overcome them.

Uncertainty about responsibilities and performance of various parties

Non-DEER WPs were the utilities’ chosen tool for justifying the cost-effectiveness of measures not included in the DEER database. Therefore, the utilities own and are responsible for maintaining the WPs; however, reviewing and approving WPs for use in the utilities’ portfolios is ED’s responsibility. The Commission has repeatedly asked the utilities to make better use of the appropriate DEER values when developing non-DEER WPs.⁶ When faced with this directive, the utilities have asked for better guidance on WP development methods since 2009.⁷ To provide further guidance to utility WP developers, staff committed to publishing a standard workpaper template by the second quarter of 2010.⁸ In the ensuing years, staff has provided various guidance documents on DEER methods and requirements, including a recent fact sheet with a good high-level overview of the ex ante review process.⁹ However, the Uniform Workpaper Template and accompanying instructions on how to complete it are still not available.

Ongoing need for finality, certainty, and confidence in values

As with DEER savings estimates, freezing non-DEER WP ex ante values at the beginning of a new program cycle has proven to be a very contentious endeavor. Values were not frozen until

² At 44

³ November 18, 2009 ALJ Ruling in A.08-07-021, at 5

⁴ D.12-05-015 at 290

⁵ *Ibid.*

⁶ D.12-05.015 at 290

⁷ D.09-09-047 at 43

⁸ November 18, 2009 ALJ Ruling in A.08-07-021 at 5

⁹ *Ex Ante Review Fact Sheet #2: The Commission’s Ex Ante Review Process* found at <http://www.cpuc.ca.gov/NR/rdonlyres/7AF9D876-5439-463A-8C5E-0B21172CDA3E/0/ExAnteReviewFactSheet2Exanteprocess.pdf>

nearly two thirds of the way through the 2010-2012 cycle.¹⁰ These delays have led the Commission to commit to “streamlining the EM&V process and holding ex ante values constant for the purposes of measuring progress against goals.”¹¹

Despite the Commission’s directives, current practice has not resulted in “frozen” and consistent values throughout a program cycle. Limited resources have forced ED to only review High Impact Measures (HIM) and grant most other WPs “interim approval” after only a preliminary review. This arrangement is maintained only with the caveat that “interim approval” measures can be re-reviewed and rejected or modified at any point during the program cycle,¹² which is counterproductive to the Commission’s goal of holding values constant.

The contentious process of freezing values has not been made easier by the need for a process that yields accurate values in a timely fashion. Since 2008 the Commission has called for the use of the best available data and most recent published studies, a tighter loop between evaluation and ex ante value development, *and* for staff to balance accuracy with the IOUs’ need to “continuously augment the portfolios with new technologies that offer promise.”¹³ D.12-05-015 encourages staff to not let “the perfect be the enemy of the good” and to consider risk-sharing approaches when assigning ex ante values to promising new technologies.¹⁴

Difficulty with creating a collaborative process

At many junctures of the discussion over WP review, the Commission has pointed to collaboration as a possible answer to various needs. In the midst of the very contentious process of freezing ex ante values for the 2010-2012 cycle, the Commission directed ED to develop a WP review process within 30 days and specified that IOU input and collaboration was essential.¹⁵ The same order, and the ALJ ruling implementing the called-for review process, also asked for a system through which errors “mutually agreed-upon” by staff and the IOUs could be corrected after values were frozen.¹⁶ However, these calls for collaboration have often led to even more litigious back and forth between parties. For instance, only a year after D.09-09-047 instituted the new WP review process, the Commission was forced to intervene again and specify that their previous language did not grant utilities veto power over error correction.¹⁷

III. Cal TF offers a promising alternative

Meeting Commission directives for non-DEER WPs has proven challenging. The Cal TF emerges as a promising alternative forum for developing and reviewing non-DEER values. The

¹⁰ D.10-12-054, at 8-12

¹¹ D.09-09-047 at 9 and 303

¹² November 18, 2009 ALJ Ruling in A.08-07-021 at 9, and D.10-12-054 at 10

¹³ D.12-05-015 at 297

¹⁴ *Ibid.*

¹⁵ D.09-09-047 at 43

¹⁶ *Ibid* and November 18, 2009 ALJ Ruling in A.08-07-021 at 4

¹⁷ D.10-12-054 at 7-8

Cal TF is aligned with Commission directives about non-DEER WP development in the following ways:

- Uses an already established collaborative forum
- Institutes a transparent, well documented value development process
- Helps identify and makes use of the best available data
- Strikes a reasonable balance between accuracy, cost, and timeliness
- Streamlines the process and makes it more predictable

Each of these Cal TF attributes addresses one or more of the key difficulties that were highlighted by the regulatory analysis above.

Uses an already established collaborative forum

Despite the Commission's recurring calls for collaboration between staff and the IOUs, as well as consideration of public input, it has been difficult to implement this idea without complicating ED's final authority over ex ante values. The Cal TF will be a forum, separate from the CPUC process, where the IOUs, staff, and other parties can collaborate on value development before WPs go to the Commission for approval. This will help staff separate their mandate to collaborate from their responsibility for reviewing and approving final savings estimates. Furthermore, the Cal TF collaborative has been in development for nearly a year and it has already secured significant support from IOUs, POU's, industry, and other interested stakeholders across the state. The Commission and staff will be able to benefit from this already committed group of diverse parties without needing to invest any further resources on forging collaborative bonds.

Institutes a transparent, well documented value development process

The importance of transparency in the development of ex ante values is another recurring policy objective in Commission decisions. D.10-04-029, the order that put in place the current dispute resolution process while insisting that the Commission's first priority is to minimize formal disputes, goes on to explain that,

The best way to do so is to ensure open and full communications between [Commission staff] and IOUs, as well as transparency for the public. Avoiding misunderstandings, developing trust, and providing transparency should go a long way toward avoiding or resolving potential issues before there is a need to escalate to a formal dispute resolution process.¹⁸

The importance of transparency in the ex ante value development process is further explained in a report commissioned to Itron and J.J. Hirsh and Associates by the CPUC in 2005. According to the stakeholders interviewed for the report, "decisions on DEER values were often

¹⁸ At 30-31.

extremely challenging due to significant technical complexities and empirical uncertainties.”¹⁹ While this was written in an assessment of the DEER update process, the conclusions hold true for the equally complex development of non-DEER WPs. For that reason, transparency is one of the Cal TF’s guiding principles. All TF meetings will be open to the public, and will be recorded and made available on the Cal TF website. Majority and minority opinions will be documented and posted where consensus is not reached. Finally, all TF-approved values will be linked to the data and methods supporting those values, and Cal TF staff will develop a user-friendly, searchable website for storing the latest versions of those values and documentation.

Helps Identify and Makes Use of the Best Available Data

In the first document to outline the formal WP submittal and review process, ED specified that the utilities should “utilize the latest EM&V results and published studies at the time they are available in the development of measure workpaper data.”²⁰ While ED and its consultants have helped maintain California on the cutting edge of energy efficiency programs, the state must constantly strive to improve its data sources and methodologies to keep them from becoming stale. The Cal TF will bring together technical experts from across the country, as well as representatives from the state’s most active stakeholder sectors as PAC members, who will then inform the review process with the most cutting-edge data sources and estimation methodologies. These expert voices will help the EE community stay up to date in the constantly evolving field without adding any additional strain on the CPUC’s limited resources.

Strikes a reasonable balance between accuracy, cost, and timeliness

Per the discussion in the previous section of this document, the Commission is still attempting to find the optimal balance between precision and expediency in its WP review process. As was written in a recent decision on WPs,

We expect Commission Staff, in their review of utility proposed ex ante values for new measures, to balance the need for accurate ex ante values with the equally important need to continuously augment the portfolios with new technologies that offer promise... We also encourage the Commission Staff not to allow “the perfect to be the enemy of the good,” in general but especially in determining ex ante values for new technologies that offer considerable promise and (at its discretion) to consider “risk-sharing” approaches when assigning ex ante values to such measures.²¹

By providing an already established independent forum for prompt collaboration between stakeholders, IOUs, and staff, and more than 30 technical experts to peer review WPs, the Cal TF will help achieve the desired balance of achieving cost efficiencies without sacrificing technical rigor.

¹⁹ 2004-2005 Database for Energy Efficiency Resources (DEER) Update Study – Final Report (December 2005); Prepared for So Cal Edison, prepared by Itron, Inc. with assistance from JJ Hirsh & Associates

²⁰ November 18, 2009 ALJ Ruling in A.08-07-021 at 2

²¹ D.12-05-015 at 297

Streamlines the process and makes it more predictable

All together, the Cal TF contributions towards collaboration, transparency, cost efficiency, and peer-reviewed technical rigor will be available to help the Commission meet its oft-stated goal of “streamlining the EM&V process and holding ex ante values constant” throughout program cycles.²² The independent process will also yield values that are better understood and thus supported by a broader base of stakeholders—reducing contentiousness and further streamlining WP review and approval.

IV. Summary and Conclusion

Non-DEER workpapers are the “second tier” of the CPUC’s ex ante deemed savings system for portfolio planning and management. To date, it has been challenging to implement a collaborative process that allows all parties to work together without compromising the authority of Commission staff. The contentiousness surrounding non-DEER ex ante value development has put a strain on staff’s already limited resources.

The Cal TF will result in collaboration and transparency in the development of non-DEER WPs. It will help identify best available data, and yield technical rigor through its peer review process. Since Cal TF includes participation from all key efficiency stakeholders in California from the beginning of the non-DEER WP development process, it should reduce contention and disputes. Overall, Cal TF should help the Commission streamline and improve the complex process of developing non-DEER WPs, and better meet the Commission’s policy directives for developing ex ante values.

²² D.09-09-047 at 9 and 303

Non-DEER WP Language Reverse Chronological Index

D.13-09-023

- Directs staff to identify DEER and non-DEER values that are “sufficiently uncertain” (50% or more over- or under-estimated) by October 31st prior to each program year. Incentive payments associated with these measures will be subject to ex post verification; all other savings will be determined by ex ante values and verified installation rates (pg. 45-46).
- Adopts an EAR incentive mechanism to ensure WP quality and, at least in part, reduce ex ante/ex post discrepancies (pg. 63-64).

D.12-05-015

- Incorporating HVAC interactive effects into DEER means that similar effects should be included in non-DEER WPs (pg. 56).
- For WP development, the utilities will not have the option to replace DEER assumptions and values unless the staff agrees (pg. 290).
- Staff and the utilities must work together to identify each of the DEER values that have been updated and develop a clear procedure for applying the updates to relevant non-DEER workpapers. Staff has flexibility on how to interpret this directive (pg. 290).
- IOUs will update non-DEER WPs with the latest information available, which includes 2006-2008 evaluations, and not wait for future DEER updates. 2006-2008 results should also be used in the absence of existing DEER values (pg. 291).
- The Decision approving the Applications will approve any WPs not reviewed at that time, and staff may review those at any time following (pg. 292).
- “Conditional approval” designation for WPs is replaced with dispute resolution that ends on a wholesale Commission vote every six months (pg. 293-294).
- Non-DEER values are the second tier of the ex ante system. Staff is expected to spend more resources developing DEER estimates, since the majority of savings should come from those (pg. 296).
- Staff should balance the need for accurate ex ante values with the equally important need to continuously augment the portfolios with new technologies that offer promise (pg. 297).
- Staff is also encouraged to not allow the perfect to be the enemy of the good, and to consider risk-sharing approaches when assigning values to promising new technologies (pf. 297).

D.11-07-030

- Energy savings calculations for non-DEER energy efficiency measures are found in workpapers maintained by the utilities (pg. 9).
- Adopts January 1, 2010 as the date for freezing non-DEER ex ante values, even though the utilities had been using their own proposed values for the first few months of the cycle. This simply extends the treatment of DEER measures to non-DEER (pg. 17).
- Requires that installation rates for non-DEER measures be reported as separate adjustments. ED will make this information public (pg. 20).
- Provides much needed finality for identifying HIM measures by freezing the “current set of 70” for the portfolio cycle (pg. 23).
- Directs ED to compile all adopted values into one website (pg. 24).

- Expressing frustration that the collaborative review and approval process they envisioned did not work as expected, adopts on a wholesale basis the ED value recommendations (pg. 26).

D.10-12-054

- D09-09-047 language about ED and IOUs updating frozen DEER to correct “mutually agreed-upon errors” does not give the IOUs veto power. *However, the Commission and ED skirted any definitive action on the issue (pg. 7-8). This is written in the context of DEER values, but the D09-09-047 language was about non-DEER measures as well.*
- Documents difficulty and ambiguity around freezing non-DEER values but will only make determination on this issue in upcoming decision (pg. 8-12).
- IOUs and staff are in agreement about review process for non-HIM WPs (pg. 10).

D.10-04-029

- IOUs can manage projects to develop ex ante estimates, under ED oversight, as long as there isn't already a satisfactory estimate (pg. 15).
- Comm. asked IOUs to collaborate with ED on non-DEER WPs, but stopped short of granting ED authority over specific methods, authors (pg. 17-18).
- Confirms that the process set forth in the November 18, 2009 ALJ Ruling is sufficient to provide Commission review of WPs.
- EM&V processes adopted should not apply to projects not previously considered to be in the EM&V category. For example, non-DEER studies would be considered EM&V projects, while developing initial workpapers using existing data sources would not be considered as EM&V (pg. 25-26).
- The attached Joint EM&V Plan projects that all values will be updated such that by 2013, all ex ante measure parameters will come directly from the DEER database, which will include both DEER measures and “non-DEER” WPs (Attachment 1, pg. 23).

November 18, 2009 ALJ Ruling in A.08-07-021

- Historically, non-DEER WPs were submitted by utilities in their applications in a non-standardized fashion (pg. 1).
- WPs should utilize latest EM&V findings and published studies (pg.2).
- Errors mutually agreed upon by staff and the utilities can be corrected after freezing date (pg. 4).
- ED will publish a draft WP template (pg.4), a document further explaining best practices for deriving measures from DEER values, and a web-based submittal and tracking system by Q2 2010 (pg. 5).
- Potential for inclusion in DEER is a factor in considering priority measures for review (pg. 6).
- ED can change determination of preliminary approval and re-review a measure mid-cycle if claims experience a more than five-fold increase *or* if it becomes a HIM (pg. 6).
- ED can also elect to have its team edit a WP and adopt the measure (pg. 8).
- ED also reserves the right to change review and approval process at any time (pg. 9).
- Staff welcomes suggestions about streamlining the process and making it more cost efficient from stakeholders (pg. 9).

D.09-09-047

- Commission commits to streamlining EM&V process and holding ex ante values constant for purposes of measuring progress (pg. 9, 303).
- ED should develop process for review and approval of ex-ante values within 30 days (pg. 44) that balances precision with utilities' need for expediency. It is essential that the IOUs participate in developing this process (pg.43).
- ED should also develop a process through which new measures can be added and mutually agreed upon errors can be corrected after the freezing date (pg. 43).

October 30, 2008 ALJ Ruling in A.08-07-021

- Before filling their 2009-2010 portfolio applications, the utilities stated they would provide detailed work papers to substantiate their use of non-DEER values (pg. 8).

August 6, 2008 Assigned Commissioner Ruling in R.06-04-010

- D.08-01-042 requires the IOUs to file non-DEER measures with ED for review before the can be added to the database (pg. 3). *Which database is unclear, and I could not find this specific directive in D.08-01-042.*
- Modifies Energy Efficiency Policy Manual to clarify that documentation supporting the inclusion of a non-DEER measure in a portfolio must be provided to ED for review and approval and that such cost-effectiveness parameters should be developed using DEER methods and data to the extent possible (pg. 4).